

Road Franchise Agreement

The State of Queensland

The State

Queensland Motorways Pty Limited ACN 067 242 513

Gateway Motorway Pty Limited ACN 010 127 303 and

Logan Motorways Pty Limited ACN 010 704 300

Franchisees

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List of Exhibits

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Exhibit B - Planning Approval

Exhibit C - Major Development Plan Conditions of Approval

Exhibit D - Concession Information

Exhibit E - Gazette Notice

Road Franchise Agreement made on

Parties **The State of Queensland** of 100 George Street, Brisbane, Queensland 4000 (**the State**)

Queensland Motorways Pty Limited ACN 067 242 513 of 7 Brandl Street, Eight Mile Plains, Queensland 4113 (**QML**)

Gateway Motorway Pty Limited ACN 010 127 303 of 7 Brandl Street, Eight Mile Plains, Queensland 4113 (**GMPL**)

Logan Motorways Pty Limited ACN 010 704 300 of 7 Brandl Street, Eight Mile Plains, Queensland 4113 (**LMPL**)

(each a **Franchisee** and together the **Franchisees**)

Background

- A. On 5 June 1980, the State and GMPL entered into an agreement under which GMPL was responsible for the financing, design, construction, operation and maintenance of the Original Gateway Bridge. That agreement was replaced by The Gateway Bridge Franchise Agreement which was entered into on 16 December 2002 between GMPL and the Minister for Transport and Main Roads.
- B. On 1 June 1987, LMPL entered into an agreement with the State for the financing, design, construction, operation and maintenance of the Logan Motorway. That agreement was replaced by the Logan Motorway Franchise Agreement which was entered into on 16 December 2002 between LMPL and the Minister for Transport and Main Roads.
- C. QML is a company incorporated under the Corporations Act on 24 November 1994.
- D. On 7 August 1995, QML and the State entered into an agreement under which QML conjointly assumed the rights and obligations of GMPL and LMPL under their respective road franchise agreements.
- E. On 3 July 2006, the State, QML, GMPL and LMPL entered into the Previous Road Franchise Agreement. Under that agreement, the operative road franchise agreements referred to in the above recitals were terminated and new road franchises were granted to QML, GMPL and LMPL.
- F. On 26 September 2006, QML as undisclosed agent for GMPL, Leighton Contractors Pty Limited ACN 000 893 667 and Abigroup Contractors Pty Limited ACN 000 201 516 entered into a Design, Construct and Maintain Project Deed in relation to a project known as the "Gateway Upgrade Project". The Gateway Upgrade Project involved the duplication of the Original Gateway Bridge and the upgrade of approximately 20 kilometres of the Gateway Arterial Road, between Mt Gravatt-Capalaba Road and Nudgee Road.
- G. The Design, Construct and Maintain Project Deed was amended by Deed of Variation dated 12 April 2010 to add a new separable portion to the Gateway Upgrade Project, from the southern limit of the Gateway Upgrade Project to the northern abutment of the Pacific Motorway overpass. The new separable portion is known as "Gateway Upgrade South".
- H. Pursuant to a Deed of Appointment of Agent between GMPL and QML dated 10 August 2009:
- (a) GMPL appointed QML as the agent of GMPL to exercise the rights and perform the obligations of GMPL as tollroad operator for the Gateway Motorway Facility under the Transport Infrastructure Act; and
- (b) GMPL authorised QML to appoint QMMPL as the sub-agent of GMPL to exercise the rights and perform the obligations of GMPL (other than the giving of certain notices under the

Transport Infrastructure Act) as tollroad operator for the Gateway Motorway Facility under the Transport Infrastructure Act.

- I. Pursuant to a Deed of Appointment of Agent between LMPL and QML dated 10 August 2009:
- (a) LMPL appointed QML as the agent of LMPL to exercise the rights and perform the obligations of LMPL as tollroad operator for the Logan Motorway Facility under the Transport Infrastructure Act; and
 - (b) LMPL authorised QML to appoint QMMPL as the sub-agent of LMPL to exercise the rights and perform the obligations of LMPL (other than the giving of certain notices under the Transport Infrastructure Act) as tollroad operator for the Logan Motorway Facility under the Transport Infrastructure Act.
- J. Pursuant to a Deed of Appointment of Agent and Sub-Agent between QML and QMMPL dated 10 August 2009, QML appointed QMMPL:
- (a) as the agent of QML to exercise the rights and perform the obligations of QML as tollroad operator for the Gateway Motorway Facility and the Logan Motorway Facility under the Transport Infrastructure Act;
 - (b) as the sub-agent of GMPL in relation to the matters for which QML had been appointed as an agent by GMPL; and
 - (c) as the sub-agent of LMPL in relation to the matters for which QML has been appointed as an agent by LMPL.
- K. The Previous Road Franchise Agreement will be terminated at 12:01 am on the Commencement Date.
- L. On 23 March 2011, the State and the Franchisees entered into this deed pursuant to which:
- (a) the State granted the Franchisees the Concession;
 - (b) the Franchisees agreed to operate, maintain and repair the Tollroad;
 - (c) the Franchisees agreed to handover the Tollroad to the State at the end of the Concession Period; and
 - (d) the risks associated with the Concession and the Activities were allocated as between the State and each Franchisee.
- M. The Franchisees and the State agreed that a number of amendments would be made to this deed, requiring that this deed is amended.
- N. The State and the Franchisees have entered into the 2014 Amending Deed to effect amendment of this deed.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this deed, unless the context otherwise indicates:

2014 Amending Deed means the document entitled "RFA - 2014 Amending Deed" dated on or about the Acquisition Date between the State and the Franchisees.

Aboriginal Cultural Heritage has the meaning given to it in the Aboriginal Cultural Heritage Act 2003 (Qld).

Access Agreement means an agreement between a Franchisee and an Other Asset Owner or other party seeking access to the Leased Area in accordance with Part 5 of the Performance Specification.

Account Requirements means the account set up, top-up amounts and minimum usage amounts for Nominated Tolling Products set out in, and calculated in accordance with, the Nominated Tolling Product Schedule.

Acquiring Entity means the person nominated by the State (on or before the Sale Date) as the purchaser of the Shares.

Acquisition means the acquisition:

- (a) by Sun HoldCo 1 of the QMH Shares, the RPS and the Inter-entity Loan;
- (b) by Sun HoldCo 2 of the QMA Shares; and
- (c) by the Sun Group Property Trust of the Leases.

Acquisition Date means the date on which the Acquisition was completed.

Activities means:

- (a) all things that each Franchisee is, at any time, required to do to comply with its obligations under the State Concession Documents, including:
 - (i) the operation, maintenance and repair of the Tollroad and the Site; and
 - (ii) the handover of the Tollroad to the State at the end of the Concession Period; and
- (b) the levying of Tolls and imposition of Administration Charges, User Administration Charges, Product Charges and Account Requirements in accordance with this deed.

Actual Debt means the indebtedness of the Debt Finance Recipient under the Debt Financing Documents (without any double counting).

Administration Charge has the meaning given to it in the Transport Infrastructure Act.

Affected Transport Infrastructure means any Road, Road reserve, busway, railway, monorail, light rail, path, pedestrian and/or cycling infrastructure or other form of transport infrastructure which:

- (a) crosses, or is immediately adjacent to, the Leased Area; or
- (b) the safe, efficient and continuous use of which is directly and materially affected in any way by the Traffic entering, using or leaving the Tollroad.

Agreed PW means Proximate Work associated, directly or indirectly, with:

- (a) the Darra-Springfield railway project; or
- (b) the Gateway Upgrade South Stage 2 project (also known as the interim Mt Gravatt-Capalaba Road and Pacific Motorway interchange projects), including the South East Busway Extension project.

Amendment has the meaning given to it in clause 27.1.

Ancillary Works and Encroachments (AWE) has the meaning given to it in the Transport Infrastructure Act.

Approval means the Key Approvals and any licence, permit, consent, approval, determination, certificate, clearance, permission or the like which is required to be issued by or obtained from any Authority or any other person or under any Law, or any requirement made under any Law which must be obtained or satisfied (as the case may be):

- (a) to perform the Activities;
- (b) in connection with the Concession, the Activities, the Site or the Other Areas; or
- (c) for the use of the Tollroad including for the continuous passage of Vehicles, pedestrians and cyclists.

Artefacts means any places, fossils, bones, artefacts, coins, articles of antiquity, buildings, structures, natural features or other remains or objects or things of scientific, geological, historical, aesthetic, social, spiritual, cultural or archaeological interest or things otherwise of significance, including any items of cultural heritage significance and Aboriginal Cultural Heritage.

Assessment Notice has the meaning given to it in clause 15.8(c).

Associates means, in relation to a person, any Related Body Corporate or Related Trust Entity of that person and any officer, employee, agent, contractor, consultant, nominee, licensee or adviser of that person or that Related Body Corporate or Related Trust Entity and:

- (a) in the case of each Franchisee, includes each other Franchisee, the O&M Contractor, the Equity Investors, the Debt Finance Recipient and their respective Associates (but does not include the State or any of its Associates); and
- (b) in the case of the State, does not include the Franchisees or any of their Associates.

Assumed Refinancing means a Refinancing which is specifically taken into account in the Base Case Financial Model and which complies with or does not contravene the Refinancing Assumptions (including as to timing, tenor and margins).

Assumptions Book means, with respect to a model, the assumption book provided as part of that model, as may be amended from time to time with the consent of the State.

Authority means:

- (a) any government or any governmental, semi-governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality; and
- (b) any person having jurisdiction over, ownership of, or any other power, right, interest or privilege in relation to, PUP.

Base Case Equity Return means the nominal after tax internal rate of return to the Equity Investors which the Group is projected to generate (which, for the avoidance of doubt, is after tax paid or payable on project cashflows, and is before any tax paid or payable by the Equity Investor) from the Acquisition Date until the end of the Concession Period (assuming no circumstance of early termination or extension), as described in the Base Case Financial Model, and (if applicable) as revised by agreement of the parties as a consequence of any Upgrade.

Base Case Financial Model means the financial model for the Activities from the Acquisition Date to the end of the Concession Period (assuming no circumstance of early termination or extension), and the relevant Assumptions Books and other assumptions and information, data files, run specification files

and output analysis routines used by or incorporated in the financial model, approved by the State in connection with the Acquisition.

BBSY means the rate expressed as a percentage per annum:

- (a) which is the average of the bid rates shown at approximately 10:15 am on reference rate page "BBSY" on the Reuters Monitor System on the day the relevant amount was due and payable for bank accepted bills having a tenor of 30 days; or
- (b) if for any reason the rate referred to in paragraph (a) is no longer available or if there is no rate displayed for that period at that time, then the average of the buying rates quoted by 3 banks selected by the State at or about 10:15 am on the relevant date referred to in paragraph (a) for bills accepted by such banks having a tenor of 30 days.

Beneficiaries has the meaning given to it in clause 31.9.

Best Practices means operating, maintenance and repair practices performed with the due skill, care and diligence which may reasonably be expected of a skilled professional suitably qualified in the performance of obligations similar to the Franchisees' obligations under this deed so as to achieve a result consistent with Law, reliability, safety, protection of the Environment and the requirements of this deed. It includes everything reasonably necessary to ensure that:

- (a) the Tollroad is operated, maintained and repaired in a manner safe to all people and the Environment;
- (b) the Tollroad is functioning as designed;
- (c) operation, maintenance and repairs are performed to ensure reliable long-term and safe operation and are performed by trained and experienced personnel utilising proper equipment, tools and procedures;
- (d) sufficient operation and maintenance personnel are available and are adequately experienced and trained;
- (e) adequate materials, resources and supplies are available to ensure compliance with the requirements of this deed under normal conditions and reasonably anticipated abnormal conditions;
- (f) the principle of continuous improvement is adhered to, that is, a commitment to continually improving the standards and quality of the operation and maintenance of the Tollroad and the manner in which it is carried out including ensuring that the operation and maintenance of the Tollroad is carried out in a manner which at all times remains consistent with the overall Road network systems and standards; and
- (g) advancements in technology are appropriately considered and incorporated into the Franchisee's technology planning to ensure adoption of that technology in accordance with standard tollroad industry practice or no later than the time when the relevant component of the Tollroad is replaced or due to be replaced (provided that, if the component forms part of the Tolling System, or the Tollroad Control Systems, the advancement is operationally stable, is broadly accepted within the tollroad industry and does not require a full system upgrade).

Bond means the O&M Bond, the Handover Bond and any replacement bond provided under clauses 4.3 or 4.5.

Bond Refinancing means a Refinancing in the form of or represented by the issuance of bonds, notes, debt instruments or debentures (whether in each case guaranteed by a financial guarantor or not) by a Debt Finance Recipient to any Debt Financier in either the domestic or international capital markets.

BSPL means Bridge Security Pty Ltd ACN 010 610 572.

Business Day means:

- (a) when used in clause 37, a day in the place where the communication is received which is not a Saturday, Sunday or a public holiday and on which banks are generally open for business; and
- (b) when used in any other clause, a day in Brisbane that is not a Saturday, Sunday or a public holiday on which banks are generally open for business.

Business Hours means between 9:00 am and 5:00 pm on a Business Day.

Carriageway means the portion of a Road or bridge devoted to the use of Vehicles, inclusive of shoulders and auxiliary lanes.

CCTV means closed circuit television cameras which are usually used for remotely observing or recording Traffic flow, Incidents, infrastructure condition, Leased Area security surveillance and other issues on the Tollroad and the nearby SEQ Road Network.

Change to Key Approval means at any time:

- (a) a Key Approval is changed from that which is in force immediately before that time;
- (b) the State issues a new Approval in respect of the Tollroad in substitution for or replacement of the Planning Approval;
- (c) the Commonwealth issues a new Approval in respect of the Tollroad in substitution for or replacement of the Major Development Plan Conditions of Approval; or
- (d) any such new Approval referred to in paragraphs (b) or (c) is modified.

Circumstance of Non-enforcement means where a Franchisee:

- (a) accepts payment from or on behalf of a Tollroad User or the registered operator of a Vehicle used on the Tollroad in whole or partial payment of the Deferred Toll Amount stated on the Demand Notice after the Franchisee has received notice from the State that a penalty infringement notice has been issued in relation to that Demand Notice;
- (b) does not provide the State with Evidence of an Enforceable Quality;
- (c) fails to disclose to the State information that may reasonably be expected to impact upon a decision as to whether, and the manner by which, failing to comply with a Demand Notice is enforced;
- (d) refers to the State an unpaid Demand Notice for a Trip that occurred more than 6 months prior to the referral; or
- (e) has not satisfied all other requirements necessary to enable the State to enforce the offence of failure to comply with the Demand Notice.

Claim includes any claim, action, demand or proceeding:

- (a) under, arising out of, or in any way in connection with, the State Concession Documents;

- (b) arising out of, or in any way in connection with, the Concession, Activities or any party's conduct prior to the Commencement Date; or
- (c) otherwise at law or in equity including:
 - (i) by statute;
 - (ii) in tort for negligence or otherwise, including negligent misrepresentation; or
 - (iii) for restitution, including restitution based on unjust enrichment,

but does not include any claim, action, demand or proceeding by an entity (other than a Franchisee or its Associates), arising solely out of, or in connection with, the conduct of the State or its Associates prior to the Commencement Date.

Commencement Date means 1 April 2011.

Common Roads means the following Roads that pass over the Mainline Carriageways of the Tollroad:

- (a) Formation Street;
- (b) Woogaroo Street;
- (c) Stapylton Road;
- (d) Paradise Road;
- (e) Wembley Road;
- (f) Compton Road;
- (g) Miles Platting Road;
- (h) Meadowlands Road;
- (i) Lytton Road; and
- (j) the first overbridge passing over the Mainline Carriageways of the Tollroad north of the Pinkenba branch railway line.

Common Road Infrastructure means the following items of infrastructure that are located within the Leased Area, on an overbridge, or a Road approach connecting to an overbridge, of the Common Roads:

- (a) vehicular, pedestrian and cycling surfaces down to:
 - (i) the structural surface of the overbridge deck or culvert (but excluding any infrastructure more than 300 millimetres below the vehicular, pedestrian or cycling surfaces); or
 - (ii) 300 millimetres below the pavement surface on the Road approaches,
 including any overbridge relieving slabs but excluding any structural components of the overbridge or culvert;
- (b) SEQ Traffic Signals;
- (c) CCTV infrastructure installed by the State or Local Government;

- (d) street lighting which illuminates the vehicular, pedestrian and cycling surfaces referred to in paragraph (a) and associated ducts, pits, poles, cabling, systems and devices; and
- (e) Road signage which directs Traffic on the vehicular, pedestrian and cycling surfaces referred to in paragraph (a) including supporting structures for such Road signage.

Community Engagement Plans means the Concession Plans relating to community consultation and communications required under Part 5 of the Performance Specification.

Comparison Period means:

- (a) where Suspension Days occur on public holidays or school holidays, the 12 month period preceding the commencement of the Tolling Suspension Event; or
- (b) where Suspension Days do not occur on public holidays or school holidays, the 4 week period preceding the commencement of the Tolling Suspension Event.

Compensation has the meaning given to it in clause 11.11(a).

Competing Facility means:

- (a) in relation to the Sir Leo Hielscher Bridges, a new bridge or tunnel crossing over or under the Brisbane River that is a Road for Vehicles and is located within the proximity parameters described in Schedule 14 during the relevant years of the Concession Period;
- (b) in relation to the Gateway Extension Motorway, a new Motorway Standard Road that runs broadly parallel with the Gateway Extension Motorway and is located within the proximity parameters described in Schedule 14 during the relevant years of the Concession Period; and
- (c) in relation to the Logan Motorway, a new Motorway Standard Road that runs broadly parallel with the Logan Motorway and is located within the proximity parameters described in Schedule 14 during the relevant years of the Concession Period,

but does not include:

- (d) a Road dedicated exclusively for public transport;
- (e) rail infrastructure or services, ferry services, or pedestrian or cyclist infrastructure;
- (f) any upgrade to an existing Motorway Standard Road;
- (g) a Motorway Standard Road which is located south of the Logan Motorway, runs in a generally north-south alignment, and connects to the Logan Motorway or the Gateway Extension Motorway;
- (h) any upgrade to the Mt Lindesay Highway, Beaudesert Road or Compton Road more than 15 years after the Commencement Date; or
- (i) any facility opened to Vehicles more than 30 years after the Commencement Date.

Complaint has the meaning given to in Australian Standard AS/ISO 10002-2006.

Concession means the right to:

- (a) operate, maintain and repair the Tollroad; and
- (b) levy Tolls and impose Administration Charges, User Administration Charges, Product Charges and Account Requirements for or in connection with the use of the Tollroad.

Concession Debt means:

- (a) the Actual Debt; and
- (b) the net amount of any money payable or receivable by the Debt Finance Recipient on the termination of any interest rate risk management agreement entered into by the Debt Finance Recipient to limit or otherwise manage its exposure to interest rate fluctuations in respect of the Concession Debt provided that the method of calculating the termination amount and the actual calculation of the termination amount is furnished to the State and:
 - (i) if the Debt Finance Recipient is a net receiver of such moneys the amount is a negative number; and
 - (ii) if the Debt Finance Recipient is a net payer of such moneys the amount is a positive number.

Concession Documents means:

- (a) this deed (including, without limiting clause 1.2(g), the Performance Specification);
- (b) each Lease;
- (c) the State Securities;
- (d) the GUP Project Deed;
- (e) the Upgrade Process Deed;
- (f) the Debt Financing Documents;
- (g) the RFA Side Deed;
- (h) the CSC Lease;
- (i) the Equity Documents;
- (j) each Sub-sublease;
- (k) the Side Deed; and
- (l) any other document the parties agree is a Concession Document.

Concession Information means:

- (a) the documents and information referred to in Exhibit D;
- (b) all other documents provided to a Franchisee prior to the Commencement Date which were stated to be "Concession Information"; and
- (c) all documents provided to a Franchisee after the Commencement Date which the State is not required by the terms of this deed to provide to a Franchisee.

Concession Intellectual Property Rights means all Intellectual Property Rights in:

- (a) any Deliverables, including Intellectual Property Rights:
 - (i) existing at the Commencement Date; or

- (ii) which come into existence after the Commencement Date, including those derived from Intellectual Property Rights existing at the Commencement Date; and
- (b) any information, ideas, documents, equipment or material of any kind and however embodied, which are supplied, brought to or used in the Activities or otherwise made available to the State under this deed by a Franchisee, whether forming part of the Deliverables or not, whether or not owned by a third party.

Concession Period means the period beginning on the Commencement Date and ending on the earlier of the dates referred to in clause 2.2.

Concession Plans means the plans required under the Performance Specification.

Consumer Price Index or **CPI** has the meaning given to it in Schedule 2.

Contamination means the presence on, in, over, or under land (including both surface and ground water and air) of a substance (whether solid, liquid, gas, odour, heat, sound, vibration or radiation) at a concentration above the concentration at which the substance is normally or naturally present on, in, over, or under that land (including both surface and ground water and air) or land or waters in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment.

Contamination Notice means a notice or direction given, or purporting to have been given, under any Law which requires the person to whom it is issued to take action to investigate, remediate or manage Contamination and includes a direction notice, clean-up notice, notice to conduct or commission a site investigation, notice to conduct or commission work to remediate land and a requirement to prepare or commission a site management plan.

Contractor means Leighton Contractors Pty Limited ABN 98 000 893 667 and Abigroup Contractors Pty Limited ABN 40 000 201 516.

Control has the meaning given to it in section 50AA of the Corporations Act.

Controller has the meaning given to it in the Corporations Act.

Controlling Unit Holder means, in respect of any trust or managed investment scheme, any entity which:

- (a) Controls the trust or managed investment scheme (either directly or through one or more intermediary entities or trusts);
- (b) is in a position to cast, or Control the casting of, more than one half of the maximum number of votes that might be cast at a meeting of unit holders of the trust or managed investment scheme (either directly or through one or more intermediary entities or trusts or managed investment schemes); or
- (c) holds more than one half of the units in the trust or managed investment scheme.

Coordinator-General has the meaning given to it in the State Development and Public Works Organisation Act 1971 (Qld).

Corporations Act means the Corporations Act 2001 (Cth).

Counterparty Details means, in respect of each person other than the State who is a party to a State Concession Document:

- (a) a certified copy of its constitution (or other constituent documents);

- (b) in the case of a trustee, a certified copy of the trust deed of the trust it enters into the State Concession Document as trustee for;
- (c) a certified copy of any powers of attorney under which the person executed each State Concession Document to which it is a party; and
- (d) a certified copy of the extract of minutes evidencing the resolutions of its board of directors, authorising the entry into, delivery and observance of obligations under each State Concession Document to which it is a party.

CSC Lease means the lease from the State (represented by TMR) to QMMPL of the CSC Leased Area.

CSC Leased Area means the premises set out in item 5 of the Form 7 to the CSC Lease.

Data Room means the virtual data room established in connection with the sale of the Shares to the Acquiring Entity.

Debt Finance Recipient means:

- (a) any entity that is provided facilities, financial arrangements or accommodation by the Debt Financiers for:
 - (i) the purposes of financing (whether directly or indirectly):
 - A. the acquisition of the QMH Shares, the RPS and the Inter-entity Loan by Sun HoldCo 1;
 - B. the consideration for the assignment of the Leases by Queensland Motorway Properties Pty Limited as trustee of the QMH Property Trust to the Sun Group Property Trust;
 - C. a Modification or an Upgrade;
 - D. other capital expenditure incurred by the Franchisees on, or in connection with, the Tollroad; or
 - E. the carrying out of the Activities from time to time; or
 - (ii) such other purposes as are approved by the State, and
- (b) at the Acquisition Date, Sun FinCo and the Sun Group Property Trust.

Debt Finance Side Deed means the document entitled "Debt Finance Side Deed" to be entered into on or around the Acquisition Date between the State, each Franchisee and others which regulates the manner in which certain rights in respect of the Concession or the Activities are to be exercised.

Debt Financiers means the providers of any Debt Financing Facilities from time to time and may, where the context permits, include any agent or trustee of such Debt Financiers.

Debt Financing Documents means:

- (a) the Debt Finance Side Deed;
- (b) the documents listed in Schedule 16, being the documents to which Sun FinCo, Sun HoldCo 1 and others are party dated on or about the Acquisition Date;
- (c) any document entered into in relation to a Refinancing of the Actual Debt approved by the State in accordance with clause 28; and

- (d) any other documents which the parties agree is a Debt Financing Document for the purposes of this deed.

Debt Financing Facilities means the facilities, financial arrangements or accommodation provided, in accordance with the Debt Financing Documents, to the Debt Finance Recipient for the purposes of financing the Acquisition, the carrying out of the Activities or for such other purposes as are approved by the State.

Deductions means:

- (a) any costs incurred by the State in determining the Fair Market Value (including the engagement of the Independent Valuer);
- (b) any amounts owing by the Franchisees to the State as at the date of the termination of this deed (including any amounts the State is entitled to set-off in accordance with clause 15.3);
- (c) credit balances standing to any of the Franchisees' bank accounts and insurance proceeds or other amounts owing to the Franchisees, in each case only to the extent not taken into account in calculating the Fair Market Value;
- (d) the State's reasonable forecast internal and external tendering costs as applicable; and
- (e) to the extent not covered by paragraphs (a) to (d) above, all additional costs reasonably incurred by the State as a result of the termination.

Defect means:

- (a) any defect, shrinkage, movement, deficiency, subsidence, fault or omission in the Tollroad, whether in respect of, or arising from any cause including, design, materials, or workmanship;
- (b) any other aspect of the Tollroad which is not in accordance with the requirements of this deed;
- (c) any physical damage to the Tollroad resulting from such defect, shrinkage, movement, deficiency, subsidence, fault, omission or non-compliance; or
- (d) any physical deterioration or damage to the Tollroad which results from normal Traffic usage and other factors which:
 - (i) exceeds the parameters for acceptable wear and tear as defined in Part 4 of the Performance Specification; or
 - (ii) prevent the Tollroad from being open to the public for the safe, continuous and efficient passage of Vehicles, pedestrians and cyclists.

Paragraphs (a) to (d) above are only considered to be Defects where their occurrence would result in the Tollroad being unfit for any relevant purpose contemplated under this deed.

Deferred Toll Amount has the meaning given to it in section 97 of the Transport Infrastructure Act.

Deliverable means the Tollroad, the Proprietary Material and any other deliverable required to be delivered or goods or services required to be provided by or for a Franchisee to the State under this deed (or any part of any of them).

Demand Notice means a notice that is validly issued pursuant to sections 99(2), 100(2) or 101(2) of the Transport Infrastructure Act.

Demerit Points means the amounts set out under the heading "Demerit Points" in Table 5-1 of Part 1 of the Performance Specification.

Developer means a person who is bound by a Development Approval to construct any Developer Works.

Developer Works means any improvement within, or on the boundary of, the Leased Area:

- (a) constructed by, or at the direction of, a Developer or owner of land adjoining the Leased Area; and
- (b) which is intended to:
 - (i) mitigate the noise, visual, environmental or other impacts of the Tollroad (or Traffic on the Tollroad) on the occupiers of such land;
 - (ii) mitigate the environmental or other impacts on the Tollroad (or Traffic on the Tollroad) which may arise from the land adjacent to the Leased Area (or from the use of such land);
 - (iii) facilitate access by Vehicles to the Tollroad from land adjacent to the Leased Area; or
 - (iv) facilitate access by Vehicles to land adjacent to the Leased Area from the Tollroad.

Development Application means an application to seek new land use rights over land located near the Leased Area.

Development Approval means the approval of a Development Application by relevant Authorities.

Disaster has the meaning given to it in the Disaster Management Act 2003 (Qld).

Discriminatory Change in State Law means:

- (a) the amendment, repeal or change of a State Law (not including any amendment or change in an Approval resulting from any direct or indirect action of a Franchisee in accordance with this deed including any Modification requested by a Franchisee);
- (b) the enactment of a new State Law; or
- (c) a change in the interpretation or application of an existing State Law, brought about by:
 - (i) the amendment, repeal or change of another State Law; or
 - (ii) the enactment of a new State Law,which directly affects the interpretation or application of the first mentioned existing State Law,

and which specifically and only:

- (d) affects the Concession or the Activities; or
- (e) has a direct effect upon the Concession or the Activities together with other tollroads in Queensland which are not owned by the State,

and which takes effect on or after the Sale Date.

Dispute has the meaning given to it in clause 36.1.

Dispute Resolution Appointee has the meaning given to it in clause 1.9(i)(ii).

Distribution means, without double counting, any:

- (a) dividend, return of capital, or other distribution or payment (in cash or in kind) in respect of the share capital or units of a Group Member or any Holding Entity;
- (b) shareholder loan interest, shareholder loan principal, preferred equity distributions, preferred equity repayments, or any other payment by:
 - (i) a Group Member to a Holding Entity or an Equity Investor; or
 - (ii) any Holding Entity to an Equity Investor;
- (c) loans made by a Group Member to, or for the benefit of, any Holding Entity or an Equity Investor;
- (d) release by a Group Member of any actual or contingent liability of any Holding Entity or any Equity Investor (or any Related Body Corporate or Related Trust Entity of an Equity Investor);
- (e) payment, loan or transfer of any assets by a Group Member or any Holding Entity to any Equity Investor (or any Related Body Corporate or Related Trust Entity of any Equity Investor) which is not on arm's length commercial terms; or
- (f) surrender by a Franchisee of losses or other amounts available for group relief unless full payment of an amount equal to the amount surrendered multiplied by the corporate tax rate is made at the date of the surrender.

Early Termination Amount on any date:

- (a) is the total of:
 - (i) the Concession Debt on that date; and
 - (ii) an amount sufficient to give each Franchisee the ability to give the Equity Investors (treated as if those Equity Investors were all Notional Equity Investors) a nominal after tax internal rate of return to that date equal to the Equity Return on amounts invested by Notional Equity Investors in respect of the Concession, having regard to:
 - A. amounts which were generated by the Group and received by or paid to the Notional Equity Investors, up to the date of termination of this deed; and
 - B. amounts that each Franchisee must pay as a consequence of the termination of this deed (but excluding any amounts payable by a Franchisee to an Associate, to the extent that the Associate is not engaged on arm's length commercial terms); and
- (b) does not include any interest on the Concession Debt to the extent that it is calculated at a rate which would constitute a penalty.

Entry Ramp means a Road facility containing one or more vehicular lanes, which connects part of the SEQ Road Network to a Mainline Carriageway of the Tollroad to enable Vehicles to enter the Mainline Carriageway of the Tollroad.

Environment includes:

- (a) ecosystems and their constituent parts, including people and communities;
- (b) natural and physical resources;
- (c) the qualities and characteristics of locations, places and areas; and
- (d) the social, economic, aesthetic and cultural aspects of a thing mentioned in paragraphs (a) to (c).

Environmental Hazard means a state of danger to human beings or the Environment whether imminent or otherwise resulting from the location, storage, handling or release of any substance having toxic, corrosive, flammable, explosive, infectious or other dangerous characteristics.

Equity Commitment Deed Poll means the document entitled "Equity Commitment Deed Poll" dated 22 April 2014 between Transurban Holdings Limited, Transurban Infrastructure Management Limited as responsible entity of Transurban Holding Trust, AustralianSuper Pty Ltd as trustee for AustralianSuper and Tawreed Investments Limited.

Equity Documents means:

- (a) the Subscription Agreement;
- (b) each notice issued in accordance with clause 3 of the Subscription Agreement;
- (c) the Equity Commitment Deed Poll; and
- (d) the constitutions of:
 - (i) Sun Group Property Trust;
 - (ii) QML;
 - (iii) GMPL;
 - (iv) LMPL; and
 - (v) QMMPL.

Equity Investor means a person who:

- (a) holds shares or units in a Holding Entity;
- (b) holds shares in a Franchisee, other than another Franchisee or a Holding Entity; or
- (c) provides shareholder loans (or other loans in the nature of equity funding) to or for the benefit of a Group Member or a Holding Entity.

Equity Return means, at any time, the nominal after tax internal rate of return per annum which a Notional Equity Investor is projected to receive in respect of the Concession (which, for the avoidance of doubt, is after tax paid or payable on project cashflows, and is before any tax paid or payable by the Notional Equity Investor) from the Acquisition Date until the end of the Concession Period (assuming no circumstance of early termination or extension) based on a reasonable forecast of Distributions from

Group Members based on historical performance of the Activities and current projected growth, having regard to amounts actually Distributed by Group Members or accrued (but not Distributed by Group Members) prior to that time.

Event of Default means:

- (a) in respect of a Franchisee, any event specified in clause 33.1; and
- (b) in respect of the State, any event specified in clause 33.4.

Event of Insolvency means:

- (a) in relation to a company, any of the following events:
 - (i) a "Controller", manager, trustee, administrator or similar officer is appointed in respect of the company or any asset of the company;
 - (ii) a liquidator or provisional liquidator is appointed in respect of the company;
 - (iii) any application (not being an application withdrawn or dismissed within 10 Business Days) is made to a court for an order, or an order is made, or a meeting is convened, or a resolution is passed, for the purpose of:
 - A. appointing a person referred to in paragraphs (i) or (ii);
 - B. winding up the company; or
 - C. proposing or implementing a scheme of arrangement in respect of the company;
 - (iv) a moratorium of any debts of the company or an official assignment or a composition or an arrangement (formal or informal) with the company's creditors or any similar proceeding or arrangement by which the assets of the company are subjected conditionally or unconditionally to the Control of the company's creditors is ordered, declared or agreed to, or is applied for and the application is not withdrawn or dismissed within 10 Business Days;
 - (v) the company becomes, admits in writing that it is, is declared to be, or is deemed under any applicable law to be, insolvent or unable to pay its debts;
 - (vi) any writ of execution, garnishee order, mareva injunction or similar order, attachment, distress or other process is made, levied or issued against or in relation to any asset of the company; or
 - (vii) any act is done or event occurs which under the laws from time to time of a country other than Australia has an analogous or similar effect to any of the events in paragraphs (i)-(vi); and
- (b) in relation to a trust, any of the following events:
 - (i) an application or order is sought or made (and is not stayed or dismissed within 10 Business Days after being sought or made) in any court for the property of the trust to be brought into court or administered by the court or brought under its Control; or
 - (ii) the assets of the trust are not sufficient to satisfy the trustee's debts as and when they become due and payable in respect of which it has a right to be indemnified out of the assets of the trust.

Evidence of Enforceable Quality means evidence that is sufficient to allow the State to successfully prosecute the offence of failing to comply with a Demand Notice and as a minimum includes:

- (a) a photographic image of a Vehicle of sufficient quality such that the licence plate of the Vehicle is legible in the photographic image and the Vehicle can be identified from the photographic image;
- (b) an evidentiary certificate under section 105(1)(c) of the Transport Infrastructure Act certifying all matters relevant to the alleged offence that may be certified under section 105(1)(c);
- (c) answers to reasonable enquiries made by officers of TMR's prosecution unit or lawyers acting on behalf of the prosecution unit;
- (d) signed statements and relevant documents from the Franchisee's records reasonably requested by officers of TMR's prosecution unit or lawyers acting on behalf of the prosecution unit; and
- (e) in circumstances where a court hearing has been listed in relation to an offence pursuant to section 99(2), section 100(2) or section 101(2) of the Transport Infrastructure Act, making available (upon reasonable notice) officers and employees of a Franchisee having sufficient experience, knowledge and qualifications to give evidence at the hearing in relation to issues that are or may be in dispute at the hearing.

Excluded Refinancing means a Refinancing involving any change in Control, sell down, disposal, assignment, novation, substitution or other transfer of any:

- (a) bonds, notes, debt instruments or debentures; or
- (b) Actual Debt (other than any bonds, notes, debt instruments or debentures referred to in paragraph (a)) or undrawn commitments of debt, to a Debt Financier (including any person who is or will become a Debt Financier) that has the Required Rating or is guaranteed or indemnified on terms acceptable to the State by a financial institution or investment fund that has the Required Rating.

Excluded Works has the meaning given to it in clause 14.1(q).

Existing Concession Information means the category of documents referred to in paragraphs (a) and (b) of the definition of "Concession Information".

Existing Agreements means each document duly executed by all of the parties thereto which has been loaded in the Data Room before the Sale Date, and which is in force at the Sale Date.

Existing Disputes means each dispute, the details of which have been loaded in the Data Room before the Sale Date.

Exit Ramp means a Road facility containing one or more vehicular lanes which allows Vehicles to exit from a Mainline Carriageway of the Tollroad to part of the SEQ Road Network.

Extra Land means the land referred to in clause 7.1(a).

Facility has the meaning given to that term in the GUP Project Deed.

Fair Market Value means:

- (a) if there is a Liquid Market, the amount determined by the State by tendering the Concession; or

- (b) if there is no Liquid Market, or the State otherwise elects at its sole discretion, the amount calculated by the Independent Valuer to be the fair market value of the Concession as between a willing buyer and a willing seller, by determining the net present value of the projected cash flows for the unexpired Concession Period, discounted using the discount rate which appropriately reflects the commercial risks of the projected cash flows, as determined by agreement of the parties, or failing agreement, by the Independent Valuer.

Final Court Decision means a decision of a court:

- (a) from which no appeal can be taken and in respect of which no application for special leave to appeal can be made; or
- (b) in respect of which the relevant appeal or special leave application period has expired without an appeal being taken or an application for special leave to appeal being made.

Finance Date means the date which is nominated by the State as the Finance Date.

Financial Model means the Base Case Financial Model updated from time to time in accordance with clause 29.

Financial Year means each 12 month period commencing on 1 July and ending on 30 June.

Force Majeure Event has the meaning given to it in clause 19.1.

Forecast Maintenance Program means the program setting out the maintenance work for the Tollroad for the Concession Period in accordance with and as updated to meet the requirements of Part 4 of the Performance Specification.

Former Body has the meaning given to it in clause 1.3.

Franchisee Appointee has the meaning given to in clause 1.9(f).

Franchisee Initiated Change to Key Approval means at any time, a Change to Key Approval which:

- (a) is required as a result of a breach of a Key Approval or a Concession Document by a Franchisee;
- (b) was requested by a Franchisee; or
- (c) whether directly or indirectly, relates to or arises out of or in connection with or is associated with in any way, any Modification or change to the Activities that was requested by a Franchisee.

Franchisees' Modification Notice means a notice given by the Franchisees pursuant to clause 14.1(c) or the Franchisees' response to the State's notice in accordance with clause 14.1(f)(i).

Future Concession Information means the category of documents referred to in paragraph (c) of the definition of "Concession Information".

Gateway Extension Motorway means the Motorway Standard Road located within the Leased Area which connects the Logan Motorway at Drewvale (at 153.0608° E, 27.6474° S) with the Gateway Motorway Facility at the Pacific Motorway interchange, Eight Mile Plains (at 153.1032° E, 27.5812° S).

Gateway Motorway Facility means the Motorway Standard Road located within the Leased Area which connects the Gateway Motorway at Nudgee (at 153.0945° E, 27.3878° S) with the Southern Cross Way at Nudgee (at 153.0892° E, 27.3939° S) and at Eagle Farm (at 153.0886° E, 27.4350° S) and the Port of Brisbane Motorway at Doboy (at 153.1120° E, 27.4540° S) and the Gateway Extension

Motorway at the Pacific Motorway interchange, Eight Mile Plains (at 153.1032° E, 27.5812° S), but does not include the Southern Cross Way.

Gazette Notice means the Declaration and Notification of Tolls under section 93 of the Transport Infrastructure Act by the Minister for Main Roads dated 16 June 2010 (as set out in Exhibit E), as varied or replaced from time to time.

GMPL means Gateway Motorway Pty Limited ACN 010 127 303.

Group means each Franchisee, any wholly owned subsidiary of that Franchisee and the Debt Finance Recipient, and **Group Member** means any of them. For the avoidance of doubt, the parties acknowledge and agree that Sun Group Property Trust is a member of the Group.

Group Equity means:

- (a) shares in a Group Member; and
- (b) shareholder loans (or other loans in the nature of equity funding) to or for the benefit of a Group Member.

Group Gearing Level means, at any time, the fraction (expressed as a percentage) of:

- (a) the total outstanding Actual Debt adjusted for any marked-to-market positions under any interest rate derivative transactions, calculated as if the Refinancing had been implemented at that time; to
- (b) the sum of:
 - (i) the amount determined in accordance with paragraph (a); and
 - (ii) the Market Value of Group Equity.

GSPL means Gateway Superannuation Pty Ltd ACN 064 604 913.

GST, GST law and other terms used in clause 15.4 have the meanings used in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) or any replacement or other relevant legislation and regulations, except **GST law** also includes any applicable rulings. Any reference to GST payable by the Supplier (as defined in clause 15.4) includes any GST payable by the representative member of any GST group of which the Supplier is a member. Any reference to an input tax credit to which a party is entitled includes an input tax credit for an acquisition made by that party but to which the representative member of any GST group of which the party is a member is entitled.

GUP Project Deed means the document entitled "Gateway Upgrade Project Design, Construct and Maintain Project Deed" between QML and the Contractor dated 26 September 2006.

Handover means the stage when each Franchisee has done everything that this deed (including the Performance Specification) requires to enable the Franchisees to handover the Tollroad in the required condition at the end of the Concession Period.

Handover Agreement Notice has the meaning given to it in clause 35.6(b).

Handover Amount has the meaning given to it in clause 35.6(a)(iii).

Handover Bond means a bond provided to the State under clause 35.1(d)(ii)B or any bond accepted in substitution for or replacement of that bond.

Handover Date means the date Handover is achieved as the State notifies a Franchisee in accordance with clause 35.

Handover Disagreement Notice has the meaning given to it in clause 35.6(b).

Handover Escrow Account has the meaning given to it in clause 35.1(d)(ii).

Handover Notice has the meaning given to it in clause 35.6(a).

Hazardous Substance means any substance which would or might reasonably be expected to cause damage or injury to any person, any property or the Environment.

Holding Company has the meaning given to it in the Corporations Act.

Holding Entity means a company or trust which, directly or indirectly, holds all of the issued shares or units in a Franchisee, and which is not itself wholly owned by any other entity.

Implementation Period means the period commencing on the Sale Date and ending on the date that is 12 months after the Sale Date, or such longer period determined in accordance with clause 4.3 of Part 1 of the Performance Specification.

Incident means any event which:

- (a) prevents the Tollroad or any part of it from being open to the public for the safe, continuous and efficient passage of Vehicles, pedestrians and cyclists; or
- (b) otherwise requires an urgent response to:
 - (i) protect or repair the Tollroad, other property or the public;
 - (ii) provide access to emergency services or Traffic control; or
 - (iii) prevent any occurrence which may cause damage to the Tollroad or compromise the safety of any person or property.

Indemnified Persons has the meaning given to it in clause 31.8(a).

Independent Valuer means an independent valuer appointed by the Franchisees and the State provided that if the parties have not agreed on the person who should be the Independent Valuer within 5 Business Days, then the parties must appoint the President of the Institute of Chartered Accountants (Australia) or his nominee to be the Independent Valuer.

Indexed, with respect to an amount other than any amount specified in the Nominated Tolling Product Schedule, means, on each 1 July during the Concession Period, that amount will be adjusted in accordance with the formula set out below and then rounded upwards or downwards:

- (a) to the nearest \$1 million amount, in the case of a capital expenditure amount;
- (b) to the nearest \$1 million amount, in the case of an insurance amount;
- (c) to the nearest \$100,000 amount, in the case of a performance bond amount or a cash reserve amount;

Adjusted amount = Payment Multiplier x Original Amount,

where:

Payment Multiplier = the quarterly CPI figure published immediately before the relevant 1 July divided by the CPI figure for the equivalent quarter in the previous year; and

Original Amount = the amount (whether previously adjusted or not) applicable immediately prior to the relevant 1 July (disregarding rounding (if any) applied to that amount at the previous 1 July.

Industrial Waste means any waste arising from commercial, industrial or trade activities and any waste containing substances or materials which are potentially harmful to human beings, any property or the Environment.

Insurance Proceeds Account means the account opened in accordance with clause 22.11.

Insurance Review Commencement Date has the meaning given to it in clause 22.10(a).

Insurances means the insurances required to be effected and maintained under this deed.

Intellectual Property Rights includes all copyright and analogous rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), designs (whether or not registrable), confidential information (including trade secrets and know-how), circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific or artistic fields and all rights to register, rights in applications for the registration of and rights to extend or renew the registration of any of the foregoing, whether created before, on or after the Commencement Date and whether existing in Australia or otherwise.

Intelligent Transport System (ITS) means a broad range of communications-based information, control and electronics technologies integrated into the transportation system infrastructure, and in Vehicles, to help manage and monitor Traffic flow, reduce congestion, provide alternative routes to travellers, enhance productivity, and save lives, time and money.

Inter-entity Loan means the loan of approximately \$1.4 billion owing by QMH Finance Pty Limited (ACN 168 691 478) to QIC Infrastructure Management No.4 Pty Limited as trustee of QIC Tollroads Fund No.1 as at the Acquisition Date.

Interface Agreement means an agreement between a Franchisee and an Other Asset Owner or other third party seeking long term, routine or periodic access to or through the Leased Area.

Interoperability Agreement means any agreement for Interoperability.

Interoperable means when the Tolling System:

- (a) has each of the following features:
 - (i) it is capable of recording a journey undertaken and tolls and charges incurred by a Tollroad User who is entitled to use another Australian tollroad pursuant to an arrangement between another Tollroad Service Provider and a TSP Customer;
 - (ii) it enables that Tollroad User to be billed for tolls and charges incurred on that journey by that other Tollroad Service Provider; and
 - (iii) it provides for payment of tolls and charges incurred on that journey to be remitted to a Franchisee from that other Tollroad Service Provider (whether directly or through an agreed payments clearing mechanism); and
- (b) allows a Franchisee to provide reciprocal capacity to each other Australian tollroad without prior arrangement between either:
 - (i) a TSP Customer and the Franchisee; or

- (ii) a Product User and the other Tollroad Service Provider.

Interoperable User means any person who pays the Toll in relation to a particular Trip pursuant to an arrangement between another Tollroad Service Provider and a TSP Customer where that Tollroad Service Provider has an Interoperability Agreement with a Franchisee.

IPR Claim means any Claim by a third party that the Deliverables or their design, manufacture, delivery, supply, use or enjoyment in accordance with or as contemplated by this deed, infringe any Intellectual Property Rights or moral rights of that or any other third party and includes a claim by an individual author that any such design, manufacture, delivery, supply, use or enjoyment infringes that author's moral rights under any applicable copyright or other intellectual property laws.

Key Approval means:

- (a) the Planning Approval; and
(b) the Major Development Plan Conditions of Approval.

KPI means a qualitative or quantitative measure of an activity used to compare actual performance against a standard or other target which is set out in clause 5 of Part 1 of the Performance Specification.

KPI Assessment System means the system set up by each Franchisee to record and report on its performance against the KPIs and the KPI Benchmarks.

KPI Audit Notice has the meaning given to it in clause 11.11(c)(ii).

KPI Auditor has the meaning given to it in clause 11.11(c)(iii).

KPI Auditor's Report has the meaning given to it in clause 11.11(c)(iv).

KPI Benchmark means the benchmarks set out under the heading "KPI Benchmark" in Table 5-1 of Part 1 of the Performance Specification.

KPI Data has the meaning given to it in clause 11.11(b)(ii).

KPI Reports has the meaning given to it in clause 11.11(b)(iii).

Lane Use Management Sign means a sign used for managing Road Users on lanes of a Carriageway.

Law includes:

- (a) those principles of law established by decisions of courts;
(b) statutes, regulations, by-laws and other subordinate regulations of the Commonwealth or State or an Authority;
(c) binding requirements and Approvals (including any conditions or requirements under them); and
(d) the lawful requirements of an Authority.

Lease means each or either lease (as the context requires) of the Leased Area for the Tollroad granted by the State and acquired by Sun Group Property Trust on the Acquisition Date by way of assignment from Queensland Motorways Properties Pty Limited as trustee of the QMH Property Trust.

Leased Area means the land set out in item 5 of the Form 7 to each Lease.

Licence Commencement Date has the meaning given to it in clause 31.5(b).

Liquid Market means that, in the opinion of the State, there are sufficient willing parties (being at least two unrelated parties, each of whom is capable of being a suitable substitute Franchisee) in the market for long term tollroad concession contracts or similar contracts for the provision of services (in each case the same as or similar to this deed) for the price that is likely to be achieved through a tender to be a reliable indicator of fair value.

LMPL means Logan Motorways Pty Limited ACN 010 704 300.

Local Government means any or all of:

- (a) the Brisbane City Council;
- (b) the Logan City Council; and
- (c) the Ipswich City Council.

Local Industry Participation Policy means the policy issued by the State titled "Local Industry Policy; A Fair Go For Local Industry 2001" - or such other policy as replaces that policy from time to time.

Logan Motorway means the Motorway Standard Road located within the Leased Area which connects the Ipswich Motorway at Gales (at 152.9230° E, 27.6070° S) with the Gateway Extension Motorway at Drewvale (at 153.0608° E, 27.6474° S) and the Pacific Motorway at Loganholme (at 153.1833° E, 27.6852° S).

Logan Motorway Facility means the Logan Motorway and the Gateway Extension Motorway.

Long Service Leave Legislation means the Building and Construction Industry (Portable Long Service Leave) Act 1991 (Qld).

Long Term Expenditure Plan means a Concession Plan for the Activities required under Part 4 of the Performance Specification.

Loss means:

- (a) any cost, expense, loss, damage or liability whether direct, indirect or consequential (including pure economic loss), present or future, fixed or unascertained, actual or contingent; and
- (b) without being limited by paragraph (a) and only to the extent not prohibited by Law, any fine or penalty.

Mainline Carriageway means a vehicular Carriageway of the Tollroad, or any other Motorway, exclusive of ramps, shoulders, auxiliary lanes and Common Road Infrastructure.

Major Development Plan Conditions of Approval means the conditions and recommendations which form part of, or are required to be complied with under, the final Major Development Plan approved by the Federal Minister for Transport and Regional Services under the Airports Act 1996 (Cth), as set out in Exhibit C.

Market Value of Group Equity means the amount at which Group Equity could be sold in an arm's length transaction between informed and willing parties, on the assumption that such sale does not occur by way of a forced or liquidation sale. Where the Group Entity has been the subject of an independent valuation within 6 months of a proposed Refinancing, provided that there have been no material changes in the Group from the time of that independent valuation, that independent valuation will determine the Market Value of Group Equity.

Material Adverse Effect means a material adverse effect on:

- (a) the ability of the Debt Finance Recipient to pay to the Debt Financiers the amounts due (or that would have been due were it not for the occurrence of the relevant event, omission or occurrence) under, and substantially in accordance with, the Debt Financing Documents (without regard to any acceleration of the obligation to repay); or
- (b) the amount of the Equity Return.

Materially Reduced means where there is a reduction of available vehicular lane capacity on the Principal Traffic Connection of 50% or more.

MC Margin means 15%, or as otherwise agreed by the parties, acting reasonably.

Minimum Refinancing Requirements means that:

- (a) the Group Gearing Level:
 - (i) will not exceed 60% after implementation of the Refinancing; or
 - (ii) will exceed 60% after implementation of the Refinancing and the Refinancing is a Replacement of Debt;
- (b) the Refinancing is on commercial terms and is effected on an arm's length basis; and
- (c) to the extent that the Refinancing involves bank debt and not bonds or debentures, the incoming financier has the Required Rating or is guaranteed and indemnified on terms acceptable to the State by a financial institution or investment fund that has the Required Rating.

Modification means any change to:

- (a) the Tollroad (other than the Tolling System);
- (b) the Common Road Infrastructure, which it is necessary to make in order to enable the proposed change to the Tollroad to be effected;
- (c) the Affected Transport Infrastructure, which it is necessary to make in order to enable the proposed change to the Tollroad to be effected; or
- (d) the Activities,

including any addition, increase, decrease, omission, deletion, demolition or removal to or from them.

Modification Cost means, to the extent a Modification increases the cost of the Activities:

- (a) the direct costs and associated on-site overheads reasonably arising out of or in connection with the Modification (including any capital works costs, operating costs, maintenance costs or debt financing costs);
- (b) a reasonable amount on account of the off-site overheads and profit margin of the Franchisee and each O&M Contractor (which will be the amount calculated by multiplying the MC Margin by the costs described in paragraph (a)) and each other contractor engaged by the Franchisee in connection with the construction or supply of the Modification; and
- (c) if the proposed Modification is funded wholly or partly from a raising of new equity, a reasonable market rate of return on that new equity,

after deducting all decreases in the cost of the Activities arising out of the Modification.

Modification Saving means, to the extent a Modification decreases the cost of the Activities:

- (a) the cost savings arising out of or in connection with the Modification (including any savings in relation to capital works costs, operating costs, maintenance costs or financing costs); and
- (b) a reasonable amount on account of the off-site overheads and profit margin (which will be the amount calculated by multiplying the MS Margin by the cost savings described in paragraph (a)).

Motorway means a Road facility where there is no direct vehicular access to or from it other than at entry and exit ramps.

Motorway Standard Road means a high speed, high Traffic flow capacity, limited access Road for Vehicles which:

- (a) has four or more vehicular lanes on the Mainline Carriageways;
- (b) generally has no or very limited direct property access connecting on to it;
- (c) generally has a posted speed limit of greater than 70 km/h; and
- (d) is fully grade-separated so that Vehicles can safely travel continuously along the Mainline Carriageways at the posted speed during uncongested periods for a distance of at least six kilometres and such Vehicles do not pass through signalized intersections or roundabouts.

MOU means memorandum of understanding.

MS Margin means 10%, or as otherwise agreed by the parties, acting reasonably.

National Land Transport Network has the meaning given to it in the Nation Building Program (National Land Transport) Act 2009 (Cth).

National Tollroad MOU means the document entitled "Memorandum of Understanding - Electronic Toll Collection" dated 30 October 2009.

Native Title Claim means any claim or application under any Law or future Law relating to native title, including any application under section 61 of the Native Title Act 1993 (Cth).

Nominated Tolling Product means each tolling product specified in clause 2.1 of the Nominated Tolling Product Schedule as varied in accordance with clause 12.7(b).

Nominated Tolling Product Schedule means Schedule 4.

Non-Product User means, in relation to a Trip, any person (other than an Interoperable User) who has not made arrangements with a Franchisee to pay the Toll using a Nominated Tolling Product on or before that Trip is undertaken.

Non-Tollroad Infrastructure means:

- (a) all railway, busway, light rail and monorail infrastructure located within the Leased Area;
- (b) all SEQ Traffic Signals located within the Leased Area;
- (c) all PUP located within the Leased Area;
- (d) all AWE located within the Leased Area;

- (e) all Common Road Infrastructure, including any Upgrades or Modifications to Common Road Infrastructure;
- (f) all Proximate Work (other than Developer Works) constructed by the State or its nominee, unless otherwise agreed by the State and the relevant Franchisee to be Tollroad Infrastructure;
- (g) all Developer Works which the State and the Franchisee agree are not Tollroad Infrastructure; and
- (h) any part of any Upgrade or Modification of the Tollroad that is agreed by the parties not to be part of the Tollroad.

Notional Equity Investor means a notional Australian corporate taxpayer who is deemed to hold share capital or units in, or provides shareholder loans (or other loans or subscriptions in the nature of equity funding) to or for the benefit of a Group Member or a Holding Entity (**Equity**), where the amount of such Equity is included as Equity in the Base Case Financial Model, from the Acquisition Date until the end of the Concession Period (assuming no circumstance of early termination or extension).

O&M Activities means all things and tasks which each Franchisee is, at any time, required to do in discharging its operation, maintenance or repair obligations under this deed, or its other obligations under this deed arising out of or in respect of or in connection with the operation, maintenance or repair of the Tollroad or the Site.

O&M Bond means the bond referred to in clause 4.1(a) or any bond accepted in substitution or replacement of that bond.

O&M Contract means any contract between a Franchisee and an O&M Contractor for the operation, maintenance and repair of the Tollroad or any part of the Tollroad.

O&M Contractor means any person who is engaged by a Franchisee to undertake all, or substantially all, of the O&M Activities.

O&M Guarantee means any guarantee given by an O&M Guarantor to a Franchisee in respect of the obligations of an O&M Contractor under an O&M Contract.

O&M Guarantor means any person who guarantees the obligations of an O&M Contractor under an O&M Contract.

Officer means the Chief Executive Officer, Chief Financial Officer or Company Secretary of the Group.

Original Gateway Bridge means the bridge crossing the Brisbane River between Eagle Farm and Murarrie together with the approach roadworks extending to the vicinity of Cullen Avenue, Eagle Farm and Lytton Road, Murarrie, which was first opened for Traffic in 1986.

Original Concession Period Finish Date has the meaning given to it in clause 15.1(d).

Other Areas means all areas, other than the Site, on which the Activities are being carried out or materials which are used in the Activities are being prepared or stored.

Other Asset Owner means any Authority or any third party who owns, manages, operates or maintains any type of infrastructure, plant or equipment (other than Tollroad Infrastructure) within the Leased Area (or on land that is adjoining the Leased Area) and who requires access over the Leased Area in order to manage, operate or maintain any such infrastructure, plant or equipment), or is an applicant to do so.

Outdoor Displays Portfolio Master Plan means the State's policy document entitled "Outdoor Displays Portfolio Master Plan".

Passenger means a person (including the Vehicle driver) in any Vehicle (including a public transport Vehicle), or a person who is walking or cycling or travelling, in the Leased Area by other means.

Performance Specification means the documents and drawings set out in Exhibit A.

Permitted Refinancing means a Refinancing which achieves the Minimum Refinancing Requirements.

Permitted Share Capital Dealing means a Share Capital Dealing specified in Schedule 12.

Permitted Transferee means:

- (a) in relation to a body corporate, a Related Body Corporate or a Related Trust Entity of that body corporate; and
- (b) in relation to an individual, a Related Trust Entity or a Relative of that individual.

Perpetual Lease means the perpetual lease under the Land Act 1994 (Qld) in favour of the State issued in accordance with section 84C of the Transport Infrastructure Act, that includes the Leased Area.

Planned Event means an event that will cause a capacity or safety reduction on the Tollroad at a place, time and for a period that can be planned and managed by a Planned Event Traffic Management Plan.

Planned Event Traffic Management Plan means a plan, including communications, to ameliorate the effects of an event that will cause a capacity reduction on the Tollroad.

Planning Approval means the conditions and recommendations which form part of the Coordinator-General's report prepared in respect of the project to upgrade the Gateway Motorway Facility under the State Development and Public Works Organisation Act 1971 (Qld), as set out in Exhibit B.

PML means Port Motorway Limited ACN 010 821 020.

Pollution includes any solid, liquid, gas, odour, heat, sound, vibration, radiation or substance which makes or may make the Environment:

- (a) unsafe or unfit for habitation or occupation by persons or animals;
- (b) degraded in its capacity to support plant life;
- (c) contaminated; or
- (d) otherwise environmentally degraded.

Possible MAE Event means an event or circumstance referred to in clause 18.1.

Previous Road Franchise Agreement means the Road Franchise Agreement between the State, QML, GMPL, LMPL and PML dated 3 July 2006.

Principal Traffic Connections has the meaning specified in Schedule 5.

Product Charges means fees for Nominated Tolling Products that are not Account Requirements or User Administration Charges.

Product Contract means in respect of a tolling product, the contract that complies with clause 12.8(a)(i).

Product Contract Amendment has the meaning given to it in clause 12.8(c)(i).

Product Features means in respect of each Nominated Tolling Product, each feature of that Nominated Tolling Product as specified in the annexure to the Nominated Tolling Product Schedule applicable to that Nominated Tolling Product.

Product User means, in relation to a Trip, any person who has made arrangements with a Franchisee to pay the Toll using a Nominated Tolling Product on or before that Trip is undertaken.

Proprietary Material means:

- (a) the Tolling System;
- (b) the Concession Plans; and
- (c) all other documentation, information (including data bases), models, systems and technology in which Intellectual Property Rights are capable of subsisting which a Franchisee or its contractors use in undertaking the Activities and which is reasonably required by the State for:
 - (i) approval as a Deliverable;
 - (ii) the operation, maintenance and repair of the Tollroad;
 - (iii) the levying of Tolls and imposition of Administration Charges, User Administration Charges, Product Charges and Account Requirements;
 - (iv) the handover of the Tollroad to the State at the end of the Concession Period, in accordance with this deed;
 - (v) the purposes of the Concession or the Activities; or
 - (vi) the purposes of the design, construction, operation, maintenance, repair and alteration of infrastructure and other things (including any Proximate Work) which interface with the Tollroad,but does not include software tools which are:
 - (vii) used internally by contractors of a Franchisee to create, but which are not incorporated in any way into, the materials described in (a) to (c) above; or
 - (viii) generally commercially available.

Proximate Work has the meaning given to it in clause 13.3.

Public Disclosure Obligations has the meaning given to it in clause 32.2(a).

Public Utility Plant or **PUP** means plant permitted under legislation of the Commonwealth or the State (other than the Transport Infrastructure Act) to be within the Leased Area.

QMA Shares means all of the issued shares in QM Assets Pty Limited (ACN 165 578 727).

QMH means Queensland Motorways Holding Pty Limited (ACN 150 265 197).

QMH Consolidated Group means Sun HoldCo 1 and its wholly owned subsidiaries.

QMH Shares means all of the issued shares in QMH, other than the RPS.

QML means Queensland Motorways Limited ACN 067 242 513.

QML Hold Co Consolidated Group means QML Hold Co Pty Limited (ACN 165 802 004) and its wholly owned subsidiaries.

QMMPL means Queensland Motorways Management Pty Ltd ACN 010 630 921.

Quality Management Plans means the Concession Plans relating to quality management required under the Performance Specification.

Quality Manager means a person notified by the Franchisees to perform the responsibilities of the Quality Manager under this deed.

Quarter means each 3 month period commencing on a Quarterly Date.

Quarterly Date means 1 January, 1 April, 1 July and 1 October in any year during the Concession Period.

Ramp Signals means Traffic Signals (other than SEQ Traffic Signals) located within the Leased Area:

- (a) on an Entry Ramp, which can control the number or type of Vehicles that can enter a Mainline Carriageway of the Tollroad; or
- (b) on an Exit Ramp, which can control the number or type of Vehicles that can enter a Mainline Carriageway of another Motorway.

Reasonable Fee means, in respect of the licence fees payable under clause 31.5 in relation to the Intellectual Property Rights in certain Deliverables or methods of working, the reasonable market rate for the Intellectual Property Rights in a system or product similar to the relevant Deliverables or methods of working, having regard to the relevant nominated use and assuming that there are a number of non-collusive and competitive suppliers of systems or products similar to the relevant Deliverables or methods of working.

Reference Motorways means:

- (a) the Ipswich Motorway, from its crossing of the rail corridor near Alfred Street at Dinmore, to just west of its junction with Granard Road at Rocklea, excluding the signalized intersection at this junction;
- (b) the Centenary Motorway, from its crossing of Julie Road near Ellen Grove, to just south of its junction with Mt Coot-tha Road at Toowong, excluding the roundabout at this junction; and
- (c) the Pacific Motorway, from its crossing of the Gateway Motorway at Eight Mile Plains, to its crossing of Vulture Street at Woollongabba.

Reference Revenue means, for each relevant period, the amount set out in relation to that relevant period in Part 1 of Schedule 6 (Indexed).

Refinancing means:

- (a) the disposition of any rights or interests in, or the creation of any rights of participation in respect of the Debt Financing Documents or the creation or granting of any other form of benefit or interest in either the Debt Financing Documents or the contracts, revenues or assets of the Group whether by way of security or otherwise;
- (b) any new financing arrangements entered into by a Group Member; or

- (c) any other step or arrangement that has an effect which is similar to any of the actions referred to in paragraphs (a) and (b).

Refinancing Assumptions means each of the terms, conditions and assumptions concerning a Refinancing set out in the Base Case Financial Model.

Related Body Corporate has the meaning given to it in the Corporations Act.

Related Trust Entity means with respect to an entity which is a trustee, manager or Responsible Entity of a trust or a managed investment scheme:

- (a) any Related Body Corporate of the trustee, manager or Responsible Entity;
- (b) any other trustee, manager or Responsible Entity of the trust or managed investment scheme (or Related Body Corporate) of such entity; or
- (c) any Controlling Unit Holder of the trust or managed investment scheme (or Related Body Corporate) of such an entity.

Relative in relation to an individual means:

- (a) the spouse, former spouse, parent, son, daughter, brother or sister of that individual; or
- (b) any person married to any of the persons mentioned in paragraph (a).

Relevant Entity has the meaning given to it in clause 11.8.

Replacement Body has the meaning given to in clause 1.3.

Replacement of Debt means a new financing arrangement which refinances (but which does not exceed) an amount of existing Actual Debt which:

- (a) has fallen due for payment;
- (b) will fall due for payment in the next 6 months; or
- (c) is required to be refinanced at that time,

pursuant to the terms of the Debt Financing Documents.

Representatives has the meaning given to it in clause 36.2(a).

Reputable Insurer means an insurance company having a financial performance rating of at least A- by AM Best or a financial strength rating of at least A by Standard and Poor's.

Required Rating means:

- (a) for the purposes of the definition of "Excluded Refinancing" and for the purposes of clause 28.4, a credit rating of at least BBB by Standard and Poor's (Australia) Pty Limited or Baa2 by Moody's Investor Service, Inc.; and
- (b) in each other case, a credit rating of at least A- by Standard and Poor's (Australia) Pty Limited or A3 by Moody's Investors Service, Inc.

Responsible Entity has the meaning given to it in the Corporations Act.

Restricted Disclosures means any public disclosures, announcements or statements in relation to:

- (a) any planning concerning the Tollroad;

- (b) any Upgrade; or
- (c) the State's or the State's Associates' involvement in the Concession or the Activities.

RFA Side Deed means the deed entitled "Road Franchise Agreement Side Deed" between the State and each Franchisee dated on or about the date of this deed.

Road means:

- (a) an area of land dedicated to public use as a road;
- (b) an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of Vehicles;
- (c) a bridge, culvert, ferry, ford, tunnel or viaduct;
- (d) a pedestrian or bicycle path; or
- (e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d), and

includes the Tollroad.

Road User means any person using the Road network, including a Passenger.

RPS means all of the redeemable preference shares issued by QMH.

Sale Date means 31 May 2011.

Security Interest means any mortgage, charge, pledge, lien, encumbrance, assignment, hypothecation, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person.

Senior Concession Group means the group referred to in clause 5.6.

SEQ Road Network means the Road network servicing the public and industry in south east Queensland, but excludes the Tollroad.

SEQ Traffic Signals means the Traffic Signals on the SEQ Road Network, including Traffic Signals for:

- (a) a pedestrian or cyclist crossing of an Entry Ramp or Exit Ramp; or
- (b) an intersection of an Entry Ramp or Exit Ramp with a Road other than a Mainline Carriageway of the Tollroad.

Shares means all of the issued share capital of QML legally or beneficially owned by the State at the Sale Date.

Share Capital Dealing has the meaning given to it in clause 26.5.

Side Deed means the document entitled "Logan Motorway and Gateway Motorway Side Deed" dated on or about the Acquisition Date between the Sun Group Property Trust, LMPL and GMPL.

Similar Time Slots:

- (a) means time periods of the same duration and with the most similar characteristics to the Time Slots (including, for example, peak hour) on days with the most similar characteristics

to the Suspension Days (including for example public holidays, school holidays, weekends, week days) in the Comparison Period;

- (b) excludes:
- (i) the Time Slots;
 - (ii) the period of any other Suspension;
 - (iii) the period of any Tolling Suspension Event (even if it is not the subject of a Suspension Direction);
 - (iv) a period during which the volume of Vehicles on all or part of the Tollroad is materially affected by:
 - A. an Incident;
 - B. an incident or accident on another part of the Road or transport network; or
 - C. all or part of the Tolling System not operating effectively; or
 - (v) a period during which a Special Event occurs; and
- (c) if Time Slots have materially different characteristics, there may be more than one Similar Time Slot for one Suspension.

SIMS means the State's incident management system which is an application of the TOSS.

Sir Leo Hielscher Bridges means the parallel bridges known as the Sir Leo Hielscher Bridges that cross the Brisbane River as part of the Gateway Motorway.

Site means the Leased Area, the CSC Leased Area and the Extra Land.

Site Contamination means any Contamination in, on, under, over or around the Site or which emanates, emits, leaks, releases, escapes, migrates or is discharged from the Site, whether or not the Franchisees or their Associates have caused or contributed to that Contamination.

Southern Cross Way means the Motorway Standard Road formerly known as the "Old Gateway Motorway" which connects the Gateway Motorway Facility at Nudgee (at 153.0892° E, 27.3939° S) with the Gateway Motorway Facility at Eagle Farm (at 153.0886° E, 27.4350° S).

Special Events means:

- (a) the transportation of visiting dignitaries specified by the State; and
- (b) the fun run known as "the Bridge to Brisbane", or one other annual community event of a similar nature nominated by the State.

State Concession Documents means those Concession Documents that the State is a party to.

State Deed of Charge means:

- (a) the deed of charge dated 23 March 2011 granted by the Franchisees and QMMPL in favour of the State; and
- (b) the deed of charge dated on or about the Acquisition Date granted by the Sun Group Property Trust in favour of the State,

over all of the assets and undertaking of each Group Member given as security for the performance of the Franchisees' obligations to the State under the State Concession Documents.

State Initiated Change to Key Approval means a Change to Key Approval other than a Franchisee Initiated Change to Key Approval.

State Law means legislation of the State, including:

- (a) delegated legislation;
- (b) any document or policy enforceable under such legislation or delegated legislation (including the Gazette Notice); and
- (c) Local Government law, including model local law, interim local law and subordinate local law.

State Securities means:

- (a) the State Deed of Charge;
- (b) any charge in favour of the State which is entered into pursuant to clause 10.14; and
- (c) any other instrument or Security Interest which is at any time collateral to any of the foregoing.

State's Representative means any representative of the State appointed pursuant to clause 5.4.

Sub-subleases means any sublease of any Lease.

Subscription Agreement means the document entitled "Project Sun - Subscription Agreement" dated 23 April 2014 between Transurban Holdings Limited, Transurban Infrastructure Management Limited as responsible entity of Transurban Holding Trust, AustralianSuper Pty Ltd as trustee for AustralianSuper, Tawreed Investments Limited, Transurban Sun Nominees Pty Ltd as trustee of Transurban Sun Holdings Trust, AS Infrastructure No.2 (Holding) Pty Ltd as trustee for AS Infrastructure No.2 (Holding) Trust, Sun Group Invest Pty Limited as trustee of Sun Group Invest Trust, Transurban Sun Holdings Pty Ltd, AS Infrastructure No. 2 (Operating) Pty Ltd as trustee for AS Infrastructure No. 2 (Operating) Trust, Sun Group Property Pty Limited as trustee of the Sun Group Property Trust, Sun Holdco 1 and Sun HoldCo 2.

Sun FinCo means Sun Group Finance Pty Limited (ACN 169 093 850).

Sun Group Property Trust means Sun Group Property Pty Limited (ACN 169 093 878) as trustee for Sun Group Property Trust.

Sun HoldCo 1 means Sun Group Holdings 1 Pty Limited (ACN 169 090 804).

Sun HoldCo 2 means Sun Group Holdings 2 Pty Limited (ACN 169 090 788).

Suspend means not charging Tolls in relation to the use of the Tollroad to the extent described in the Suspension Direction.

Suspension Adjustment means where the Comparison Period for the Similar Time Slot is the 12 month period preceding the commencement of the Tolling Suspension Event, adjustment of the aggregate total of Tolls collected by the Franchisee for any relevant matters determined by the State (acting reasonably) including seasonality and Traffic movements.

Suspension Claim Details means:

- (a) details of the relevant Tolling Suspension Event;
- (b) Traffic data for the Similar Time Slot;
- (c) the amount sought by the Franchisee under clause 15.8 and the methodology used to calculate that amount; and
- (d) contact details for the representative of the Franchisee that is available to provide further information that may be required by the State to assist in determining the Claim for payment under clause 15.8.

Suspension Days means the days on which a Suspension must take place which are specified in the relevant Suspension Direction. Suspension Days need not be consecutive.

Suspension Direction means a direction given pursuant to clause 15.7.

Tag means an electronic device provided by a Tollroad Service Provider (including a Franchisee) to a user of a tollroad to enable the user to pay tolls on tollroads (including the Tollroad) by means of an electronic toll collection system.

Tax means any present or future tax, tax equivalent amount, levy, impost, duty, rate, charge, fee, deduction or withholding of any nature, imposed or levied by any governmental authority, together with any interest, penalty, charge, fee or other amount imposed or made on, or in respect of, any of the foregoing and includes any liability or notional liability arising by operation of the National Tax Equivalent Regime.

Third Party Intellectual Property Rights means any Intellectual Property Rights that are not vested in any of the Franchisees or Group Members.

Third Party Material has the meaning given to it in clause 31.10(a)(i).

Time Slot means the periods of time on Suspension Days during which a Suspension must take place (which may not be contiguous).

TMR means Queensland Department of Transport and Main Roads.

Toll means a toll levied for the use of the Tollroad (or any part of the Tollroad) in accordance with the Gazette Notice.

Tolling means detecting, classifying and charging Tolls for the use of, or otherwise in connection with, the Tollroad as contemplated by this deed and the Gazette Notice.

Tolling Ombudsman has the meaning given to it in clause 12.12.

Tolling Ombudsman Services means the provision of an independent Complaints management process, including:

- (a) receiving and considering Tollroad User Complaints as described in clause 12.12(d);
- (b) investigating and reviewing details of such Tollroad User Complaints;
- (c) keeping the complainant regularly informed of the progress of the Tollroad User Complaint, including acknowledging receipt within 10 Business Days and advising of progress within 20 Business Days;
- (d) proposing and facilitating mediation between the complainant and the Franchisees if appropriate; and

- (e) issuing a formal decision (including recommending corrective action if the Tolling Ombudsman determines that the Franchisees have made a mistake or treated the complainant unfairly) to both the complainant and the Franchisees in relation to the Tollroad User Complaint with accompanying reasons.

Tolling Suspension Event means when a Road (other than the Tollroad) is closed as a consequence of one or more of the following events:

- (a) a significant structural fault, failure or threat of damage to a Road (other than the Tollroad);
- (b) an emergency, Disaster, and/or threat to public safety, life or damage to public road infrastructure;
- (c) an earthquake, landslide, fire, cyclone, flood, severe storm or other natural disaster; and
- (d) other exceptional events as nominated by the State.

Tolling System:

- (a) means, at any time, the physical, hardware, software, firmware and other aspects of the system used or proposed to be used (as the case may be) at that time for levying and collecting Tolls; and
- (b) includes any billing systems, operating systems, Tollroad User relationship management systems (including any call centre procedures and systems) and any other ancillary systems that are necessary for levying and collecting Tolls,

within the Site, but excludes the Tollroad Control Systems.

Toll Management means all activities that relate to:

- (a) Tolling;
- (b) making available appropriate mechanisms for Toll payments; and
- (c) the supply of accurate published information in relation to the Tollroad.

Toll Management Audit has the meaning given to it in clause 12.11(a)(i)B.

Toll Management Auditor has the meaning given to it in clause 12.11(b)(iii).

Toll Point has the meaning given to the term "toll plaza" in the Transport Infrastructure Act.

Tollroad means the Gateway Motorway Facility and the Logan Motorway Facility and:

- (a) includes (where the context permits):
 - (i) the Tollroad Infrastructure;
 - (ii) the Tollroad Control Systems;
 - (iii) the Tolling System; and
 - (iv) any Upgrade or Modification of the Tollroad or any part of any Upgrade or Modification of the Tollroad; and
- (b) but to avoid doubt, excludes Non-Tollroad Infrastructure.

Tollroad Control Systems means:

- (a) the equipment and systems within the Site used by the Franchisees to monitor and control the operation of the Tollroad; and
- (b) the licensed operation of the Traffic Operating Software System.

Tollroad Infrastructure means:

- (a) all improvements located within the Leased Area or on the boundary of the Leased Area, whether permanent or temporary, including Road infrastructure, pedestrian and/or cycling infrastructure, earthworks, landscaping, noise barriers and fencing (including noise barriers and fencing located on the boundary of the Leased Area);
- (b) all street lighting and Traffic control devices which are:
 - (i) attached to any bridges or culverts within the Leased Area which support part of the Mainline Carriageways of the Tollroad; and
 - (ii) used in the operation of the Tollroad;
- (c) all Traffic data collecting and Traffic information infrastructure (excluding Traffic Signals) constructed by a Franchisee outside the Leased Area as approved by the State during the Concession Period; and
- (d) all Developer Works, unless otherwise agreed by the State and the Franchisee,

but excludes Non-Tollroad Infrastructure.

Tollroad Performance means:

- (a) the workmanship, durability or functional integrity of any element of the Tollroad;
- (b) the use of the Tollroad by the general public for the safe, efficient and continuous passage of Vehicles, pedestrians or cyclists;
- (c) the Franchisee's ability to handover the Tollroad in accordance with the requirements of this deed; and
- (d) the Franchisee's ability to:
 - (i) satisfy any warranty given by the Franchisee under this deed; or
 - (ii) perform any of its other obligations under this deed.

Tollroad Service Provider means a provider of tolling services to users of an Australian tollroad in connection with the use of, or entitlement to use, such tollroad and, for the purposes of any Interoperability Agreement, includes any person who enters into the Interoperability Agreement.

Tollroad User means any person that:

- (a) will be undertaking;
- (b) is undertaking; or
- (c) has undertaken,

a Trip, including Product Users, Non-Product Users and Interoperable Users.

Tollroad User Complaint means a Complaint by a Tollroad User.

Tollroad User Service Audit has the meaning given to it in clause 12.11(a)(i)A.

Tollroad User Service Auditor has the meaning given to it in clause 12.11(b)(i).

Tollroad User Service Practice Requirements means the provision of Tollroad User Services adopting practices required to achieve a result consistent with Law, reliability, safety, consumer protection and the requirements of this deed, including everything necessary to ensure that the principle of continuous improvement is adhered to, including continually improving the accuracy, standards and quality of Tollroad User Services to a standard at least equivalent to the standard at which other Tollroad Service Providers operate.

Tollroad User Services has the meaning given to it in clause 12.6.

Traffic includes the movement of Vehicles, pedestrians and/or cyclists.

Traffic Defect means an event which is below or outside the relevant KPI range as specified in Part 1 of the Performance Specification.

Traffic Management MOU means any MOU between one or more Franchisees and relevant Authorities (which includes the State, in its capacity as an Authority) dealing with the management of Traffic using, entering and leaving the Tollroad, and the effects of such Traffic on the safe and free flow of Traffic on the SEQ Road Network (and vice versa).

Traffic Management Plan (TMP) means the Concession Plan specific to a Planned Event or Unplanned Event, required under Part 3 of the Performance Specification.

Traffic Operating Software System (TOSS) means TMR's computerised traffic management systems (also known as STREAMS) used on the Reference Motorways (including all future upgrades or modifications of the same during the Concession Period) to drive ITS and other applications such as SIMS.

Traffic Signals means the coloured lights or symbols that control Traffic, including all associated posts, pits, ducts, cables, Traffic detectors and control systems required to operate the lights or symbols, but excluding VSL and Lane Use Management Signs.

Transport Infrastructure Act means the Transport Infrastructure Act 1994 (Qld).

Trip means:

- (a) driving or riding a Vehicle on the Tollroad; or
- (b) walking or cycling on the Tollroad (where the context permits).

TSP Customer means any person who is registered with or is a party to an arrangement with a Tollroad Service Provider (other than a Franchisee) governing the arrangements for the use of, or the entitlement to use the relevant tollroad by one or more Vehicles in accordance with the terms of that arrangement.

Uninsurable Force Majeure Event means a Force Majeure Event in respect of which the Franchisees are not insured and:

- (a) insurance covering the Force Majeure Event is not available with a Reputable Insurer; or
- (b) the insurance premium for insurance covering the Force Majeure Event is at such a level or the terms and conditions are such that a reputable insurance broker acceptable to the parties certifies that in its reasonable opinion the risk is not generally being insured against with Reputable Insurers by prudent, competent and experienced concessionaires or operators of tollroads.

Unplanned Event means a predictable situation, the timing of which is not known, that is reasonably expected to reduce Traffic flow capacity or safety on the Tollroad at a place and for a period that can be planned and managed by a Traffic Management Plan.

Upgrade means any improvement, extension, modification, augmentation, duplication or addition:

- (a) to the Tollroad; or
- (b) to Common Road Infrastructure or Affected Transport Infrastructure (whether located on the Site or not), in each case which is related to or consequential upon the proposed change to the Tollroad or necessary to enable the proposed change to the Tollroad to be effected; or
- (c) agreed by the State and the Franchisee to be an 'Upgrade',

procured in accordance with the Upgrade Process Deed.

Upgrade Process Deed means the document entitled "Upgrade Process Deed" between the State, QML, GMPL and LMPL dated on or about the date of this deed.

Upgrade Termination Amount on any date:

- (a) is the total of:
 - (i) the Concession Debt on that date, capped at the Fair Market Value; less
 - (ii) any Deductions; and
- (b) does not include any interest on the Concession Debt to the extent that it is calculated at a rate which would constitute a penalty.

User Administration Charge has the meaning given to it in the Transport Infrastructure Act.

Validity Period means, with respect to the Franchisees' Modification Notice, the period of time after receipt by the State of the Franchisees' Modification Notice that the terms of the Franchisees' Modification Notice remain open for acceptance by the State. In each case such period should not be less than 20 Business Days unless it is reasonable in all of the circumstances.

Variable Speed Limit (VSL) means a permanent or portable sign where the posted speed displayed can be changed, either dynamically or by a Road operator.

Vehicle has the meaning given to it in the Nominated Tolling Product Schedule.

WHS Legislation means the Work Health and Safety Act 2011 (Qld) and the Work Health and Safety Regulation 2011 (Qld).

1.2 Interpretation

In this deed:

- (a) headings (including headings in bold text enclosed in parentheses at the start of a paragraph) are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

- (b) "**person**" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

- (c) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (d) a reference to a document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
- (e) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (f) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (g) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;
- (h) a reference to the Performance Specification includes all appendices, annexures, attachments and exhibits to it;
- (i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) **"includes"** in any form is not a word of limitation; and
- (k) a reference to **"\$"**, **"AU\$"** or **"dollar"** is to Australian currency.

1.3 Replacement body interpretation

Where a reference is made to any body or authority which ceases to exist (**Former Body**), that reference will be to that body or authority (**Replacement Body**) which then serves substantially the same functions as the Former Body. Any reference to the chief executive or other senior officer of the Former Body will be to the chief executive or senior officer of the Replacement Body.

1.4 No bias against drafting party

Each provision of this deed will be interpreted without disadvantage to the party who (or whose representative) drafted that provision.

1.5 Business Day

If the day on or by which any thing is to be done under this deed is not a Business Day, that thing must be done:

- (a) if it involves a payment other than a payment which is due on demand, on the preceding Business Day; and
- (b) in all other cases, no later than the next Business Day.

1.6 Certification

For the purposes of this deed, a copy of a document will be regarded as duly certified by a Franchisee if it is certified as a true copy by a director, secretary or general manager of that Franchisee.

1.7 Order of precedence

The following order of precedence applies in the event of any inconsistency, ambiguity or discrepancy between the various documents comprising this deed:

- (a) the deed, excluding the schedules and exhibits;
- (b) the Key Approvals; and
- (c) the schedules and the remaining exhibits,

except to the extent that any part of the various documents comprising this deed impose a higher standard, quality, level of service or quantum than any other part of the various documents comprising this deed in which case the higher standard, quality, level of service or quantum prevails.

1.8 Cost of performing obligations

Each Franchisee must perform its obligations under this deed at its own cost, unless expressly provided otherwise.

1.9 Role of the Franchisees

The parties agree that, notwithstanding any other provision of this deed or any other State Concession Document:

- (a) **(Interface responsibility):** If and to the extent that any State Concession Document does not clearly allocate to either QML, GMPL or LMPL the responsibility for performing a particular obligation under or observing a particular provision of the State Concession Document, or does not clearly allocate the liability for a particular risk, that responsibility or liability will (as between the Franchisees and the State and its Associates) be borne by QML.
- (b) **(No excusing of performance):** Each Franchisee acknowledges and undertakes to the State and its Associates that no act, failure to act, omission or default by a Franchisee under any State Concession Document will excuse the other Franchisees from performing any obligation under (or observing and complying with any provision of) the State Concession Documents, or reduce the liability of the other Franchisees for any act, failure to act, omission or default in the performance of any of their obligations under the State Concession Documents.
- (c) **(Prohibitions and conditions apply to each Franchisee):** A Franchisee must not do, or cause or allow to be done anything which another Franchisee is prohibited under a State Concession Document from doing, causing or allowing to be done, as the case may be.

If any right of a Franchisee under a State Concession Document (or under a consent or approval given by the State or any of its Associates pursuant to a State Concession Document) is expressed to be subject to any condition, that condition applies also to each other Franchisee.

- (d) **(Acknowledgements, releases, consents, approvals, indemnities and assumption of risk):** If a Franchisee gives any acknowledgement, release, consent, approval or indemnity or assumes any risk under a State Concession Document, each other Franchisee will not be entitled to assert (and waives any right that it may otherwise have to assert) any right or entitlement against the State or its Associates that the first Franchisee is not entitled to so assert by reason of that acknowledgement, release, consent, approval, indemnity or assumption of risk.

- (e) **(Knowledge or awareness of a Franchisee):** For the purposes of any reference in a State Concession Document to a matter of which a Franchisee has or is deemed to have knowledge, the knowledge of one Franchisee will be deemed to be the knowledge of each Franchisee, and a Franchisee will not be entitled to assert that it has no knowledge of a matter of which another Franchisee has or is deemed to have knowledge.

For the purposes of any reference in a State Concession Document to a matter of which a Franchisee is aware or is deemed to be aware, one Franchisee being or being deemed to be aware of that matter will be deemed to be each Franchisee being or being deemed to be aware of that matter, and a Franchisee will not be entitled to assert that it was not aware of a matter of which another Franchisee is aware or is deemed to be aware.

- (f) **(Processes and consents):** For the purposes of any provision of a State Concession Document which contemplates any meeting, consultation or participation in any other process by any Franchisee, or the giving of any approval or consent by any Franchisee:
- (i) the Franchisees appoint the representative of the Franchisees specified in clause 5.5 or some other officer or employee of a Franchisee notified to the State as a single representative to act on behalf of the Franchisees collectively in respect of that meeting, consultation or other process (**Franchisee Appointee**);
 - (ii) the State will not be required to deal with and will be entitled to disregard any purported participation by or purported approval or consent from any person other than the Franchisee Appointee;
 - (iii) participation in that meeting, consultation or other process by a Franchisee Appointee will be deemed to be participation by all the Franchisees, for their respective rights and obligations under the State Concession Documents;
 - (iv) an approval or consent given by a Franchisee Appointee will be deemed to be given by all Franchisees, for their respective rights and obligations under the State Concession Documents, without the State or its Associates being required to enquire as to which Franchisee has the relevant right or obligation; and
 - (v) each Franchisee will be bound by the outcome of that meeting, consultation or other process in relation to its rights and obligations under the State Concession Documents.
- (g) **(Payments and receipts):** For the purposes of any provision of a State Concession Document under which a payment may be made, or received, by the State or its Associates, the Franchisees or their respective Associates:
- (i) any payment made to a Franchisee will be deemed, to the extent of that payment, to satisfy the relevant obligation of the payer to each Franchisee (to the extent of their respective rights under the State Concession Documents) without the payer being required to enquire as to the respective entitlements of the Franchisees in respect of the subject matter of that payment, and a receipt given by a Franchisee will bind all Franchisees; and
 - (ii) the State and its Associates may receive a payment made by a Franchisee in or towards satisfaction of the obligations of any Franchisee under the State Concession Documents, without the payee being required to enquire as to the respective obligations of the Franchisees in respect of the subject matter of that payment, and a receipt given by the payee to a Franchisee will be sufficient acknowledgment of the receipt of that payment as regards each Franchisee.
- (h) **(Redress not increased):**

- (i) Any redress or compensation owing to the Debt Finance Recipient or a Franchisee (as applicable) under or in accordance with the State Concession Documents, including under clause 14, clause 18 and clause 33.9(b) will not, in aggregate, be more onerous to the State or its Associates than if the Franchisees and the Debt Finance Recipient had been a single legal entity.
- (ii) Without limiting clause 1.9(h)(i), in determining the amount of any redress or compensation owing to any or all of the Franchisees (as applicable) or the Debt Finance Recipient under the State Concession Documents any dealing between a Franchisee or any Related Body Corporate or Related Trust Entity of either a Franchisee or the Debt Finance Recipient will be ignored to the extent that it is not on arm's length commercial terms.
- (iii) For the purposes of clause 1.9(h)(ii), any dealing between a Franchisee and the Debt Finance Recipient or a Related Body Corporate or Related Trust Entity of either a Franchisee or the Debt Finance Recipient will be deemed to be not on arm's length terms to the extent of any difference in pricing or other terms between that dealing and the pricing or other terms that that Franchisee would be able to obtain if an equivalent transaction occurred between that Franchisee or the Debt Finance Recipient and an unrelated third party.

(i) **(Dispute resolution):**

- (i) In the event that any matter or dispute between the State or its Associates and a Franchisee is determined under clause 36 or as otherwise agreed between those parties, that determination (or agreement, as applicable) will be binding upon the other Franchisees (notwithstanding that they may not have participated in that determination or agreement), which must, within 20 Business Days of receipt of demand from the State or its Associates execute and deliver any amendment to the State Concession Documents that has been determined (or agreed) between the State or its Associates and the relevant Franchisee in order to resolve that dispute.
- (ii) The Franchisees appoint the representatives of the Franchisees specified in clause 37.1 or some other officer or employee of a Franchisee notified to the State as a single representative to act on behalf of the Franchisees collectively in dealing with any matter or dispute between the State or its Associates and a Franchisee, including where a notice has been given under clause 36.2(a) (**Dispute Resolution Appointee**).
- (iii) The State and its Associates will not be required to deal with and will be entitled to disregard any purported participation by any person other than the Dispute Resolution Appointee in any determination or agreement of a matter or dispute between the State or its Associates and a Franchisee.
- (iv) If requested by the State, a Franchisee must participate at its cost in any dispute resolution procedures under this deed or any other State Concession Document involving the State and another Franchisee.
- (v) A Franchisee will not be entitled to separately commence any dispute resolution procedure against the State under this deed or any other State Concession Document to the extent that it relates to a Dispute which has already been initiated by another Franchisee.

(j) **(Disputes between Franchisees):**

- (i) In the event of any matter or dispute between the Franchisees that cannot be otherwise resolved, the Franchisees will cause the matter or the dispute to be determined in accordance with clause 36, which will be construed as though the references to the State and a Franchisee are references to the relevant Franchisees.
 - (ii) The Franchisees must, prior to the commencement of any determination of the matter or dispute, notify the State of the matter or dispute.
 - (iii) The State and its Associates may, in their discretion, participate in the process to determine the matter or dispute, in which event any costs incurred by the State will be borne by the Franchisees.
 - (iv) The determination (or any participation by the State and its Associates in the determinations) of that matter or dispute between the Franchisees will in no way, as between the State and its Associates and the Franchisees, limit or affect the responsibilities or liabilities of the Franchisees or the rights or remedies of the State and its Associates.
- (k) **(Ability to perform acts):** For the purposes of any provision of a State Concession Document in which the ability of a Franchisee to perform an action (or the reasonableness of a Franchisee's actions) is relevant:
- (i) the Franchisees will not be entitled to rely upon (and the State and its Associates will be entitled to ignore) the fact that assets and resources of each of the Franchisees are separately owned; and
 - (ii) the collective assets and resources of the Franchisees will be considered for this purpose.
- (l) **(Obligation of each Franchisee):** If a provision of a State Concession Document obliges each Franchisee to perform a particular obligation which obligation can be satisfied by any one of the Franchisees (including to enter into an agreement with any third party) that obligation will be satisfied if any one of the Franchisees does that thing (without needing each of the Franchisees to, for example, join the agreement).

1.10 Future restructure of the Group

- (a) **(Franchisees may submit proposal):** The State acknowledges that the Franchisees may, after the Sale Date, submit a proposal to restructure the Group, which may include consolidating its operations into fewer or different entities.
- (b) **(State not to withhold consent unreasonably):** The State will not unreasonably withhold its consent to that proposal, provided that:
 - (i) the State is reasonably satisfied that any changes to the State Concession Documents are only consequential amendments, that do not adversely affect the rights or obligations of the State or its Associates; and
 - (ii) the Franchisees pay the reasonable legal and other costs of the State in reviewing and approving the proposal, and all costs and Taxes arising from implementation of the restructure.
- (c) **(Only one restructure):** The Franchisees may only exercise their rights under this clause 1.10 once during the Concession Period.

2. Concession Period

2.1 Commencement Date

This deed commences at 12:03 am on the Commencement Date.

2.2 Expiry date

The Concession Period will end on the earlier of:

- (a) the date on which this deed is terminated under clause 7.6, clause 18.12 or clause 33; or
- (b) 31 December 2051, as varied under clause 15.1(i) or clause 18, if applicable.

3. The Concession

3.1 Grant of Concession

The State grants the Franchisees the Concession for the Concession Period subject to, and in accordance with, this deed.

3.2 Franchisees' primary obligations

Each Franchisee agrees that:

- (a) it must operate, maintain and repair the Tollroad; and
- (b) it must handover the Tollroad at the end of the Concession Period,

subject to, and in accordance with the State Concession Documents.

3.3 Risk

Except as otherwise expressly provided in this deed, each Franchisee:

- (a) accepts all risks associated with the Concession and the Activities, including those specified in clause 16; and
- (b) will not be entitled to make any Claim against the State arising out of or in connection with such risks.

3.4 Objectives

- (a) **(Strategic objectives):** The State and the Franchisees acknowledge that the strategic objectives of the Tollroad and the Activities are to provide a high quality Road, accessible Road corridor and governance arrangements that:
 - (i) promotes economic and urban growth in south east Queensland by:
 - A. assisting the State with its planning of the transport network in the vicinity of the Tollroad;
 - B. maximising the transport efficiency of the Tollroad, whilst working co-operatively with the State and relevant Authorities to assist them to mitigate any excessive congestion or excessive delays on the nearby Road network created by the Tollroad (whilst also recognising the benefits of the Tollroad for the SEQ Road Network);

- C. facilitating the implementation of any relevant State transport policies;
 - D. maintaining Tollroad Infrastructure in good condition;
 - E. facilitating access to the Leased Area for Non-Tollroad Infrastructure;
 - F. delivering fair, timely, efficient, accurate and transparent collection of Tolls; and
 - G. working in partnership with other Road operators to optimise the management of the whole Road network in south east Queensland; and
- (ii) supports community liveability and well being by:
- A. improving safety on the Tollroad and working co-operatively with the State and relevant Authorities to assist them to improve safety on the SEQ Road Network;
 - B. minimising any adverse impacts of Tollroad Traffic and the Activities on nearby communities and Tollroad Users;
 - C. engaging with the community and Tollroad Users in regard to information on Tollroad Traffic conditions and Tollroad works or activities; and
 - D. reasonably assist the State's enforcement agencies to improve compliance of Tollroad Users with State Laws; and
- (iii) preserves the Tollroad corridors and enhances the Environment by:
- A. minimising the occurrence and impact of Environmental Hazards; and
 - B. the Franchisees acting as stewards of the Tollroad corridors to preserve these corridors for the benefit of future generations.
- (b) **(Traffic management objectives):** The State and the Franchisees acknowledge that the Traffic management objectives of the Activities are to:
- (i) maximise throughput, improve reliability and minimise Traffic intrusion and congestion on Affected Transport Infrastructure;
 - (ii) improve safety, reduce primary and secondary crashes and minimise time to clear Incidents;
 - (iii) encourage compliance by Tollroad Users with Traffic laws, for example by the use of variable message signs on the Gateway Motorway Facility and minimise use of the Tollroad for criminal purposes; and
 - (iv) inform Tollroad Users and Authorities of the current operating conditions of the Tollroad.

3.5 Relationship with the GUP Project Deed

The parties acknowledge and agree that:

- (a) the Facility was designed and constructed by the Contractor pursuant to the GUP Project Deed;

- (b) the Contractor has on-going rights and obligations under the GUP Project Deed in relation to the maintenance and repair of the Facility until 15 August 2020, subject to early termination by QML;
- (c) subject to clause 3.5(d) but notwithstanding anything else in this deed, during the term of the GUP Project Deed, the Franchisees are not required to achieve a standard of performance or quality with respect to the maintenance and repair of that part of the Tollroad which comprises the Facility that is higher than a standard of performance or quality imposed upon the Contractor under the GUP Project Deed to the extent that it relates to a comparable obligation. If the standard of performance or quality provided by the Franchisees with respect to the maintenance and repair of that part of the Tollroad which comprises the Facility complies with the standard of performance or quality required under the GUP Project Deed (to the extent that it relates to a comparable obligation) the Franchisees will be deemed to have complied with the requirements of this deed.
- (d) clause 3.5(c) does not apply to relieve the Franchisees from achieving a standard of performance or quality with respect to the maintenance and repair of that part of the Tollroad which comprises the Facility without the prior consent of the State to the extent that QML acts or omits to act in a manner that diminishes, reduces or relieves (wholly or partially) an obligation of the Contractor that it would otherwise have had under the GUP Project Deed, including by:
 - (i) waiver or release of the Contractor from liability;
 - (ii) consent;
 - (iii) exercise of, or failure to exercise, a right, discretion, power or entitlement; or
 - (iv) issue of, or failure to issue, a direction;
 - (v) using reasonable endeavours to require the Contractor to improve the standard of its performance, so that its performance is no longer a breach of the GUP Project Deed;
 - (vi) otherwise failing to enforce the GUP Project Deed in accordance with its terms (or with the consent of the State terminating the GUP Project Deed or replacing the Contractor, if they are entitled to do so); and
- (e) **(time period):** notwithstanding anything else in this deed, where the Franchisees have an obligation under this deed in relation to the maintenance or repair of that part of the Tollroad which comprises the Facility, the time period allowed for the Franchisees to satisfy that obligation in relation that part of the Tollroad which comprises the Facility (other than the provision of notices) will be the greater of the time period stated under this deed and 133% of the time period allowed for the GUP Project Deed to satisfy any comparable obligation under the GUP Project Deed.

4. Security Bonds

4.1 Provision of Bonds

- (a) **(O&M Bond):** Each Franchisee must provide the State with one or more bonds as required under clause 11.7.
- (b) **(Handover Bond):** Each Franchisee may provide the State with a Handover Bond so as to fulfil its obligations under clause 35.1(d)(ii).

4.2 Requirements for Bonds

Each Bond must:

- (a) be in the form of Schedule 1 (or such other form as the State may approve);
- (b) be in favour of the State;
- (c) be a continuing liability without an expiry date;
- (d) be at all times provided by a bank acceptable to the State that maintains the Required Rating;
- (e) not be given by or on behalf of an Associate of a Franchisee or its respective subcontractors;
- (f) be payable at an office of the issuer in Brisbane (or such other place as the State may approve); and
- (g) be, where required, duly stamped.

4.3 Replacement of Bonds

If a Bond ceases to satisfy the requirements of clause 4.2, then the relevant Franchisee must:

- (a) promptly notify the State of that circumstance; and
- (b) within 20 Business Days of being requested to do so, procure the issue to the State of a replacement bond which satisfies the requirements of clause 4.2.

4.4 No injunction

The State may make a demand under a Bond at any time. Each Franchisee must not take any steps to injunct or otherwise restrain:

- (a) the issuer of a Bond from paying the State pursuant to the Bond;
- (b) the State from making a demand or receiving payment under a Bond; or
- (c) the State using the proceeds of a Bond.

4.5 Proceeds of Bonds

- (a) The State may have recourse to the proceeds of any Bond at any time.
- (b) Any proceeds remaining will be repaid to a Franchisee in return for a replacement bond for the amount repaid which satisfies the requirements of clause 4.2. The replacement bond will be regulated by this deed as if it were the Bond the State made the demand on.

4.6 No interest

The State is not obliged to pay a Franchisee interest on a Bond or the proceeds of a Bond.

4.7 No trust

If the State makes a demand under a Bond, it does not hold the proceeds on trust.

4.8 Release of Bonds

Subject to its rights to have recourse to the Bonds, the State must release:

- (a) **(O&M Bond):** any O&M Bond within 20 Business Days after the Handover Date; and
- (b) **(Handover Bond):** any Handover Bond within 12 months after the Handover Date.

4.9 Quantum of security

The parties acknowledge and expressly agree that this deed is not subject to the condition that would otherwise be implied by section 67K(2) of the Queensland Building Services Authority Act 1991 (Qld). Section 67K(2) implies a condition into building contracts that the total value of security and retention moneys held prior to practical completion is not to be more than 5% of the contract price, unless the contract expressly provides otherwise. Under this deed, the quantum of security moneys to be provided by the Franchisees is governed by this clause 4.

Initialled for and on behalf of QML:

Initialled for and on behalf of GMPL:

Initialled for and on behalf of LMPL:

Initialled for and on behalf of the State:

5. Role of parties

5.1 State as an Authority

- (a) **(No restriction on statutory functions):** Subject to clause 5.1(b), each Franchisee acknowledges and agrees that:
 - (i) nothing in the State Concession Documents will in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of the State to exercise any of its statutory functions or powers; and
 - (ii) anything which the State does, fails to do, or purports to do, pursuant to its statutory functions or powers or in the course of the creation or development of its policies and procedures and strategic decisions will be deemed not to be an act or omission by the State under the State Concession Documents and will not entitle a Franchisee to make any Claim against the State arising out of the subject matter of this deed or the other State Concession Documents.
- (b) **(Liability for breach):** Clause 5.1(a) does not, however, limit any liability which the State would have had to any Franchisee under any State Concession Document as a result of a breach by the State of a term of any State Concession Document but for clause 5.1(a), nor does it limit the right of a Franchisee to exercise its rights under clause 18.

5.2 Other Authorities

Each Franchisee acknowledges and agrees that:

- (a) there are Authorities (other than the State) with jurisdiction over aspects of the Activities and parts of the Site and the Other Areas;
- (b) such Authorities may from time to time exercise their statutory functions and powers in such a way as to disrupt, interfere with or otherwise affect the Activities; and
- (c) except as otherwise provided in this deed, each Franchisee bears the full risk of all occurrences of the kind referred to in clause 5.2(b) and will not be entitled to make any Claim against the State arising out of or in any way in connection with such occurrences.

5.3 No partnership, joint venture or other fiduciary relationship

Neither this deed nor any other State Concession Document creates a partnership, joint venture or fiduciary relationship between the State and a Franchisee.

5.4 State's representatives

- (a) **(Appointment):** The State:
 - (i) may appoint a person to be its representative for any purpose under this deed;
 - (ii) may at any time replace any person appointed as a representative, in which event the State may appoint another person as a representative; and
 - (iii) must give written notice of all appointments under clauses 5.4(a)(i) and 5.4(a)(ii) to the Franchisees.

The State may not appoint more than one person to discharge the same function or functions under this deed but may appoint separate persons to discharge different functions under this deed.

- (b) **(Agent of the State):** Each Franchisee acknowledges and agrees that any person appointed by the State as a representative acts at all times as the agent of the State and is subject to the directions of the State.
- (c) **(Franchisees to comply):** Each Franchisee must comply with all directions, instructions and other notices validly given under this deed by the State's Representative.
- (d) **(Representative not obliged):** Unless expressly provided otherwise in this deed, the State's Representative is not obliged to review, or comment upon, any documentation or information which a Franchisee gives to the State in respect of the Concession or the Activities.
- (e) **(Delegation):** The State's Representative may from time to time, by written notice to the relevant Franchisee, delegate any specified function or functions under this deed to another person to represent the State in respect of those delegated powers.

5.5 Franchisees' representatives

- (a) **(Notice to the State):** The Franchisees must within 10 Business Days after the Commencement Date give notice in writing to the State in which it nominates the person that will act as a representative of and be authorised to act on behalf of them in discharging their functions under this deed.
- (b) **(More than one representative):** Each Franchisee may nominate more than one such person, and if so, it must in its written notice specify the functions which each person is authorised to discharge. A Franchisee may not nominate more than one person to discharge the same function or functions under this deed.
- (c) **(Substitute):** Each Franchisee may by notice in writing to the State substitute a person appointed under this clause with another person.

5.6 Senior Concession Group

- (a) **(Composition):** A Senior Concession Group must be established consisting of:
 - (i) one State's Representative;

- (ii) one representative of the Franchisees appointed under clause 5.5;
 - (iii) 2 persons from each party holding positions more senior than the persons referred to in clauses 5.6(a)(i) and 5.6(a)(ii); and
 - (iv) such other persons as the parties may from time to time agree.
- (b) **(Delegates):** The persons referred to in clauses 5.6(a)(i), 5.6(a)(ii) and 5.6(a)(iii) may appoint delegates to attend Senior Concession Group meetings in their absence.
- (c) **(Objectives):** The objectives of the Senior Concession Group are to:
- (i) monitor the overall progress of the Activities;
 - (ii) provide a forum for discussion of matters relating to the Activities, including any matters which are required to be negotiated pursuant to this deed;
 - (iii) assist with the resolution of any matters referred to the Senior Concession Group by a party; and
 - (iv) review progress reports provided by the Franchisees in accordance with the Performance Specification.
- (d) **(Frequency of meetings):** The Senior Concession Group will meet 6 monthly during the Concession Period and at times requested by either party.
- (e) **(Administration):** The State will convene and chair meetings of the Senior Concession Group and will take the minutes of all meetings and distribute the draft minutes to the members of the Senior Concession Group for approval.
- (f) **(State may require certain representatives to attend):** At the State's request, the Franchisees must procure the attendance of representatives of any O&M Contractor (and/or the Debt Financiers, if the State has given a notice of default under clause 33.2(a)) at meetings of the Senior Concession Group as observers. The State is also entitled to have a representative of the State or any Authority attend meetings as observers.
- (g) **(Franchisees may bring certain representatives):** The Franchisees are entitled to have representatives of any O&M Contractor attend any meeting of the Senior Concession Group as an observer.
- (h) **(No legal responsibilities or powers):** The Senior Concession Group will have no legal responsibilities. Nothing which occurs during a meeting of the Senior Concession Group will:
- (i) relieve a Franchisee or the State from, or alter or affect, a Franchisee's or the State's liabilities or responsibilities whether under the State Concession Documents or otherwise according to law;
 - (ii) prejudice the State's rights against a Franchisee (or vice versa) whether under the State Concession Documents or otherwise according to law; or
 - (iii) be construed as a direction by the State (or an agreement by a Franchisee) to do or not to do anything.

6. Quality

6.1 Quality system

- (a) **(Implement and maintain):** Each Franchisee must implement and maintain a quality system for the management of all aspects of its obligations under this deed and in accordance with the requirements of the Performance Specification and the Quality Management Plans.
- (b) **(Quality Management Plans):** Within 18 months after the Sale Date, each Franchisee must develop and implement Quality Management Plans in accordance with the Performance Specification.

6.2 Quality management and certification

- (a) **(Franchisees responsible):** The State and each Franchisee acknowledge that the delivery method chosen for the Activities as set out in the State Concession Documents:
 - (i) requires each Franchisee to assume responsibility for all aspects of quality of the Activities and for the durability of the Tollroad; and
 - (ii) allows the State to monitor compliance of the Activities with the requirements of the State Concession Documents.
- (b) **(Quality Manager):** Each Franchisee must ensure that a Quality Manager is engaged within 2 months of the Sale Date who must:
 - (i) independently certify the effectiveness and integrity of each Franchisee's quality systems in achieving conformance with the requirements of this deed; and
 - (ii) report to the State on quality issues in accordance with the requirements of this deed.

6.3 Quality non-conformance

- (a) **(Comply with procedure):** Each Franchisee must comply with the procedure for non-conformances set out in the Performance Specification and the Quality Management Plans.
- (b) **(Implement corrective actions):** Corrective actions implemented under each Franchisee's quality system must comply with the requirements of this deed including the Performance Specification.
- (c) **(Documents to the State):** Each Franchisee must promptly issue all documents relating to quality non-conformances to the State.

6.4 Monitoring and audits

Each Franchisee must:

- (a) have its compliance with the Quality Management Plans and Community Engagement Plans audited at intervals not exceeding 12 months at its cost by an independent auditor who is acceptable to the State;
- (b) permit representatives of the State to be present during such audits; and
- (c) deliver 2 copies of each audit report to the State within 5 Business Days of its completion.

6.5 State's right to enter, inspect and test

- (a) **(Right of entry):** The State and any person authorised by it may:
- (i) upon giving reasonable notice to a Franchisee (except in the case of an emergency when no notice is required), enter the Site; and
 - (ii) exercise this right of entry for the purposes of:
 - A. observing the Activities and monitoring compliance by each Franchisee of its obligations under the Concession Documents;
 - B. inspecting or testing any part of the Tollroad; and
 - C. exercising any right (including any step-in right) or performing any obligation which the State has under any State Concession Document.

The power to test any part of the Tollroad includes the power to carry out tests on any part of the Tollroad whether or not those tests are otherwise required by this deed.

- (b) **(Conditions of access):** When the State exercises or purports to exercise this right of entry, the State must:
- (i) observe (and ensure that any such authorised person observes) rules or requirements of a Franchisee, as to safety or security on the Site and access to systems (including any requirements that testing of systems be conducted in a test environment), which are applied generally by that Franchisee;
 - (ii) not unnecessarily delay (and ensure that any authorised person does not unnecessarily delay) the performance of the Activities or any activities of a Franchisee being undertaken to enable it to comply with any of the Concession Documents (including the Performance Specification); and
 - (iii) not damage (and ensure that any authorised person does not damage) the Tollroad, or cause any disruption to, or interference with, the use of the Tolling System or Tollroad Control Systems in the operating environment, in connection with the exercise or purported exercise of rights under this clause 6.5.
- (c) **(Franchisees to assist):** Each Franchisee must give such assistance as is reasonably required by the State in respect of any inspection or testing under clause 6.5(a), including:
- (i) providing access to such part of the Tollroad as may be required by the State; and
 - (ii) if requested by the State, carrying out any tests (including tests not otherwise required by this deed) and providing the results of those tests to the State.
- (d) **(Costs of inspection or testing):** The reasonable costs incurred by a Franchisee in connection with any inspection or test conducted at the State's direction under this clause 6.5 will be paid or reimbursed by the State, unless:
- (i) the inspection or test reveals any Defect;
 - (ii) the test is upon work undertaken to correct or overcome a Defect;
 - (iii) the inspection or test is required at that time by Best Practices, taking into account previous inspections and testing undertaken by the Franchisee; or
 - (iv) the inspection or test was required by this deed to be carried out by a Franchisee,

in which case, as between the State and the Franchisee, those costs will be borne by the Franchisee and any reasonable costs incurred by the State in connection with those tests will be a debt due from the Franchisee to the State.

- (e) **(No obligation on the State):** Each Franchisee acknowledges that:
 - (i) the State owes no duty to a Franchisee to:
 - A. inspect the Activities; or
 - B. review the Tollroad for compliance with the requirements of this deed if it does so inspect; and
 - (ii) no inspection of the Activities or review of the Tollroad by the State will in any way lessen or otherwise affect:
 - A. a Franchisee's obligations or liabilities whether under this deed or otherwise according to Law; or
 - B. the State's rights against a Franchisee whether under this deed or otherwise according to Law.
- (f) **(Certifications):** If the results of any inspection or test demonstrate that activities which have been certified by a Franchisee as compliant with the requirements of this deed is actually not compliant:
 - (i) the relevant certifications will be void to the extent of the non-compliance; and
 - (ii) the process for the issue of the relevant certifications will reapply.

7. Land

7.1 Extra Land

- (a) **(Franchisees to obtain):** Each Franchisee must procure for itself and at its own cost the occupation or use of or relevant rights over any land in addition to the Leased Area and the CSC Leased Area which is necessary or which it may deem requisite or necessary for the Activities (**Extra Land**).
- (b) **(Release):** If it obtains any rights over any Extra Land, the relevant Franchisee must:
 - (i) provide the State with a properly executed release from all liability arising out of or in respect of the Activities connected with the Extra Land from any person having an interest in such land (except for any liability the State may have pursuant to or in accordance with any agreement it is a party to with such person), on terms satisfactory to the State; or
 - (ii) indemnify the State from all liability to any person having an interest in such land, on terms satisfactory to the State.
- (c) **(Use and rehabilitation):** Each Franchisee must ensure that:
 - (i) the use by the Franchisee and its Associates; and
 - (ii) the rehabilitation,

of Extra Land is in compliance with applicable Law and the requirements of all relevant Authorities.

- (d) **(Risk):** Each Franchisee acknowledges that:
- (i) integration of the requirements for access to Extra Land is at the sole risk of each Franchisee; and
 - (ii) the State will not have any liability to a Franchisee (in so far as is permitted by law) arising out of or in any way in connection with:
 - A. identifying and obtaining access to Extra Land; or
 - B. any delay, additional costs or other effects on the Activities related to the ability of a Franchisee or its Associates to obtain access to Extra Land.

7.2 Condition of land

- (a) **(No representation or warranty):** The State makes no representation and gives no warranty in respect of:
- (i) the condition or state of repair of the Leased Area or the CSC Leased Area;
 - (ii) any structure or other thing on, above or adjacent to, or under the surface of the Leased Area or the CSC Leased Area; or
 - (iii) the existence, location, condition or availability of any Non-Tollroad Infrastructure.
- (b) **(Franchisees accept condition of land):** Each Franchisee accepts the Leased Area and the CSC Leased Area and any structures or other things on, above or adjacent to, or under the surface of, the Leased Area or the CSC Leased Area in its present condition and state of repair and subject to:
- (i) all defects, including all sub-surface conditions;
 - (ii) any Contamination, Pollution, Industrial Waste or Hazardous Substances, whether or not known to the State, any of the State's Associates, or any Authority;
 - (iii) all easements and rights of way in favour of any Authority or other person; and
 - (iv) any Artefacts or third party claims or rights in respect of Artefacts, historic sites or buildings or sacred sites.

7.3 Permitted use

A Franchisee must not use or permit the use of the:

- (a) Leased Area or any part of it for any purpose other than as permitted under this deed, or the Lease; or
- (b) CSC Leased Area or any part of it for any purpose other than as permitted under this deed, or the CSC Lease.

7.4 Environmental issues

Each Franchisee must:

- (a) **(No improper use):** not use the Site or the Other Areas, or allow them, during any period during which a Franchisee is entitled to use or occupy them, to be used, so that:
 - (i) any Industrial Waste or Hazardous Substance is abandoned or dumped on the Site or the Other Areas;
 - (ii) except as authorised by any Approval (including to the extent applicable, a Key Approval), any Industrial Waste or Hazardous Substance is handled, disposed of, disturbed, discharged or released in a manner which is likely to cause an Environmental Hazard; and
 - (iii) except as authorised by any Approval (including to the extent applicable a Key Approval), any other substance is handled, disposed of, disturbed, discharged, released, deposited to, or emanates from, the Site or the Other Areas such that a state of Contamination occurs;
- (b) **(Be environmentally responsible):** at all times carry out, and ensure that its Associates carry out, the Activities:
 - (i) in an environmentally responsible manner and so as to protect the Environment and take all reasonable and practicable measures to prevent or minimise an Environmental Hazard; and
 - (ii) in accordance with the Key Approvals;
- (c) **(Comply with Key Approvals):** without limiting each Franchisee's other obligations under this deed, comply with, and carry out and fulfil, and ensure that its Associates in carrying out the Activities comply with, carry out and fulfil, the conditions and requirements of all Key Approvals, including those conditions and requirements which the State is expressly or impliedly required under the terms of the Key Approvals to comply with, carry out and fulfil;
- (d) **(Comply with Environmental Laws):** without limiting clause 8.1, comply with, and ensure that its Associates in carrying out the Activities comply with, all Laws relating to the Environment;
- (e) **(Notification):** immediately notify the State in writing of any breach or potential breach or non-compliance or potential non-compliance with the conditions or requirements of any of the Key Approvals or any Law relating to the Environment upon discovery of any Environmental Hazard in the carrying out of the Activities; and
- (f) **(Indemnity):** indemnify the State from and against any Claim or Loss brought against, suffered or incurred by the State arising out of or in any way in connection with a breach by that Franchisee of its obligations under this clause 7.4.

7.5 Contamination

- (a) **(Franchisees' Risk):** In addition to the requirements of the Key Approval and without limiting clauses 7.2 and 7.4, each Franchisee bears the risk of all Site Contamination as set out in this clause 7.5.

- (b) **(Franchisees to monitor, inspect and test):** Each Franchisee must regularly monitor, inspect and test the Site in accordance with the requirements of clause 2 of Part 1 of the Performance Specification for the presence of any Site Contamination.
- (c) **(Notify and contain):** If a Franchisee is, or becomes, aware of any Site Contamination it must:
 - (i) notify the State as soon as practicable, but nevertheless within 5 Business Days after the discovery of the Site Contamination, and such notice must include:
 - A. the Franchisee's opinion that the Site Contamination was, or was not, in existence on the Sale Date; and
 - B. a copy of all information which the Franchisee has used to form that opinion;
 - (ii) give any notice required by Law to be given by it; and
 - (iii) promptly commence and diligently pursue all reasonable steps to contain the Site Contamination from causing any further Environmental Hazard:
 - A. having regard to the risk of such further Environmental Hazard occurring; and
 - B. in accordance with:
 - 1) any applicable Laws;
 - 2) the directions of any Authority (including the State in its capacity as an Authority); and
 - 3) the reasonable directions of the State, provided that the State pays the cost of that work in accordance with clause 7.5(i).
- (d) **(Independent Consultant):** The Franchisee must, at the request of the State, obtain the opinion of an independent consultant with experience in Contamination of a similar nature and scale to the Site Contamination as to the nature, cause and extent of the Site Contamination notified under clause 7.5(c), appropriate remediation measures to address the Site Contamination and an estimate of the cost of such remediation measures.
- (e) **(Contamination Notices):** Each Franchisee must comply (and ensure that each of its Associates complies) with any Contamination Notice relating to Site Contamination, regardless of:
 - (i) whether the Contamination Notice is addressed to the State, the Franchisee or some other person; or
 - (ii) when the Site Contamination occurred.
- (f) **(Actions to avoid Contamination Notice):** Subject to their respective obligations at Law, neither the State nor the Franchisees will do anything with the intent, directly or indirectly, of causing or being likely to cause the service of a Contamination Notice.
- (g) **(Franchisee challenge to Contamination Notice):** If the Franchisee believes in good faith, based on professional advice, that a Contamination Notice referred to in clause 7.5(e) can be challenged on the basis that it has not been properly issued, then the Franchisee must:

- (i) promptly notify the State, and give the State a copy of all information and advice it has received in support of its view (other than advice the subject of a claim to legal professional privilege);
- (ii) promptly commence and diligently pursue appropriate action to challenge or amend the Contamination Notice in accordance with the Law;
- (iii) keep the State promptly and fully informed at all times of progress of that action; and
- (iv) notwithstanding that challenge, promptly commence and diligently pursue all reasonable steps to contain the Site Contamination from causing any further immediate Environmental Hazard and continue to comply with the Contamination Notice until the Contamination Notice is stayed, quashed, overturned, set aside or revoked.

The Franchisee shall be under no further obligations under clauses 7.5(e) and 7.5(h) in respect of that part of the Contamination Notice which is stayed, quashed, overturned, set aside or revoked.

- (h) **(Franchisee to remediate):** In addition to the requirements of the other provisions of this clause 7.5, if a Franchisee is, or becomes aware of, any Site Contamination, the Franchisee must promptly commence and diligently pursue all reasonable steps to remediate the Site Contamination:
 - (i) if either:
 - A. the Law requires the Franchisee or the State to remediate the Site Contamination; or
 - B. the State (acting reasonably) requires the Site Contamination to be remediated, and (except where the State is acting in its capacity as an Authority) the State pays the Franchisee's reasonable cost of that work; and
 - (ii) whether or not a Contamination Notice has issued in respect of that Site Contamination; and
 - (iii) in accordance with:
 - A. any applicable Laws;
 - B. the directions of an Authority (including the State in its capacity as an Authority); and
 - C. the reasonable directions of the State, provided that the State pays the reasonable cost of that work.
- (i) **(Costs):** If complying with clauses 7.5(c)(iii), 7.5(d), 7.5(e), 7.5(g)(iv) or 7.5(h) causes the Franchisee to incur greater cost than it would otherwise have incurred in performing the Activities, the Franchisee will, subject to clause 7.5(j), be entitled to be paid by the State the reasonable additional incremental costs (including a reasonable amount on account of profit and off-site overheads such as administrative, corporate and other such costs) it reasonably incurs which are directly attributable to complying with clauses 7.5(c)(iii), 7.5(d), 7.5(e), 7.5(g)(iv) or 7.5(h).

- (j) **(No payment):** The Franchisee will not be entitled to be paid any amount pursuant to clause 7.5(i) to the extent:
 - (i) the Site Contamination was not in existence on the Sale Date, except to the extent to which the Site Contamination occurred as a result of an act or omission of the State; or
 - (ii) the Site Contamination was in existence on the Sale Date, and either:
 - A. was contributed to by any act or omission of the Franchisee or its Associates; or
 - B. is disturbed or interfered with by the Franchisee or its Associates,
 except to the extent to which the Site Contamination occurred as a result of an act of omission of the State.
- (k) **(Indemnity):** The Franchisee must indemnify the State from and against any Claim or Loss brought against, suffered or incurred by the State arising out of or in any way in connection with any Contamination for which the Franchisee is responsible under this clause 7.5 or any failure by the Franchisee to comply with any obligation under this agreement in connection with such Contamination.

7.6 Native Title Claim

- (a) **(State responsible):** As between the State and each Franchisee:
 - (i) the State will deal with any Native Title Claim in respect of any part of the Leased Area or the CSC Leased Area; and
 - (ii) the State will pay any compensation or other moneys to be paid to the native title holders of any part of the Leased Area or the CSC Leased Area pursuant to a successful Native Title Claim by those native title holders.
- (b) **(Franchisees must continue to perform):** If there is a Native Title Claim with respect to the Leased Area or the CSC Leased Area (or any part of them), each Franchisee must:
 - (i) continue to perform the Activities except to the extent otherwise:
 - A. directed by the State;
 - B. ordered by a court or tribunal; or
 - C. required by Law; and
 - (ii) at the request of the State and at the State's cost, provide all reasonable assistance in connection with dealing with the Native Title Claim (including giving the State and any other persons authorised by the State access to the Leased Area or the CSC Leased Area (or any part of them) which is the subject of the Native Title Claim when reasonably required by the State for that purpose).

For the purposes of clause 7.6(b)(i)A, the State may direct a Franchisee to suspend any or all of the Activities until such time as the State gives that Franchisee further notice.
- (c) **(Possible MAE Event):** If a Franchisee or an O&M Contractor is directed, ordered or required to cease to perform the Activities (or to change the way it does so) as referred to in clause 7.6(b) other than by way of a Final Court Decision, then clause 18.1 will apply.

- (d) **(Termination):** If the Franchisees are prevented from carrying out the Activities for a period exceeding 6 months as a result of a direction, order or requirement as referred to in clause 7.6(b) then the State may in its absolute discretion terminate this deed by giving a notice to that effect to the Franchisees after which this deed will be so terminated and clause 33.9(b) will apply.

7.7 Artefacts

- (a) **(Discovery):** All Artefacts discovered on or under the surface of the Leased Area will, as between the State and each Franchisee, be the absolute property of the State.
- (b) **(Franchisees' obligations):** Each Franchisee must:
 - (i) at all times permit and allow, and ensure that its Associates permit and allow, the State to watch or examine any excavations on the Leased Area;
 - (ii) take, and ensure that its Associates take, every reasonable precaution in carrying out the Activities to prevent Artefacts being damaged or removed; and
 - (iii) upon the discovery of any Artefact:
 - A. immediately notify the State of the discovery of the Artefact; and
 - B. comply with any directions or orders imposed by any relevant Authority upon a Franchisee or the State in respect of the Artefact.
- (c) **(Offence):** Each Franchisee acknowledges that it and its Associates have a duty to protect Aboriginal Cultural Heritage under the terms of the Aboriginal Cultural Heritage Act 2003 (Qld), and that it is an offence to harm Aboriginal Cultural Heritage other than in accordance with the provisions of the Aboriginal Cultural Heritage Act 2003 (Qld). Without limiting clause 8.1, each Franchisee must comply with, and ensure that its Associates in carrying out the Activities comply with, all requirements of the Aboriginal Cultural Heritage Act 2003 (Qld) at all times.
- (d) **(Franchisees to bear loss):** In the event that a Franchisee or its Associates fail to observe the requirements of the Aboriginal Cultural Heritage Act 2003 (Qld), and as a result of such failure a Franchisee or its Associates are enjoined from carrying out the Activities and/or suffer any financial penalty, that Franchisee will bear such costs and any consequential costs associated with delay to the Activities.

7.8 Perpetual Lease

- (a) **(No amendments):** The State undertakes that it will not seek to amend, forfeit, terminate or surrender the Perpetual Lease without the consent of a Franchisee (except for consequential title and similar changes where and to the extent reasonably required to accommodate any Upgrade or Modification).
- (b) **(Compliance):** Each Franchisee must at all times comply with all licensee's or lessee's (whichever is applicable) obligations and covenants contained in the Perpetual Lease.

7.9 Third party access

- (a) **(Franchisee to negotiate Access Agreement):** If any person other than the State seeks access to or through the Leased Area for any legitimate purpose and approaches:
 - (i) the State for such access, the State must direct that person to negotiate an Access Agreement with the relevant Franchisee; or

- (ii) a Franchisee for such access, or is referred to a Franchisee by the State, the Franchisee must, once it has satisfied the relevant requirements contained in Part 5 of the Performance Specification, use its reasonable endeavours to negotiate an Access Agreement with the person seeking access.
- (b) **(Franchisee must comply with Access Agreement):** Each Franchisee must, and must ensure that its Associates:
 - (i) comply with all of the obligations of the Franchisee and its Associates under each Access Agreement; and
 - (ii) in carrying out the Activities, comply with any directions of the State in relation to compliance with the terms and conditions of each Access Agreement.

8. Laws and Approvals

8.1 Compliance with laws

Each Franchisee must:

- (a) in carrying out the Activities, comply with;
- (b) ensure that its Associates, in carrying out the Activities, comply with; and
- (c) ensure that the Tollroad complies with,

all applicable Laws, including any change in a Law after the Commencement Date.

8.2 Approvals

Each Franchisee must:

- (a) **(Obtain Approvals):** obtain and maintain, and ensure that its Associates, in carrying out the Activities, obtain and maintain, all Approvals other than the Key Approvals which the State will obtain.
- (b) **(Comply with Approvals):** comply with, and ensure that:
 - (i) its Associates, in carrying out the Activities;
 - (ii) the Tollroad; and
 - (iii) the Site,

comply with, all requirements of all relevant Approvals (including those which the State is expressed under the terms of the Approval to be required to comply with);

- (c) **(Pay all fees etc):** pay all fees, effect all insurances, provide any bonds and execute any undertaking or agreements required by any relevant Authority in respect of any Approval which that Franchisee must obtain or maintain (and ensure that its Associates do likewise in relation to any Approvals which they must obtain or maintain in connection with the Activities);
- (d) **(Notices):** give the State copies of:
 - (i) all material documents including material notices it gives to Authorities at the time it submits such documents including notices; and

- (ii) all material documents (including Approvals and other notices) that Authorities issue to it within 5 Business Days of receiving such documents; and
- (e) **(Indemnity):** except to the extent prohibited by Law, indemnify the State against any Claim or Loss brought against, suffered or incurred by the State arising out of or in any way in connection with a failure by that Franchisee to comply with its obligations under clauses 8.2(a) and 8.2(b).

8.3 Changes to Key Approval

- (a) **(Franchisee Initiated Change to Key Approval):** If there is a Franchisee Initiated Change to Key Approval, the relevant Franchisee will bear all risks and costs associated with that Change to Key Approval including all costs:
 - (i) reasonably incurred by the State (including the fees payable to any other Authority) in assessing, considering or dealing with any proposed change or request or application for any change;
 - (ii) in connection with obtaining and complying with any Approval;
 - (iii) in connection with obtaining property rights in respect of any Extra Land; and
 - (iv) associated with giving effect to the Franchisee Initiated Change to Key Approval, including carrying out any required Modification,

irrespective of who is required to or does, request, apply, consider, assess, carry out or comply with any such change (including any Modification). Any Modification required in connection with a Franchisee Initiated Change to Key Approval will be deemed to be a Modification proposed by the relevant Franchisee under clause 14.2 and clause 14.2 shall apply to such deemed Modification.
- (b) **(State Initiated Change to Key Approval):** If a State Initiated Change to Key Approval necessitates a Modification:
 - (i) the relevant Franchisee must notify the State in writing with detailed particulars of the reason why the State Initiated Change to Key Approval necessitates a Modification, by the date that is 30 Business Days after the date the State Initiated Change to Key Approval is notified by the State to the Franchisees (or such later date as may be reasonably agreed);
 - (ii) where the Franchisee gives such a notice and the State Initiated Change to Key Approval does necessitate a Modification, the State will direct a Modification under clause 14.1(o);
 - (iii) irrespective of whether or not the Franchisee has given the notice under clause 8.3(b)(i), the State may (in its absolute discretion) direct a Modification under clause 14.1(o) if it believes the State Initiated Change to Key Approval necessitates a Modification; and
 - (iv) each Franchisee must:
 - A. take all reasonable steps to mitigate the costs and expenses of the Modification;
 - B. for this purpose, comply with all reasonable directions of the State concerning the Modification and its consequences; and

- C. ensure that each O&M Contractor complies with the requirements of this clause 8.3(b),

and the State's liability under this clause 8.3(b) will be reduced to the extent a Franchisee fails to comply with these obligations.

8.4 Legal challenge to Key Approval

- (a) **(Franchisees must continue to perform):** If there is a legal challenge brought about by way of commencement of court proceedings in relation to a Key Approval, each Franchisee must continue to carry out the Activities unless, as a result of that legal challenge, that Franchisee or the State is otherwise ordered by a court.
- (b) **(State responsible for dealing with challenge):** As between the State and each Franchisee, the State is responsible for dealing with the legal challenge as it sees fit in its absolute discretion, including conducting such legal challenge in the name of a Franchisee, at the cost of the State.
- (c) **(Possible MAE Event):** If a Franchisee or an O&M Contractor is ordered by a court to stop carrying out the Activities (or to change the way it does so) as referred to in clause 8.4(a) other than by way of a Final Court Decision then clause 18.1 will apply, except where the legal challenge:
 - (i) is initiated or upheld, or the court order is made, due to a Franchisee's failure to comply with its obligations under a State Concession Document or some other wrongful act or omission of a Franchisee or its Associates; or
 - (ii) relates to or arises out of or in connection with any Modification requested by a Franchisee.

9. Concession Plans

9.1 Purpose

Each Franchisee acknowledges and agrees that the intended purposes of the Concession Plans include:

- (a) to demonstrate to the State that each Franchisee has the understanding, capacity and capability at all times to carry out the Activities in accordance with the requirements of the State Concession Documents;
- (b) to ensure that the Activities and the Tollroad comply with the requirements of the State Concession Documents; and
- (c) to allow the State to understand how each Franchisee will achieve the performance outcomes specified in this deed and otherwise fulfil its obligations under the State Concession Documents.

9.2 Fitness for purpose

Each Franchisee warrants that each Concession Plan will at all times be fit for its intended purposes as specified in, or ascertainable from, the State Concession Documents and will in any event be prepared, developed and updated using Best Practices.

9.3 Concession Plans

Each Franchisee must provide to the State the Concession Plans in accordance with the Performance Specification.

9.4 Updated Concession Plans

Each Franchisee must:

- (a) develop, continually review and, if necessary, update the Concession Plans:
 - (i) to take into account events or circumstances which will, or may reasonably be expected to, affect the manner in which that Franchisee carries out the Activities including:
 - A. Modifications;
 - B. changes in Law;
 - C. Approvals (including the conditions of Approvals);
 - D. Upgrades;
 - E. any breach or potential breach of the warranty in clause 9.2; and
 - F. those events or circumstances identified in the Performance Specification for each Concession Plan; and
 - (ii) to ensure that the Franchisee in carrying out the Activities meets or exceeds the requirements set out in the Performance Specification; and
 - (iii) as otherwise specified in the Performance Specification; and
- (b) promptly submit each updated Concession Plan to the State.

9.5 Review by the State

- (a) **(State may review any Concession Plan):** Subject to any requirements applicable to the submission and review of specific Concession Plans under the Performance Specification, the State may:
 - (i) review any Concession Plan submitted under this clause 9; and
 - (ii) if the Concession Plan does not comply with the requirements of the State Concession Documents, notify the relevant Franchisee of that non-compliance within 20 Business Days of the submission of the Concession Plan.
- (b) **(Franchisee to submit amended Concession Plan):** If a Franchisee receives a notice under clause 9.5(a)(ii) or any provision of the Performance Specification requiring that Franchisee to submit an amended Concession Plan, the relevant Franchisee must promptly submit an amended Concession Plan to the State, or refer the matter for determination under clause 36.

9.6 State may request update

- (a) **(Updates):** If:
 - (i) any Concession Plan does not comply with the requirements of the State Concession Documents; or
 - (ii) a Franchisee has not updated any Concession Plan in accordance with the requirements of clause 9.4,

the State may by written notice request that the relevant Franchisee update the Concession Plan specifying:

- (iii) the reasons why such updating is required (or why the Concession Plan does not comply with the State Concession Documents); and
- (iv) the time within which such updating must occur (which must be reasonable, having regard to the amount of work required),

and the relevant Franchisee must:

- (v) amend or update the Concession Plan as requested by the State; and
 - (vi) submit the amended or updated Concession Plan to the State within the time specified under clause 9.6(a)(iv).
- (b) **(Disputes):** Any Dispute in relation to a proposed change of a Concession Plan will be resolved under clause 36.

9.7 No obligation to review

- (a) **(No duty of care):** The State does not owe any duty of care to any Franchisee to review any Concession Plan submitted by a Franchisee for errors, omissions or compliance with the State Concession Documents.
- (b) **(No effect on obligations):** No review of, comments upon, or notice in respect of, or any failure to review, comment upon or give notice in respect of, any Concession Plan submitted by a Franchisee or any other direction, act or omission of the State (including a request under clause 9.6 in respect of any Concession Plan) will in any way:
 - (i) relieve a Franchisee from, or alter or affect, its liabilities, obligations or responsibilities whether under the State Concession Documents or otherwise according to Law;
 - (ii) prejudice the State's rights against a Franchisee whether under the State Concession Documents or otherwise according to Law; or
 - (iii) entitle a Franchisee to make any Claim against the State or give rise to any liability of the State to a Franchisee.

9.8 Compliance with Concession Plans

Each Franchisee must comply with each Concession Plan which has been submitted to the State and in respect of which the State has not given notice under clause 9.5(a)(ii) (or any provision of the Performance Specification requiring a Franchisee to submit an amended Concession Plan), unless it is necessary to depart from a Concession Plan to ensure compliance with the State Concession Documents.

9.9 Restrictions on carrying out the Activities

Each Franchisee must comply with the restrictions upon the carrying out of the Activities specified in the Performance Specification.

9.10 No relief

- (a) **(No relief from compliance):** A Franchisee will not be relieved from compliance with any of its obligations under any State Concession Documents or from any of its liabilities under any State Concession Documents or otherwise according to Law as a result of:

- (i) compliance by a Franchisee with its obligations under this clause 9, including compliance with any Concession Plan; or
 - (ii) any failure by the State, or anyone else acting on the State's behalf, to detect any non-compliance including where any failure arises from any negligence on the part of the State or any other person.
- (b) **(Compliance with other obligations):** Compliance by a Franchisee with its obligations under this clause 9 (including clause 9.8) is not evidence of compliance by a Franchisee with its other obligations under the State Concession Documents.

10. General obligations applying to the Activities

10.1 All work included

Subject to clauses 14 and 18 or as otherwise expressly provided in this deed, each Franchisee has allowed for the provision of all work and materials necessary for the Activities, whether or not the work or materials are expressly mentioned in this deed. All such work and materials:

- (a) must be undertaken and provided by that Franchisee at its own cost;
- (b) form part of the Activities and will not constitute a Modification; and
- (c) will not entitle that Franchisee to make a Claim except as provided for in this deed.

10.2 Workplace Health, Safety & Rehabilitation

- (a) **(Franchisees' obligations):** In carrying out the Activities, each Franchisee:
- (i) accepts responsibility for compliance with all Laws and other requirements of this deed for workplace health, safety and rehabilitation management;
 - (ii) without limiting the generality of clause 10.2(a)(i), in relation to any "construction work" (as defined in the WHS Legislation) at the Site or the Other Areas, accepts responsibility for compliance with the obligations of, and performance of the functions of, a "person conducting a business or undertaking that commissions a construction project" within the meaning of the WHS Legislation;
 - (iii) must ensure that all its Associates comply with the WHS Legislation; and
 - (iv) must report any "notifiable incident" (as defined in the WHS Legislation) to the relevant Authority immediately; and
 - (v) must notify the State immediately (and in any event within 12 hours of such matter arising) of every "notifiable incident" (as defined in the WHS Legislation) arising out of or in any way in connection with, the Activities.
- (b) **(Payment of fees, charges and contributions):** The Franchisees must pay all fees, levies, charges and contributions payable under the WHS Legislation (whether payable by the State or by any Franchisee) in respect of the Activities on behalf of the State and the Franchisees.

10.3 Interference, obstruction and nuisance

In carrying out the Activities, each Franchisee must:

- (a) avoid unnecessary:

- (i) interference with the passage of people and Vehicles; or
- (ii) obstruction to any property;
- (b) use its reasonable endeavours to prevent nuisance including any nuisance caused by unreasonable noise, dust, emission, vibration or disturbance; and
- (c) ensure that its Associates comply with the requirements of this clause 10.3.

10.4 Complaints

- (a) **(Franchisees to notify the State):** Each Franchisee must immediately notify the State in writing if any:
 - (i) Complaint is made or any proceedings are instituted or threatened other than a:
 - A. Tollroad User Complaint, which is to be dealt with in accordance with clause 12.9; and
 - B. Complaint in relation to Road Traffic noise, which is to be dealt with in accordance with clause 4.5 of Part 5 of the Performance Specification;
 - (ii) letter of demand is issued; or
 - (iii) order or direction is made,

by anyone (including any Authority (other than the State) or any landowner, lessee or licensee near the Site or the Other Areas) against that Franchisee or its Associates in respect of any aspect of the carrying out of the Activities, including:

 - (iv) Contamination or an Environmental Hazard;
 - (v) that Franchisee's non-compliance with any Key Approval (or condition or requirement thereunder) or any Law relating to the Environment;
 - (vi) that Franchisee's use or occupation of the Site or the Other Areas; or
 - (vii) loss or damage of the kind referred to in clause 20.4.
- (b) **(Franchisees to resolve etc):** Each Franchisee must:
 - (i) deal proactively with any Complaint, proceedings, letter of demand, order or direction referred to in clause 10.4(a);
 - (ii) take all reasonable measures to resolve those matters as soon as possible; and
 - (iii) keep a register of all Complaints, proceedings, letters of demand, orders and directions referred to in clause 10.4(a), which:
 - A. contains full details of:
 - 1) each Complaint, proceedings, letter of demand, order and direction; and
 - 2) the action taken by the Franchisee with respect to each Complaint, proceedings, letter of demand, order and direction;

- B. is promptly updated to take into account any developments with respect to any Complaint, proceedings, letter of demand, order or direction; and
- C. may be inspected by the State whenever the State reasonably requires.

10.5 Traffic management

Each Franchisee is responsible for the control, direction and management of Traffic that is affected by the Activities, and must (and must ensure that each O&M Contractor):

- (a) manage the Tollroad to ensure:
 - (i) the continuous, safe and efficient movement of Traffic;
 - (ii) that the safety and Traffic carrying capacity of Affected Transport Infrastructure is not adversely impacted by the operation of the Tollroad; and
 - (iii) that any delays and disruptions to Traffic and the movement of Traffic resulting from the operation of the Tollroad are kept to an absolute minimum,

subject to this deed, the Concession Plans, the Performance Specification, any Traffic Management MOU that may be agreed between the parties or the directions of any Authority (including the State in its capacity as an Authority);

- (b) at all times comply with the Performance Specification in respect of Traffic management; and
- (c) comply with the State's directions (in its capacity as an Authority) to that Franchisee with respect to the management of Traffic.

The Franchisees will not have breached clause 10.5(a)(i) if an Incident has occurred and the Franchisees are actively managing the Incident in accordance with the requirements of Part 3 of the Performance Specification.

10.6 Security

- (a) **(Security measures):** Each Franchisee must provide such security measures as are reasonable (having regard to the open nature of the Tollroad) to provide for the protection and security of the Tollroad against theft, vandalism, unauthorised entry into the Site or the Other Areas and any other unlawful acts.
- (b) **(Lawful entry):** The security measures referred to in clause 10.6(a) must not unreasonably restrict access to the Leased Area by persons seeking to use the Leased Area for lawful purposes.

10.7 Industrial issues

Subject to clause 18, and except in relation to obligations or responsibilities expressly undertaken, or the risks expressly accepted or retained, by the State under the Concession Documents or any other written agreement between a Franchisee and the State, each Franchisee will accept the responsibility to manage all industrial relations risks relating to the Activities, including a strike, lockout, blockade, picketing action or industrial action, disputes or disturbance of any kind other than those industrial issues which arise directly from disputes concerning the policies of the State or its Associates and are beyond that Franchisee's reasonable control.

10.8 Community liaison

Each Franchisee:

- (a) acknowledges that the areas where the Activities are to be carried out are of great importance to many people, including, the local residents and businesses; and
- (b) must manage and participate in all community relations programs and activities as:
 - (i) required by the Performance Specification;
 - (ii) contained in the Community Engagement Plans; and
 - (iii) reasonably requested by the State from time to time.

10.9 Non-Tollroad Infrastructure

- (a) **(Franchisee obligations):** Each Franchisee:
 - (i) must enter into good faith negotiations, and use its best endeavours to reach agreement, with all Authorities in relation to all interfaces between the Activities and the:
 - A. use, operation and maintenance of Non-Tollroad Infrastructure; and
 - B. design, construction and installation of new Non-Tollroad Infrastructure;
 - (ii) assumes the risk of the existence, location, condition and availability of Non-Tollroad Infrastructure in respect of the Activities; and
 - (iii) must, to the extent not prohibited by law, indemnify the State against any Claim or Loss brought against, suffered or incurred by the State arising out of or in connection with:
 - A. any disruption to any Non-Tollroad Infrastructure caused, directly or indirectly, by any act or omission of a Franchisee; or
 - B. a failure by a Franchisee to comply with any obligation under the State Concession Documents (including the Performance Specification) with respect to Non-Tollroad Infrastructure.
- (b) **(State not liable):** The State will not be liable under the State Concession Documents or otherwise in relation to any act or omission of a Franchisee in relation to Non-Tollroad Infrastructure.

10.10 Long Service Leave Legislation

- (a) **(Comply with obligations):** Without limiting its other obligations or liabilities under this deed or otherwise, each Franchisee must comply with its obligations under the Long Service Leave Legislation.
- (b) **(Pay all fees, etc):** Each Franchisee must pay all fees, levies, charges and contributions under the Long Service Leave Legislation in respect of the Activities.

10.11 Training

Each Franchisee must, and must ensure that its Associates:

- (a) comply with the State's "State Government Building and Construction Contracts - Structured Training Policy (10% Policy)" and the requirements of the Performance Specification; and
- (b) keep and maintain comprehensive and detailed training and instruction records and provide the State's Representative or its nominees, upon request, with access to such records.

10.12 Local Industry Participation

Each Franchisee must, and must ensure that its Associates, comply with the State's Local Industry Participation Policy.

10.13 [Not Used]

10.14 Charge in favour of the State

Each Franchisee must cause the Debt Finance Recipient (excluding Sun FinCo) and such other Group Members as nominated by the State (acting reasonably) to execute a charge substantially in the form of the State Deed of Charge on or before the Finance Date.

11. Operation and Maintenance

11.1 Obligation to operate, maintain and repair

- (a) **(General obligation):** Each Franchisee must operate, maintain and repair the Tollroad throughout the Concession Period so that:
 - (i) all vehicular lanes of the Tollroad are open to the public at all times (except for closures permitted or required under clause 11.2) for the safe, efficient and continuous passage of Vehicles;
 - (ii) all pedestrian and cycling paths forming part of the Tollroad are open to the public at all times (except for closures permitted or required under clause 11.2) for the safe, efficient and continuous passage of pedestrians and cyclists;
 - (iii) the performance of the Traffic operations of the Tollroad meets the performance standards specified in the Performance Specification (including those in Part 3 of the Performance Specification);
 - (iv) the design life and performance of each part of the Tollroad is maintained in accordance with the requirements specified in the Performance Specification (including in Part 4 of the Performance Specification);
 - (v) the performance of any activity which may cause disruption to, or reduce, Traffic flow or safety on the Tollroad or Affected Transport Infrastructure cannot begin without and must comply with a Traffic Management Plan developed in accordance with the requirements of the Performance Specification (including Part 3 of the Performance Specification);
 - (vi) all Defects in the Tollroad are corrected in accordance with the requirements of the Performance Specification (including Part 4 of the Performance Specification);
 - (vii) the Tollroad remains at all times fit for its intended purposes as specified in, or ascertainable from, the State Concession Documents;
 - (viii) the objectives of any Traffic Management MOU are promoted;

- (ix) the Tollroad is operated, maintained and repaired in accordance with Best Practices;
 - (x) any Traffic Defect reducing safety in the Traffic operations of the Tollroad is corrected as soon as possible and in accordance with the requirements of the Performance Specification; and
 - (xi) the Activities in connection with the operation of the Tollroad (including the Traffic Operating Software System and the Tolling System) are conducted in accordance with the requirements of clause 31.
- (b) **(Performance Specification):** The standards, tasks, obligations and other provisions contained or referred to in the Performance Specification represent the minimum requirements which each Franchisee must satisfy for the purposes of fulfilling the obligations specified in clause 11.1(a).
- (c) **(Risk of non compliance):** Each Franchisee bears the risk that:
- (i) compliance by it with the minimum requirements referred to in clause 11.1(b); and
 - (ii) without limiting clause 11.1(c)(i), the development of, and compliance with, maintenance standards of the kind referred to in the Performance Specification,
- will not enable the obligations specified in clause 11.1(a) to be fulfilled.
- (d) **(All work included):** Subject to any express term of this deed to the contrary, each Franchisee must provide all work and materials necessary for the Activities whether or not they are expressly mentioned in this deed or the Concession Plans.
- (e) **(No Claim):** Subject to the express provisions of this deed, such activities, work or materials must be undertaken and provided by each Franchisee at its own cost and will not constitute a Modification or otherwise entitle that Franchisee to make a Claim for payment for such work or materials.

11.2 Franchisees to keep Tollroad open

- (a) **(Safe, efficient and continuous passage):** Subject to closures permitted or required under this clause 11.2, each Franchisee must keep all:
- (i) vehicular lanes of the Tollroad open to the general public for the safe, efficient and continuous passage of Vehicles at all times during the Concession Period; and
 - (ii) pedestrian and cycling paths forming part of the Tollroad open to the general public for the safe, efficient and continuous passage of pedestrians and cyclists at all times during the Concession Period.
- (b) **(Closure in certain circumstances):** A Franchisee may close all or part of the Tollroad:
- (i) where required or permitted to do so by the Performance Specification; or
 - (ii) if it is necessary to close the Tollroad because of:
 - A. the requirements of any relevant Authority;
 - B. a material risk to the health or safety of the public;

- C. emergency maintenance and/or repairs (excluding the routine maintenance undertaken in accordance with the Performance Specification); or
 - D. any other reason which the State agrees to.
- (c) **(Notice of closure):** A Franchisee must notify the State as soon as possible if it closes, or proposes to close, any lane or path of the Tollroad (except for any closure directed by the State) and the reasons for each closure and will use all reasonable endeavours to reopen the Tollroad as soon as possible after such closure.
- (d) **(Closure for Special Events):** A Franchisee must close all or part of the Tollroad if it is necessary to do so because of the occurrence of a Special Event.

11.3 Performance of O&M Activities

- (a) **(Requirements):** Without limiting clause 11.1, each Franchisee must, in performing its O&M Activities:
- (i) act in a timely and expeditious manner;
 - (ii) once it has commenced any O&M Activities, proceed with its O&M Activities expeditiously and take all reasonable steps (including rescheduling the commencement of other O&M Activities) to minimise any disruption or risk to Road Users;
 - (iii) give priority to the safety of Road Users and of persons or property otherwise affected by the performance of its O&M Activities;
 - (iv) minimise the impact of the performance of the O&M Activities on Road Users or persons or property otherwise affected by its O&M Activities;
 - (v) use its best endeavours to cooperate with other persons or Authorities which have been given approval by the State to construct, maintain or operate Non-Tollroad Infrastructure on, under or over the Leased Area, to minimise any conflict or interference between the O&M Activities and Non-Tollroad Infrastructure works or activities; and
 - (vi) on completion of any O&M Activities, remove all temporary protection or other structures or equipment erected in connection with those O&M Activities as soon as practicable, and in a good and workmanlike manner.
- (b) **(Warranties):** Without limiting clause 11.1, each Franchisee warrants that:
- (i) it will perform its O&M Activities using workmanship and materials of a high standard and provide all Deliverables, which are fit for their intended purposes; and
 - (ii) if, in the performance of its O&M Activities, it is required to replace any worn, failed or defective parts, the replacement parts will be:
 - A. of at least equal quality to those required under this deed; and
 - B. fit for their intended purpose.
- (c) **(Advancements in technology):** Each Franchisee acknowledges and agrees that its operation, maintenance and repair obligations extend to upgrading the Tollroad to

incorporate advancements in technology or operation and maintenance practices as required by Best Practices.

11.4 Maintenance budget

- (a) **(Initial budgets):** As soon as practicable following the Commencement Date, each Franchisee must give to the State a budget in relation to the O&M Activities (as part of the Long Term Expenditure Plan) for:
 - (i) the remainder of the Financial Year; and
 - (ii) the following Financial Year.
- (b) **(Further budgets):** Before 30 June in each Financial Year, each Franchisee must give to the State:
 - (i) a revised budget in relation to the O&M Activities for the Financial Year which will begin on 1 July; and
 - (ii) a budget in relation to the O&M Activities for the Financial Year following the Financial Year referred to in clause 11.4(b)(i).
- (c) **(Reconcile with program):** Each budget referred to in this clause 11.4 must be reconciled with the Forecast Maintenance Program and provide such details as the State may reasonably require explaining any discrepancy.

11.5 Forecast Maintenance Program

- (a) **(Franchisees to prepare):** As soon as practicable following the Commencement Date, each Franchisee must give to the State the Forecast Maintenance Program.
- (b) **(Franchisees to update):** At least each fifth Financial Year during the Concession Period, (and whenever a Modification or an Upgrade has been carried out) each Franchisee must update the Forecast Maintenance Program to permit the Franchisee to comply with its operation, maintenance and repair obligations under this deed.
- (c) **(State to receive):** Each Franchisee must provide an updated Forecast Maintenance Program to the State before 1 July in each fifth Financial Year (and within 6 months after a Modification or an Upgrade has been carried out).
- (d) **(Notice from the State):** If the State considers that a Forecast Maintenance Program does not comply with the requirements of this clause, the State may give the relevant Franchisee reasons for forming that opinion.
- (e) **(Consultation):** If the State gives notice under clause 11.5(d), the Franchisee must consult with the State in good faith with a view to reaching agreement on the Forecast Maintenance Program.
- (f) **(Disputes):** If the Forecast Maintenance Program is not agreed within 30 Business Days after the date of the State's notice under clause 11.5(d), any party may refer the matter for dispute resolution under clause 36.

11.6 Reports

Without limiting the Franchisees' other reporting obligations under this deed, each Franchisee must give the State reports on the Activities in accordance with the Performance Specification.

11.7 Failure to comply with O&M obligations

- (a) **(Notice to rectify):** If:
- (i) the Concession Plans or the Performance Specification have not been maintained or complied with, as required by this deed;
 - (ii) the Concession Plans are deficient as a mechanism for ensuring that at the end of the Concession Period the Tollroad will be in the Handover condition required by the terms of this deed; or
 - (iii) a Franchisee otherwise fails to comply with its obligations under clause 11.1,
- the State may, at any time during the Concession Period, issue to the relevant Franchisee a notice requiring the Franchisee to rectify any specified non-conformances within 12 months.
- (b) **(O&M Bond):** If at the end of such 12 month period the non-conformances specified in a notice issued by the State in accordance with clause 11.7(a) have not been rectified in full, the State may after the Sale Date issue to the Franchisee a notice to that effect and the Franchisee must provide to the State a bond for an amount decided by the State (which must be reasonable having regard to the nature of the non-conformances) up to \$20 million (Indexed) which complies with the requirements of clause 4 as security for the performance of the Franchisee's obligations under clause 11.1.

11.8 Operating qualifications

- (a) **(Qualifications):** Each Franchisee must ensure that each person that performs operation, maintenance and/or repair obligations in respect of the Tollroad (other than another Tollroad Service Provider but including any O&M Contractor) (**Relevant Entity**):
- (i) is, in relation to any activity for which TMR or the Queensland Department of Public Works has pre-qualification procedures, a pre-qualified contractor under those procedures;
 - (ii) is reputable and has sufficient experience and expertise in successfully operating, maintaining and repairing (as applicable) tollways, Motorways or other roads;
 - (iii) has in place arrangements for ensuring the availability of the appropriate skills and resources to perform its obligations to the standards required by this deed; and
 - (iv) is of sufficiently high financial and commercial standing to perform its obligations to the standards required by this deed.
- (b) **(Notification):** Each Franchisee must notify the State of the Relevant Entity and the terms and conditions of its appointment, which must be on commercial terms negotiated on an arm's length basis having regard to the obligations of that Franchisee under this deed.
- (c) **(Restrictions):** Each Franchisee must not:
- (i) terminate the appointment of any Relevant Entity unless another person, in respect of which clause 11.8(a) has been complied with, is appointed to perform the obligations which were performed by that Relevant Entity; or
 - (ii) make, or consent to, any modification, variation or amendment of a material nature to the O&M Contract or to any other agreement under which a Relevant Entity is appointed, unless such modification, variation or amendment is on

commercial terms and has been negotiated on an arm's length basis and prior written details have been given to the State,

unless the State otherwise consents in writing, which consent must not be unreasonably withheld or delayed.

- (d) **(Subcontracting not to limit Franchisees' obligations):** The engagement by a Franchisee of any Relevant Entity will not limit or affect the Franchisees' obligations or liability under this deed.
- (e) **(Franchisees liable for subcontractor acts):** Each Franchisee will be vicariously liable to the State for the acts and omissions of any Relevant Entity and its respective Associates as if such acts or omissions were acts or omissions of the relevant Franchisee.

11.9 Notice of damage and accidents

- (a) **(Reports):** During the Concession Period, each Franchisee must promptly give the State a detailed written report of:
 - (i) any material damage to or Defect or disrepair in the Tollroad of which it is aware;
 - (ii) the action which that Franchisee proposes to take to correct that material damage, Defect or disrepair, and the estimated time that correction will require; and
 - (iii) any Incidents or other accidents involving material damage or injury which occur on the Tollroad of which it is aware.
- (b) **(Additional information):** If a Franchisee provides or is required to provide a report to the State in accordance with clause 11.9(a), that Franchisee must thereafter provide any additional information reasonably requested by the State in respect of the subject matter of such report.

11.10 Advertising signage

Subject to any arrangement existing at the Sale Date, each Franchisee must not at any time during the Concession Period erect, install, paint or display any advertising, promotional or similar signage or material on, in or near any part of the Tollroad (or permit any third party to do so). However:

- (a) this will not prevent a Franchisee from installing and/or maintaining:
 - (i) operational directional signage which is required by the Performance Specification or the State; and
 - (ii) advertising signage described in Schedule 10; and
- (b) each Franchisee acknowledges and agrees that:
 - (i) it must obtain all necessary Approvals in respect of such signage;
 - (ii) it must maintain all signage that:
 - A. is situated within the Leased Area;
 - B. it erects or installs, whether within or outside the Leased Area; or
 - (iii) all signage must comply with the Manual of Uniform Traffic Control Devices and/or the State's advertising signage policy for roads, as applicable; and

- (iv) the State has not made, and is under no obligation to make, any investigation with respect to the legality of such signage or to assist with any required Approval by the State (in its capacity as an Authority) or by any other Authority.

11.11 Key performance indicators

- (a) **(Achievement of KPIs and KPI Benchmarks):**
 - (i) Each Franchisee must use its best endeavours to meet each of the KPIs and the KPI Benchmarks.
 - (ii) Subject to clause 11.11(a)(iii), if, for any Financial Year, the total Demerit Points exceeds zero (calculated in accordance with Part 1 of the Performance Specification), the relevant Franchisee must pay or apply compensation as directed by the State in accordance with clause 11.11(e) and Part 1 of the Performance Specification (**Compensation**).
 - (iii) The Franchisees will not be liable to pay or apply Compensation during the Implementation Period.
 - (iv) Some of the KPIs and KPIs Benchmarks reflect standards which the relevant Franchisee must meet elsewhere under this deed. The Franchisee's obligation to achieve those standards is not affected by this clause 11.11 or by Part 1 of the Performance Specification. The KPIs and KPI Benchmarks will be reviewed as set out in Part 1 of the Performance Specification.
 - (v) Any damages recoverable by the State in respect of a failure to meet any of the obligations of the Franchisees under this deed will be reduced by the applicable amount of Compensation imposed in relation to that failure.
- (b) **(KPI Assessment System):**
 - (i) Each Franchisee must set up the KPI Assessment System.
 - (ii) The KPI Assessment System must be adequate to record:
 - A. whether the KPIs and KPI Benchmarks are met or not;
 - B. each occasion where a KPI or KPI Benchmark is not met, identifying them separately, and also identifying the remedy steps taken;
 - C. the Franchisee's performance of each KPI and KPI Benchmark in each reporting period stated in Part 1 of the Performance Specification, including the actual performance standard achieved for each KPI and KPI Benchmark, the amount of all Demerit Points incurred and any other information that the State reasonably requires in relation to the KPIs and KPI Benchmarks; and
 - D. all source information relevant to the Franchisee's performance in relation to KPIs and KPI Benchmarks (including any data contemplated by Part 1 of the Performance Specification),(collectively, the **KPI Data**).
 - (iii) Each Franchisee must give to the State the reports which set out the Franchisee's performance as required by Part 1 of the Performance Specification (**KPI Reports**), within 20 Business Days after the end of each reporting period,

commencing from the Commencement Date. Each KPI Report must include the information required by Part 1 of the Performance Specification. The relevant Franchisee must certify that each KPI Report is accurate.

(iv) Each Franchisee must keep a copy of all KPI Data for 7 years.

(v) Each Franchisee must ensure that the KPI Data is accurate.

(c) **(Audit):**

(i) If the State so requests, each Franchisee must provide to the State within 30 Business Days of the end of a Financial Year in the Concession Period an audit report, prepared by an independent and reputable auditor, who has audited the KPI Data and the KPI Reports for that Financial Year.

(ii) At any time up to 12 months after the end of the Concession Period, the State may give notice to a Franchisee requiring an audit of the KPI Data, the KPI Reports or the KPI Assessment System (**KPI Audit Notice**) to verify their accuracy.

(iii) If the State gives a KPI Audit Notice under clause 11.11(c)(ii):

A. the State will appoint, and notify the relevant Franchisee of, a person to conduct the audit (**KPI Auditor**), at the State's cost, on terms reasonably determined by the State;

B. the relevant Franchisee must, within a reasonable period, make the KPI Data, KPI Reports and the KPI Assessment System available for audit by the KPI Auditor and provide all necessary assistance to the KPI Auditor consistent with the requirements of this clause 11.11; and

C. the relevant Franchisee must provide such access to their senior management and directors and procure such access to the Franchisee's auditor appointed under clause 11.11(c)(i) as the KPI Auditor may reasonably require.

(iv) If the report of the KPI Auditor or the report prepared by the auditor under clause 11.11(c)(i) (each a **KPI Auditor's Report**) states that the KPI Data or a KPI Report is not accurate, then the relevant Franchisee must:

A. fix the inaccuracy, and reissue the relevant data or report to the State, or advise the State of any change to the KPI Assessment System; and

B. reassess any affected KPI, and pay the State any necessary adjustment to the Compensation.

(d) **(Acknowledgment):**

(i) The existence and implementation of the KPI Assessment System and any liability for Compensation by a Franchisee does not limit or affect:

A. any of the obligations of that Franchisee under this deed; or

B. any other rights of the State under this deed or otherwise.

(ii) Each Franchisee acknowledges and agrees that:

A. the Compensation is a genuine pre-estimate of the detriment that the State will incur if the KPIs are not achieved;

- B. both the State and the Franchisee require a genuine pre-estimate of losses, costs, expenses and detriments which the State may incur should the Franchisee fail to discharge its obligations under this deed, that is able to be readily applied without unnecessary administrative costs, delay or difficulty;
- C. it is in the economic and best interests of both the State and the Franchisee that a genuine pre-estimate of the nature referred to in clause 11.11(d)(ii)B be adopted;
- D. there are many and varied matters which form part of the losses, costs, expenses and detriments which the State may incur as a result of a failure by the Franchisee to discharge its performance obligations under this deed, many of which are either difficult, or in some cases impossible, to calculate with precision;
- E. the genuine pre-estimate of losses, costs, expenses and detriments adopted in this deed and set out in Part 1 of the Performance Specification meets the requirements set out in clauses 11.11(d)(ii)B, 11.11(d)(ii)C and 11.11(d)(ii)D; and
- F. the Franchisee:
 - 1) possesses extensive commercial experience and expertise; and
 - 2) enters into this deed with the intention that clause 11.11 is legally binding, valid and enforceable in accordance with its terms.

(iii) Each Franchisee agrees to exclude and waive any right of the benefit of, to the extent permissible, the application of any legal rule or norm, including under statute, equity and common law, relating to the enforceability of clause 11.11 or the characterisation of it as a penalty.

(e) **(Application of Compensation):**

- (i) Compensation may be applied by the State towards funding:
 - A. Toll discounts for Tollroad Users;
 - B. Toll-free periods for Tollroad Users;
 - C. the crediting of amounts to Product Users' accounts in relation to their use of the Tollroad;
 - D. community infrastructure; or
 - E. such other purposes as the State may determine, provided that the value of any such initiative shall not exceed the accrued Compensation to date.
- (ii) If the State decides that the Compensation shall be used to fund the payment of amounts to Product Users' accounts, the State may advise the relevant Franchisee of the basis upon which the State requires the payments to be calculated.
- (iii) Within 15 Business Days after being given the information specified in clause 11.11(e)(ii), the Franchisee will give to the State, in writing:

- A. full details of the amount payable to each Product User;
 - B. a copy of the explanatory statement that the Franchisee proposes to provide to the Product Users; and
 - C. details of the procedures that the Franchisee intends to follow in order to pay that Compensation.
- (iv) The Franchisee shall make the payments referred to in clause 11.11(e)(iii) within 15 Business Days (or by such later date as the State may direct) after the State has approved the payment calculations, and other information provided to the State under clause 11.11(e)(iii).
 - (v) Unless the State otherwise directs, all credits shall be paid to the account that each Product User uses to pay Tolls and other amounts due to the Franchisee.

11.12 Traffic Management MOU

- (a) **(Obligation to negotiate terms):** Within 18 months of the Sale Date, the Franchisees and the State must use their reasonable endeavours to negotiate the terms of a Traffic Management MOU to be entered into by them.
- (b) **(Purpose):** The purpose of the Traffic Management MOU will be record the detailed processes that will govern the operational Traffic management activities to be undertaken by the Franchisees and the State in relation to the Tollroad.
- (c) **(Requirements):** The Traffic Management MOU should address the following matters:
 - (i) communication standards and information request response times;
 - (ii) transport planning and coordination activities;
 - (iii) procedures for a party seeking access to, controlling, and returning control to, intelligent transport system devices, owned and typically operated by the other party, including management of risks and liabilities and impacts of the Franchisees' performance obligations;
 - (iv) changes to TMR's Traffic management practices and standards and consequent impacts on the Tollroad; and
 - (v) any other road operation or Traffic management activities considered relevant by either the Franchisees and the State.
- (d) **(Review):** If the Franchisees and the State are able to enter into a Traffic Management MOU in accordance with this clause 11.12, the parties must participate in negotiations to review the terms of that Traffic Management MOU at least every 2 years from its date of execution.

12. Tolling and Tollroad User service

12.1 Levying of Tolls and imposition of charges

- (a) **(Right to levy Tolls):** Each Franchisee may levy Tolls for the use of the Tollroad (or any part of the Tollroad) for the passage of Vehicles in accordance with this deed, the Transport Infrastructure Act and the Gazette Notice.

- (b) **(Right to impose Administration Charges and User Administration Charges):** Each Franchisee may impose Administration Charges and User Administration Charges in connection with the Tollroad in accordance with this deed, the Transport Infrastructure Act and the Gazette Notice.
- (c) **(Right to impose Product Charges and Account Requirements):** Each Franchisee may impose relevant Product Charges and Account Requirements in connection with:
 - (i) the use of or entitlement to use, the Tollroad (or any part of the Tollroad); or
 - (ii) the provision of services in connection with the use of, or an entitlement to use, the Tollroad (or any part of the Tollroad),
 in accordance with this deed and the Nominated Tolling Product Schedule.
- (d) **(Tolling System):** Each Franchisee may only levy Tolls by means of the Tolling System and supporting procedures.

12.2 Sources of revenue and returns

- (a) **(Franchisees):** Each Franchisee may only derive revenue or other returns from:
 - (i) Tolls levied in accordance with clause 12.1(a);
 - (ii) Administration Charges and User Administration Charges imposed in accordance with clause 12.1(b);
 - (iii) Product Charges and Account Requirements imposed in accordance with clause 12.1(c);
 - (iv) payments received under Interoperability Agreements relating to the use of the Tollroad;
 - (v) to the extent considered revenue, amounts collected from Product Users for use of another tollroad;
 - (vi) interest or other returns on monies owing to or held by or on behalf of that Franchisee;
 - (vii) payments received from operators of advertising signs located on the Site;
 - (viii) proceeds of Claims against a Tollroad User arising from damage to the Tollroad caused by the Tollroad User;
 - (ix) payments received from Local Government for works constructed by (or at the direction of) the Franchisee in conjunction with Modifications or Upgrades to the Tollroad;
 - (x) payments from telecommunications providers in relation to telecommunications cables located in the Leased Area;
 - (xi) payments received under a licence agreement for use of part of the Illaweena Street site by LMPL's vegetation maintenance contractor;
 - (xii) proceeds from the disposal of assets; and
 - (xiii) any other revenue or return approved by the State from activities approved by the State or permitted under this deed.

- (b) **(Associates):** Each Franchisee must ensure that after the Commencement Date, none of its Associates derive revenue or other returns in connection with the Activities (under any new arrangements entered into after the Sale Date) other than revenue or returns derived:
 - (i) directly or indirectly from payments made by that Franchisee; or
 - (ii) under arm's length commercial arrangements approved by the State.

12.3 No other fees and charges

Each Franchisee must:

- (a) ensure that no Toll, Administration Charge or User Administration Charge; and
- (b) use its best endeavours to ensure that no Product Charge, Account Requirement or other amount,

is levied, charged or imposed by it on, or required to be paid to, advanced to or deposited with it by any person in connection with the use of or an entitlement to use the Tollroad (or any part of the Tollroad) or otherwise in connection with the Tollroad, other than:

- (c) on Tollroad Users:
 - (i) Tolls levied, Administration Charges and User Administration Charges charged and imposed in accordance with this deed, the Transport Infrastructure Act and the Gazette Notice; or
 - (ii) Product Charges and Account Requirements imposed in accordance with the Nominated Tolling Product Schedule; or
- (d) on third parties with whom that Franchisee has an Interoperability Agreement with, amounts equivalent to, and not exceeding the amounts of, such Tolls, Administration Charges, User Administration Charges, Product Charges or Account Requirements which are recoverable under any Interoperability Agreements with respect to the use of the Tollroad (or any part of the Tollroad).

12.4 Tolling System

- (a) **(Compliance with Performance Specification and Interoperability):** Each Franchisee must:
 - (i) ensure that the Tolling System complies with the requirements and specifications set out in the Performance Specification; and
 - (ii) comply with the requirements of the Gazette Notice in relation to Interoperability.
- (b) **(Transitional arrangement):** The State agrees that, until the third anniversary of the Sale Date, a failure of the Tolling System to comply with the Performance Specification, or a failure by a Franchisee to meet the Performance Specification as a result of the performance of the Tolling System, will not result in:
 - (i) the Franchisee becoming liable to pay or apply Compensation; or
 - (ii) the occurrence of an Event of Default under clause 33.1.
- (c) **(Toll Points):** Each Franchisee must not:
 - (i) remove any Toll Point;

- (ii) change the location of any Toll Point; or
 - (iii) create any new Toll Point,
- without the written consent of the State.

12.5 Interoperability Agreements

- (a) **(Existing Agreements):** The State agrees and acknowledges that:
 - (i) the Franchisees have entered into the Existing Agreements at the Sale Date; and
 - (ii) clauses 12.5(c) (but only to the extent that clause 12.5(c) refers to the making of Interoperability Agreements) and 12.5(d) do not apply to the Existing Agreements.
- (b) **(Reasonable endeavours):** Each Franchisee must use all reasonable endeavours to enter into an agreement with each Tollroad Service Provider for each other Australian tollroad from time to time and the operator of each other Australian tollroad (as necessary), so that the Tolling System operates as an Interoperable system.
- (c) **(Information):** Each Franchisee must give the State:
 - (i) as soon as practicable after the Interoperability Agreement is made or varied, a copy of each Interoperability Agreement concerning the Tollroad; and
 - (ii) by the day that is 20 Business Days after the end of each 6 month period from the Commencement Date, details of the status of negotiations concerning Interoperability Agreements and, to the extent that Interoperability Agreements have been entered into, a report summarising in such detail as the State may reasonably require, the terms of the new or amended Interoperable arrangements involving the Tollroad and any other relevant tollroad.
- (d) **(Roaming fees):** Each Franchisee must comply with the requirements of the National Tollroad MOU.

12.6 Tollroad User Services

Each Franchisee, in interacting with Tollroad Users, must provide services to a standard that, at a minimum, is consistent with the standard to which such services are performed by other Tollroad Service Providers and in accordance with the Tollroad User Service Practice Requirements including:

- (a) complying with the service requirements in respect of Tollroad Users of the Performance Specification;
- (b) providing Traffic information services and systems to Tollroad Users;
- (c) providing Traffic Incident management (including Vehicle breakdown services);
- (d) providing account management services and systems;
- (e) marketing and providing information on the Tollroad and Tolling (including offering appropriate tolling products to different market segments) through reasonably available and sufficient communications channels (which, among other things, meet the communications needs of different ethnic groups and disadvantaged groups);
- (f) operating an Interoperable system;

- (g) ensuring that the tolling products made available to Tollroad Users are reviewed periodically and amended or developed, having regard to:
 - (i) advancements in technology;
 - (ii) operation and maintenance practices as required by Best Practices; and
 - (iii) the most efficient means of Tolling, from the perspective of the Franchisees and the vehicular Tollroad Users;
- (h) ensuring that there is no restriction or qualification (other than those specified in the Nominated Tolling Product Schedule) imposed on persons to whom products required for Tolling are distributed or on the use of those products;
- (i) outlining clearly on its website (and in relevant advertising material) the material differences between each Nominated Tolling Product and the Product Contract for the different Nominated Tolling Products; and
- (j) repaying any amounts incorrectly charged in accordance with clause 3.1 of Part 2 of the Performance Specification

(Tollroad User Services).

12.7 Tolling Products

- (a) **(Nominated Tolling Products):** Unless otherwise agreed by the State, each Franchisee must make available each Nominated Tolling Product:
 - (i) pursuant to a Product Contract for that Nominated Tolling Product; and
 - (ii) to all Tollroad Users, other than cyclists and pedestrians.
- (b) **(Tolling Product Amendment):**
 - (i) Each Franchisee must not:
 - A. suspend, delete or discontinue any Nominated Tolling Product; or
 - B. provide any arrangement or tolling product in connection with the use of, or entitlement to use the Tollroad other than a Nominated Tolling Product,

(each a **Tolling Product Amendment**), without obtaining the prior consent of the State.
 - (ii) If a Franchisee desires a Tolling Product Amendment, it must submit a notice to the State:
 - A. setting out the details of the proposed Tolling Product Amendment;
 - B. in the case of a proposed new arrangement or tolling product, attaching the proposed Product Contract that will apply to that arrangement or tolling product; and
 - C. seeking the State's consent to:
 - 1) the proposed Tolling Product Amendment;

- 2) any changes necessary to the Nominated Tolling Product Schedule to reflect that Tolling Product Amendment; and
 - 3) in the case of a proposed new tolling product or arrangement, the proposed Product Contract for that tolling product or arrangement.
- (iii) The State must not unreasonably withhold its consent to a Tolling Product Amendment if that Tolling Product Amendment:
- A. in the case of a proposed new arrangement or tolling product, is required as a consequence of a change in technology pursuant to clause 12.6(g);
 - B. in the case of a proposed deletion or discontinuance of a Nominated Tolling Product, that Nominated Tolling Product is to be replaced by a proposed new arrangement or tolling product to reflect a change in the Tolling System in accordance with clause 12.7(b)(ii); or
 - C. in any case in the State's opinion (acting reasonably):
 - 4) is not detrimental to the State, Tollroad Users, or other members of the public generally; and
 - 5) is consistent with the relevant Franchisee's Tollroad User Service obligations.
- (iv) The State must advise the relevant Franchisee within 20 Business Days (or such longer period as the State reasonably requests given the nature of the Tolling Product Amendment) of receiving the relevant Franchisee's notice under clause 12.7(b)(ii), that:
- A. it consents to the Tolling Product Amendment and, if applicable, the proposed Product Contract;
 - B. either or both of the Tolling Product Amendment and, if applicable, the proposed Product Contract, is unacceptable to it and the reasons why the Tolling Product Amendment or the proposed Product Contract is unacceptable; or
 - C. it requires further information from the Franchisee regarding the Tolling Product Amendment. If so, the State must respond in terms of clauses 12.7(b)(iv)A or B within 20 Business Days of receiving that additional information from the Franchisee.

12.8 Product Contracts

- (a) **(Terms of Product Contract):** Each Franchisee must, in respect of each Nominated Tolling Product:
- (i) offer a contract, which:
 - A. imposes Product Charges or Account Requirements in respect of that Nominated Tolling Product that are no greater or more onerous on the Product User or the Non-Product User than the Product Charges or Account Requirements provided for in the Nominated Tolling Product Schedule in respect of that Nominated Tolling Product;

- B. provides for the payment or deposit (as applicable) of those Product Charges or Account Requirements by a Product User or a Non-Product User and the application and, if applicable, refund by the Franchisee of those Product Charges or Account Requirements in circumstances and on terms consistent with the provisions in respect of that Nominated Tolling Product specified in the Nominated Tolling Product Schedule;
 - C. provides for each Product Feature applicable to that Nominated Tolling Product; and
 - D. complies with the requirements of clause 12.8(b),
(in each case a **Product Contract**);
- (ii) ensure that each Tollroad User is advised in clear terms that the Product Contract is available for them to accept;
 - (iii) make the terms and conditions attaching to a Product Contract available to all Product Users and Non-Product Users; and
 - (iv) provide written confirmation to a Product User or Non-Product User of the Product Features, Product Charges and Account Requirements applicable to that Nominated Tolling Product and the arrangements for use of the Tollroad (including the name of the Product User or Non-Product User, details of the Vehicles to which the arrangements relate (including the category of Vehicle and the Vehicle's licence plate number), the period of time covered by that arrangement, and details of the payment term and means of payment):
 - A. at the time the Product User or Non-Product User enters into a Product Contract for that Nominated Tolling Product; and
 - B. in the most expedient manner, having regard to the means by which the Product User or Non-Product User makes that arrangement for the use of the Tollroad.
- (b) **(Requirements for Product Contracts):** Each Franchisee must ensure that each Product Contract:
- (i) uses simple, concise and plain language;
 - (ii) is appropriate for the class or market segment to which the Product User or Non-Product User belongs;
 - (iii) is fair and reasonable;
 - (iv) provides for reasonable notice of failure to pay, suspension and termination consistent with the terms on which other services in other industry sectors are typically provided to the general public at large but having appropriate regard to the nature of other electronically tolled tollroads and, in any event, provide for reminders to be issued with reasonable notice periods prior to suspension or termination;
 - (v) provides for prompt repayment of any amounts incorrectly charged;
 - (vi) indicates the availability of the system established under clause 12.9 for receiving and addressing Tollroad User Complaints and ensure that Complaints and disputes are addressed in accordance with that system;

- (vii) indicates the availability of the Tolling Ombudsman established under clause 12.12 for receiving, investigating and facilitating the resolution of Tollroad User Complaints where an outcome satisfactory to the parties involved in respect of a Complaint cannot be agreed through the system that is used in accordance with clause 12.9;
 - (viii) states clearly and with sufficient certainty the rights and responsibilities of the Product User or Non-Product User and the Franchisee;
 - (ix) does not attempt to exclude any statutory consumer protection;
 - (x) advises Product Users and Non-Product Users of the Franchisee's policy and obligations in respect of privacy; and
 - (xi) is readily available to Tollroad Users to ensure that they can make informed choices about use of the Tollroad and the cost of using the Tollroad.
- (c) **(Product Contract Amendment):**
- (i) Each Franchisee must not modify, vary, amend or replace any Product Contract **(Product Contract Amendment)** without obtaining the prior consent of the State.
 - (ii) If a Franchisee desires a Product Contract Amendment, it must submit a notice to the State setting out the details of the proposed Product Contract Amendment.
 - (iii) The State must not unreasonably withhold its consent to a Product Contract Amendment if in the State's opinion (acting reasonably) that Product Contract Amendment:
 - A. is consistent with the Franchisee's Tollroad User Service obligations under this deed; and
 - B. is not to the detriment of the State, Tollroad Users or other members of the public generally.
 - (iv) The State must make a decision as to whether or not it will consent to the proposed Product Contract Amendment and advise the Franchisee within 20 Business Days (or such longer period as the State reasonably requests given the nature of the Product Contract Amendment) of receiving the Franchisee's notice under clause 12.8(c)(ii), that:
 - A. it consents to the Product Contract Amendment;
 - B. the Product Contract Amendment is unacceptable to it and the reasons why the Product Contract Amendment is unacceptable; or
 - C. it requires further information from the Franchisee regarding the Product Contract Amendment. If so, the State must respond in terms of clause 12.8(c)(iv)A or B within 20 Business Days of receipt by the State of that additional information from the Franchisee.

12.9 Dealing with Tollroad User Complaints

Each Franchisee must maintain a system for receiving and addressing Complaints of Tollroad Users (including Interoperable Users) (**Tollroad User Complaints**) which:

- (a) is readily accessible at no cost (other than telephone or internet service provider charges);

- (b) is easy to use (including meeting the needs of disadvantaged groups and the needs of people with disabilities);
- (c) is well promoted on the Franchisee's website and on account statements and other correspondence with Tollroad Users, so that Tollroad Users should be aware of its existence;
- (d) operates efficiently by dealing with Complaints in a timely manner using appropriate processes and forums and by regularly reviewing its performance;
- (e) where the legal rights of a person are at issue, produces and is seen to produce fair outcomes by:
 - (i) observing principles of procedural fairness;
 - (ii) producing outcomes based on the information before it; and
 - (iii) making decisions and arriving at outcomes using specific criteria;
- (f) remains accountable for its operations by making publicly available information about Complaints which are considered by the Tolling Ombudsman;
- (g) has appropriate and comprehensive terms of reference which are regularly reviewed to achieve best practices;
- (h) is subject to periodic independent reviews of its performance by the Tollroad User Service Auditor; and
- (i) provides information regarding the availability of the Tolling Ombudsman where a satisfactory outcome cannot be agreed in respect of a Complaint.

12.10 Reports

Each Franchisee must provide the State with the reports set out in clause 4 of Part 2 of the Performance Specification.

12.11 Tollroad User Service and Toll Management Audits

- (a) **(Annual audits):**
 - (i) Each Franchisee will be subject to annual audits to determine whether the Franchisee is providing:
 - A. Tollroad User Services and Tollroad User Complaints resolution to the level required by clauses 12.6 and 12.9 and in accordance with the requirements of the Performance Specification (**Tollroad User Service Audit**); and
 - B. Toll Management in accordance with the requirements of the Performance Specification (**Toll Management Audit**).
 - (ii) Each Franchisee must fully and promptly co-operate with:
 - A. the Tollroad User Service Auditor to allow the Tollroad User Service Auditor to carry out the Tollroad User Service Audit in the manner it considers necessary; and

B. the Toll Management Auditor to allow the Toll Management Auditor to carry out the Toll Management Audit in the manner it considers necessary.

(b) **(Auditors):**

- (i) The State and the Franchisees must appoint an independent auditor to conduct the Tollroad User Service Audit (**Tollroad User Service Auditor**) within 60 Business Days of the Commencement Date. If the parties have not agreed on the person who should be the Tollroad User Service Auditor by the date for appointment of the Tollroad User Service Auditor, then the parties must appoint the Queensland Auditor General to be the Tollroad User Service Auditor.
- (ii) The Tollroad User Service Auditor may conduct the Tollroad User Service Audit as he or she considers necessary to determine whether each Franchisee is meeting the required level of Tollroad User Services and Tollroad User Complaints resolution in accordance with clauses 12.6 and 12.9 and the Performance Specification.
- (iii) The State and the Franchisees must appoint an independent auditor to conduct the Toll Management Audit (**Toll Management Auditor**) within 60 Business Days of the Commencement Date. If the parties have not agreed on the person who should be the Toll Management Auditor by the date for appointment of the Toll Management Auditor, then the parties must appoint the Queensland Auditor General to be the Toll Management Auditor.
- (iv) The Toll Management Auditor may conduct the Toll Management Audit as he or she considers necessary to determine whether each Franchisee is meeting the required level of Toll Management in accordance with the Performance Specification.
- (v) The same independent auditor can be appointed as both the Tollroad User Service Auditor and the Toll Management Auditor.

(c) **(Audit reports):**

- (i) After having conducted the Tollroad User Service Audit, the Tollroad User Service Auditor must provide a report of the audit to the State and each Franchisee.
- (ii) After having conducted the Toll Management Audit, the Toll Management Auditor must provide a report of the audit to the State and each Franchisee.
- (iii) The audit reports:
 - A. may include any information each auditor thinks desirable in relation to matters that are the subject of the audit;
 - B. must set out the reasons for opinions expressed in the report; and
 - C. may include any recommendations arising out of the audit that each auditor thinks fit to make.
- (iv) The State may (but is not obliged to) publicly disclose the audit reports.

(d) **(Audit budgets):**

- (i) The State must give each Franchisee at least 45 Business Days notice of the date on which the State proposes that the Tollroad User Service Auditor commences his or her annual audit and the State and the Franchisee, both acting reasonably and using their respective reasonable endeavours, must seek to agree a budget or other fee arrangement which is accepted by the Tollroad User Service Auditor for the scope of work set out in clause 12.11(b)(i) in respect of each Tollroad User Service Audit.
- (ii) If the budget or other fee arrangement is not agreed in accordance with clause 12.11(d)(ii):
 - A. by the date for appointment of the Tollroad User Service Auditor under clause 12.11(b)(i), the State may instruct the Tollroad User Service Auditor to commence the Tollroad User Service Audit; and
 - B. within 20 Business Days of the date which the State has proposed as the date by which the Tollroad User Service Auditor must commence his or her annual audit, either the State or the Franchisee may refer the dispute regarding the budget or other fee arrangement for dispute resolution under clause 36.
- (iii) The State must give each Franchisee at least 45 Business Days notice of the date on which the State proposes that the Toll Management Auditor commences his or her annual audit and the State and the Franchisee, both acting reasonably and using their respective reasonable endeavours, must seek to agree a budget or other fee arrangement which is accepted by the Toll Management Auditor for the scope of work set out in clause 12.11(b)(iv) in respect of each Toll Management Audit.
- (iv) If the budget or other fee arrangement is not agreed in accordance with clause 12.11(d)(iii):
 - A. by the date for appointment of the Toll Management Auditor under clause 12.11(b)(iii), the State may instruct the Toll Management Auditor to commence the Toll Management Audit; and
 - B. within 20 Business Days of the date which the State has proposed as the date by which the Toll Management Auditor must commence his or her annual audit, either the State or the Franchisee may refer the dispute regarding the budget or other fee arrangement for dispute resolution under clause 36.
- (v) If the same independent auditor has been appointed as both the Tollroad User Service Auditor and the Toll Management Auditor, a combined budget or other fee arrangement can be agreed for the entire scope of work.
- (e) **(Costs and expenses):** The reasonable costs and expenses (including professional fees) of each of the Tollroad User Service Auditor and the Toll Management Auditor will be paid to the Tollroad User Service Auditor and the Toll Management Auditor respectively by the State in accordance with the budget/s or the fee arrangement/s agreed under clause 12.11(d) or determined in accordance with clause 36. The Franchisees must pay the State on demand, from time to time, 50% of all such costs and expenses paid by the State.
- (f) **(Information and access):** The State and each Franchisee must provide such information and documentation, and access to, and explanation of, systems, records and procedures manuals, wherever located, to the Tollroad User Service Auditor or the Toll Management Auditor respectively as may be reasonably required by the Tollroad User Service Auditor or the Toll Management Auditor for the purpose of performing their respective functions under

this deed. Each Franchisee must provide such access to its directors as the Tollroad User Service Auditor or the Toll Management Auditor may reasonably require.

12.12 Tolling Ombudsman

- (a) **(Appointment):** The Franchisees must appoint an independent third party to conduct the Tolling Ombudsman Services (**Tolling Ombudsman**) within 60 Business Days of the Commencement Date. The consent of the State must be obtained for this appointment and if the parties have not agreed on the person who should be the Tolling Ombudsman by the date for appointment of the Tolling Ombudsman, then the parties must appoint the Queensland Auditor General to be the Tolling Ombudsman.
- (b) **(Replacement):** Unless the Queensland Auditor General has been appointed as the Tolling Ombudsman, the State may at any time in its absolute discretion require the Franchisees to appoint a replacement third party as the Tolling Ombudsman within 60 Business Days in accordance with the requirements of clause 12.12(a).
- (c) **(Objectives):** The Tolling Ombudsman:
 - (i) must be appointed, and must act based upon, principles of independence, natural justice, access, equity, effectiveness, accountability and community awareness;
 - (ii) is to receive, investigate and facilitate the resolution of Tollroad User Complaints where an outcome satisfactory to the parties involved in respect of a Complaint cannot be agreed through the system that is used in accordance with clause 12.9;
 - (iii) is not to advocate for either a complainant or the Franchisees;
 - (iv) is intended to provide an independent dispute resolution scheme between Tollroad Users and the Franchisees that is fair, informal and accessible alternative to court proceedings and is cost free for complainants; and
 - (v) is to resolve Tollroad User Complaints independently and promptly, taking into account the Law, Best Practices, and fair and reasonable outcomes for the complainant and the Franchisees.
- (d) **(Tollroad User Complaints):** The Tolling Ombudsman is to be appointed to consider Complaints:
 - (i) that are Tollroad User Complaints and not with respect to an infringement notice issued by an Authority; and
 - (ii) with respect to which the complainant has made a genuine attempt to resolve with the Franchisees.
- (e) **(Available):** Each Franchisee must ensure the availability of the Tolling Ombudsman is well promoted, including in Product Contracts as required by clause 12.8(b)(vii) and on its website, so that Tollroad Users are aware of its existence.
- (f) **(Costs and expenses):** The Franchisees are responsible for all costs and expenses of the Tolling Ombudsman and must not pass on any of these costs and expenses to the parties involved in respect of a Tollroad User Complaint.
- (g) **(Co-operate):** Each Franchisee must fully and promptly co-operate with the Tolling Ombudsman to allow it to carry out the Tolling Ombudsman Services in the manner it considers necessary.

- (h) **(Binding decisions):** Decisions of the Tolling Ombudsman:
 - (i) will be binding upon the Franchisees, other than:
 - A. compensation awards for consequential, economic, loss of profit or punitive damages; and
 - B. decisions that would put the Franchisees in breach of this deed; and
 - (ii) will not be binding upon complainants.
- (i) **(Records and reports):** The Franchisees must ensure that:
 - (i) the Tolling Ombudsman maintains accurate, comprehensive and accessible records; and
 - (ii) the reports that are referred to in clause 12.10 are accompanied by a report signed by an authorised representative of the Tolling Ombudsman detailing the provision by it of Tolling Ombudsman Services, including the number of Tollroad User Complaints it has dealt with in that 3 month period and an overall summary of the resolutions, in such form as the State may reasonably require (as may be amended by the State from time to time as reasonably required to ensure that the State has accurate and comprehensive information concerning the manner and the standards to which Tollroad User Complaints are being resolved).

13. Interaction with transport network

13.1 No restrictions

- (a) **(No restriction on changes to transport network):** Nothing in the Concession Documents will in any way restrict, or require the exercise of, any right or power of the State or a Local Government, directly or through any Authority, to develop, manage or change Queensland's transport network.
- (b) **(Examples):** Accordingly, and without limiting clause 13.1(a), the State, a Local Government and all other Authorities will be entitled on their own account, and to authorise others to exercise, or not exercise, any right or power they would otherwise have had, to:
 - (i) construct new tollroads, Motorways and other Roads;
 - (ii) extend, alter or upgrade existing tollroads, Motorways and other Roads;
 - (iii) connect new or existing tollroads, Motorways and other Roads to the Tollroad;
 - (iv) construct new public transport routes or services;
 - (v) extend, alter or upgrade existing public transport routes or services;
 - (vi) otherwise implement government transport policies; or
 - (vii) otherwise do anything which, subject to this deed, they are empowered to do by Law.
- (c) **(Franchisees' risk):** Subject to clauses 13.3, 15.8, 18.1(a) and 18.1(b), each Franchisee acknowledges and agrees that it has no Claim against the State with respect to any consequence of the State exercising, or not exercising, any right or power of the type referred to in this clause 13.1.

13.2 Principal Traffic Connections

The parties acknowledge that the Franchisees have prepared the Base Case Financial Model on the assumption that, subject to any closures which are necessary as a result of:

- (a) the occurrence of Special Events;
- (b) the existence of a material threat to the health or safety of the public; or
- (c) any temporary closures reasonably required for maintenance or repair works in relation to:
 - (i) any Principal Traffic Connections; or
 - (ii) any Roads, transport infrastructure or PUP in the vicinity of any Principal Traffic Connections,

the Principal Traffic Connections will not be closed or Materially Reduced during the Concession Period.

13.3 Proximate Work

- (a) **(State may undertake Proximate Work):** Each Franchisee acknowledges and agrees that the State may do any one or more of the following (each a **Proximate Work**) or permit the Local Government or another nominee to do so:
 - (i) construct, operate, maintain or repair any Road, railway, light rail, monorail, busway, path, bikeway, veloway or other means of Vehicle, public transport, pedestrian or bicycle access (in whole or in part) under, on or above the Site;
 - (ii) construct, operate, maintain or repair any PUP or any other infrastructure or improvement (in whole or in part) under, on or above the Site;
 - (iii) connect any Road, railway, light rail, monorail, busway, path, bikeway, veloway or other means of Vehicle, public transport, pedestrian or bicycle access to the Tollroad or to any other structures located (in whole or in part) under, on or above the Site; and
 - (iv) connect any PUP or other infrastructure or improvement to the Tollroad or to any other structures located (in whole or in part) under, on or above the Site.
- (b) **(Restrictions on Proximate Work):** The State must not (and must not permit a nominee to):
 - (i) carry out any Agreed PW pursuant to this clause 13.3 in a manner which would permanently prevent a Franchisee from undertaking the Activities;
 - (ii) carry out any Proximate Work, other than Agreed PW, pursuant to this clause 13.3 in a manner which would:
 - A. prevent a Franchisee from undertaking the Activities substantially in accordance with this deed;
 - B. materially adversely affect the workmanship, durability or functional integrity of any element of the Tollroad;
 - C. materially adversely affect a Franchisee's ability to Handover the Tollroad in accordance with the requirements of this deed; or

- D. reduce the Tollroad's available Traffic flow capacity for any period to below that required to service the Traffic flow demand during that same period,

without the prior consent of the Franchisee, except to the extent that this is a consequence of work being carried out for or in connection with the Proximate Work and such work is either:

- E. non-peak hour work, which may be periodic; or
- F. occasional short term work.

(c) **(State Notice):** If the State proposes to undertake a Proximate Work or permit a nominee to do so then:

- (i) the State must give the Franchisees reasonable notice of its intention to do so; and
- (ii) the Franchisees must fully co-operate with the State and its Associates to enable the State or its Associates to undertake the Proximate Work.

(d) **(Proximate Work):** If the State decides to undertake a Proximate Work (or permits a nominee to do so), then:

- (i) the Franchisees must:
 - A. give the State and its Associates sufficient access to the Site to enable the State to plan, design, investigate, undertake, maintain or operate the Proximate Work;
 - B. fully co-operate with the State and its Associates to facilitate the implementation of the Proximate Work, including permitting reasonable temporary closures of lanes, paths or other parts, of the Tollroad and otherwise allowing the management of Traffic on, entering or leaving the Tollroad to facilitate the State and its Associates managing Traffic on or in the vicinity of the Tollroad;
 - C. carefully co-ordinate and interface the Activities with the activities associated with the Proximate Work; and
 - D. use its best endeavours to minimise any interference with, or disruption or delay to, the activities associated with the Proximate Work; and
- (ii) the State must:
 - A. carefully co-ordinate and interface all activities associated with the Proximate Work with the Activities;
 - B. use its best endeavours to minimise any interference with, or disruption or delay to, the Activities;
 - C. ensure that its Associates comply with the requirements of this clause 13.3(d)(ii); and
 - D. use its best endeavours to ensure that the entity undertaking the Proximate Work has an obligation to fully co-operate with the Franchisees and their Associates to facilitate the implementation of the Activities.

- (e) **(Maintenance responsibility):** If the State constructs any Proximate Work upon the Site (or permits a nominee to), the State may at any time issue to the Franchisees a "Modification Proposal" under clause 14, in relation to the maintenance and repair of that Proximate Work. The procedures in that clause will then apply.
- (f) **(Tolling responsibility):** Each Franchisee is responsible for temporarily or permanently augmenting the Tolling System so as to avoid any untolled use of the Tollroad during or after the undertaking of any Proximate Work. The State will (or will procure its nominee to) reimburse the Franchisee's reasonable direct costs of this work.

14. Modifications

14.1 Modifications proposed by the State

- (a) **(Modification Proposal):** The State may at any time issue to the Franchisees a notice titled "Modification Proposal" setting out the details of a proposed Modification which the State is considering, including the State's proposed requirements for the implementation of the proposed Modification. The State will not be obliged to proceed with any Modification proposed in a "Modification Proposal".
- (b) **(Restriction):** Despite anything else in this clause 14.1, the State may not require the Franchisees to implement a Modification to the Tollroad that will, once such a Modification is completed, adversely affect the vehicular use, patronage or capacity of the Tollroad or the Franchisees' ability to levy Tolls.
- (c) **(Franchisees' Modification Notice):** As soon as practicable and in any event within 40 Business Days after receipt of a Modification Proposal (or such longer period as agreed by the parties), the Franchisees must provide the State with a notice (**Franchisees' Modification Notice**) setting out detailed particulars of:
 - (i) each Franchisee's estimate of the Modification Costs which it will incur, or the Modification Savings which it will derive, by carrying out the proposed Modification including a breakdown of the Modification Costs or Modification Savings relating to the Activities;
 - (ii) the basis (if any) on which the Franchisee would be prepared to fund the whole or part of the Modification provided that the Franchisee will not be required to raise any additional debt or equity to pay for the Modification Costs unless the proposed Modification is reasonably expected to generate sufficient additional tolled Traffic to enable the Franchisees to service that extra debt and pay a reasonable rate of return on that extra equity;
 - (iii) the effects which the proposed Modification will have on Tollroad Performance;
 - (iv) the Validity Period together with a detailed explanation of the circumstances if the Validity Period is less than 20 Business Days; and
 - (v) any other relevant information requested by the State.
- (d) **(Franchisees' Modification Notice requirements):** The Franchisees' Modification Notice must be prepared:
 - (i) so as to avoid, as far as practicable, the need for a new Approval or a modification to an existing Approval for the implementation of the Modification;
 - (ii) on an open book basis with respect to each Franchisee's internal costs and the costs of any Relevant Entity (and to this end each Franchisee must allow the State

review and audit rights sufficient to verify that the Franchisees' Modification Notice has been prepared in accordance with the requirements of this deed (including the definition of "Modification Costs");

- (iii) assuming each Franchisee (or the Relevant Entity, as applicable) is a willing, efficient and competent provider of the Modification in an efficient and competitive market;
 - (iv) in a manner which is consistent with the requirements of the State for the implementation of the Modification;
 - (v) having regard to minimising the disruption to Tollroad Users and that part of the Road network affected by the proposed Modification;
 - (vi) having regard to minimising any adverse safety impacts of the Modification;
 - (vii) in a manner which ensures that all appropriate insurances relevant to the Modification are taken out and maintained consistently with those that would have been required by the State if the Modification had been included in the Activities as applicable, as at the Commencement Date unless the State otherwise determines; and
 - (viii) in a manner so that there is no double counting.
- (e) **(Tender for works):** If the State issues a "Modification Proposal" under clause 14.1(a), the State may require (or the Franchisee may elect) that the Franchisee conduct a tender process for all or part of the works (including any investigation, survey, design or other pre-construction activities) which would be required to effect a Modification. The tender process must be conducted consistently with the principles of the State's procurement policies in their form as at the date the State gives the Modification Proposal under clause 14.1(a) (with the necessary changes to reflect that each Franchisee is a private company rather than an Authority). Each Franchisee must have regard to the outcome of that tender process (including the tender costs) in the Franchisees' Modification Notice (or the Franchisees' Modification Notice must be appropriately amended if that notice has already been provided).
- (f) **(Election by the State):** Within the Validity Period, the State must advise the Franchisees that:
- (i) the State:
 - A. requires further information and/or clarification with respect to the Franchisees' Modification Notice; and/or
 - B. has reduced the scope of the Modification Proposal;
 - (ii) the State accepts the Franchisees' Modification Notice and if the Franchisees' Modification Notice contains any options, nominate which option the State accepts;
 - (iii) the State rejects the Franchisees' Modification Notice; or
 - (iv) the State withdraws the proposed Modification,
- by notice to the Franchisees (which in the case of clause 14.1(f)(ii) must be titled "Modification Order").

- (g) **(Further information/reduced scope):** If the State issues a notice in accordance with clause 14.1(f)(i), the Franchisees must provide the State with an updated Franchisees' Modification Notice addressing the issues raised by the State within 10 Business Days after receipt of the State's notice (or such longer period as agreed by the parties).
- (h) **(State accepts the Franchisees' Modification Notice):** If the State accepts the Franchisees' Modification Notice in accordance with clause 14.1(f)(ii):
 - (i) the Franchisee must proceed to implement the Modification on the basis of the Franchisees' Modification Notice (as accepted by the State); and
 - (ii) each Franchisee will be relieved of its obligations under this deed to the extent specified in the Franchisees' Modification Notice (as accepted by the State).
- (i) **(State rejects Franchisees' Modification Notice):** If the State rejects the Franchisees' Modification Notice in accordance with clause 14.1(f)(iii), the State may require that:
 - (i) the parties consult in good faith, and use their reasonable endeavours to agree on a mutually acceptable resolution to the matters set out in the Franchisees' Modification Notice which are in dispute; and/or
 - (ii) the relevant Franchisee conduct a tender process (if it has not already done so) under clause 14.1(e).
- (j) **(If parties reach agreement):** If the parties reach agreement on the disputed matters in the Franchisees' Modification Notice and the State directs a Franchisee to proceed with the Modification (by notice titled "Modification Order"):
 - (i) the Franchisee must proceed to implement the Modification on the basis of the Franchisees' Modification Notice (as varied by the parties' agreement, as recorded in the "Modification Order", on the matters in the Franchisees' Modification Notice which were in dispute); and
 - (ii) the relevant Franchisee will be relieved of its obligations under this deed to the extent specified in the Franchisees' Modification Notice (as varied by the parties' agreement, as recorded in the "Modification Order", on the matters in Franchisees' Modification Notice which were in dispute).
- (k) **(If parties fail to reach agreement):** If the parties are unable to reach agreement under clause 14.1(i) within 10 Business Days after the later of:
 - (i) the commencement of the consultation; or
 - (ii) the outcome of the tender process is advised to the State (if applicable),
 any party may refer the matter for dispute resolution in accordance with clause 36. In resolving the dispute under clause 36, the parties will, and will direct the expert or arbitrator to:
 - (iii) have regard to the principles set out in clause 14.1(d), to the extent relevant;
 - (iv) assume that funding for the Modification will be provided by the State, unless the parties otherwise agree; and
 - (v) determine all matters required to enable the Modification to be implemented.
- (l) **(State may direct the Franchisee to proceed pending outcome of dispute resolution process):** If a party refers the matter for dispute resolution, the State may also direct the

relevant Franchisee to proceed to implement the Modification by a notice titled "Modification Order" whether or not the matters in dispute have been agreed or determined in accordance with clause 36. If the State gives such a notice:

- (i) the disputed matters will, until the State and the Franchisee otherwise agree or a determination is made in accordance with clause 36, be reasonably determined by the State. In making its determination, the State will:
 - A. have regard to the principles set out in clause 14.1(d), to the extent relevant;
 - B. assume that funding for the Modification will be provided by the State, unless the parties otherwise agree; and
 - C. reasonably determine (until the State and the Franchisee otherwise agree, or a determination is made in accordance with clause 36) all disputed matters required to enable the Modification to be implemented, including the changes required to any State Concession Documents;
 - (ii) the Franchisee must proceed to implement the Modification on the basis determined by the State, notwithstanding that the matters in dispute have not been agreed or determined in accordance with clause 36; and
 - (iii) any necessary adjustments will be made following the resolution of the matters in dispute.
- (m) **(State's options following resolution):** Following resolution of the dispute referred for dispute resolution under clause 14.1(k), the State may (unless it has already exercised its right under clause 14.1(l)) elect to:
- (i) require the Franchisee to proceed to implement the Modification in accordance with the Franchisee's Modification Notice as varied by the resolution; or
 - (ii) withdraw the proposed Modification,
- by notice to the Franchisee (which in the case of clause 14.1(m)(i) must be titled "Modification Order").
- (n) **(Franchisee to implement Modification):** If the State gives the Franchisee notice pursuant to clause 14.1(m)(i), the Franchisee:
- (i) must implement the Modification in accordance with the Franchisees' Modification Notice (as varied by the resolution, once made); and
 - (ii) will be relieved of its obligations under this deed to the extent specified in Franchisees' Modification Notice (as varied by the resolution, once made).
- (o) **(State may instruct):** Whether or not the State has issued a Modification Proposal under clause 14.1(a) and whether or not a Franchisee has issued the Franchisees' Modification Notice in response to a Modification Proposal under clause 14.1(c), the State may at any time during the Concession Period instruct the Franchisee to implement a Modification by issuing a notice titled "Modification Order". In these circumstances the matters set out in clauses 14.1(c)(i) and 14.1(c)(iii) will, until the State and the Franchisee otherwise agree or a determination is made in accordance with clause 36, be reasonably determined by the State. In making its determination, the State will:

- (i) have regard to the principles set out in clause 14.1(d), to the extent relevant;
- (ii) assume that funding for the Modification will be provided by the State, unless the parties otherwise agree; and
- (iii) determine all matters required to enable the Modification to be implemented.

The State will only exercise this power if the proposed Modification is a relatively minor one, that does not warrant a fully detailed proposal and costing.

If a Franchisee disagrees with a matter determined by the State under this clause 14.1(o):

- (iv) the Franchisee may refer the matter for dispute resolution in accordance with clause 36;
- (v) the Franchisee must proceed to implement the Modification on the basis determined by the State notwithstanding that the matters in dispute have not been agreed or determined in accordance with clause 36; and
- (vi) any necessary adjustments will be made following the resolution of the matters in dispute.

(p) **(Payment and funding of Modification Costs/Savings):** If a Franchisee implements a Modification relating to the Activities in accordance with:

- (i) **(Modification Cost, when agreed):** clauses 14.1(h) or 14.1(j) and the Franchisees' Modification Notice (as subsequently agreed, if clause 14.1(j) applies) states that the Modification will result in Modification Costs, the State must:
 - A. if the Modification is being funded by the State, pay the Franchisee the Modification Costs stated in the Franchisees' Modification Notice as relating to the Activities progressively within 25 Business Days after each month in which the relevant work was undertaken; or
 - B. if the Modification is being funded by the Franchisee, pay the Franchisee when due the amounts (if any) which the Franchisees' Modification Notice specifies will be paid by the State (as subsequently agreed, if clause 14.1(j) applies); or
- (ii) **(Modification Costs, when not agreed):** clauses 14.1(l), 14.1(n) or 14.1(o) which results in Modification Costs, the State must pay the Franchisee the Modification Costs:
 - A. pending determination in accordance with clause 36 (or agreement between the parties), as reasonably determined by the State; and
 - B. following the determination in accordance with clause 36 (or agreement between the parties), as so determined (or agreed),

progressively within 25 Business Days after each month in which the relevant work was undertaken (but, where payment is due to a contractor at a particular time, to enable the Franchisee to pay those amounts to the contractor at that time).

If the Modification Costs paid under clause 14.1(p)(ii)A are more or less than the Modification Costs for the relevant month as subsequently determined or agreed, then the difference will be paid by the relevant party to the other; or

- (iii) **(Modification Saving):** clauses 14.1(h), 14.1(j), 14.1(l), 14.1(n) or 14.1(o) that has a Modification Saving under the Franchisees' Modification Notice, the Franchisee must pay the State 100% of the Modification Saving to the State in the manner and at the time as agreed between the State and the Franchisee or, to the extent that they fail to agree, as resolved in accordance with clause 36 (or as reasonably determined by the State pending determination under clause 36). In making a determination under clause 36, the expert or arbitrator must ensure, and the parties must require that the expert or arbitrator ensures, the timing of the payment will not have an adverse impact upon the ability which, prior to the change, the Franchisee had to:
 - A. pay or repay the Concession Debt on the due dates for payment (without regard to any acceleration of the obligation to pay or repay); and
 - B. give to the Equity Investors (treated as if each was a Notional Equity Investor) the Equity Return they would have received if the Modification had not been implemented.
- (q) **(Excluded Works):** Each Franchisee acknowledges that the State may issue a Modification Proposal that decreases, omits, deletes or removes work from the scope of the Activities conducted on, or the area of, the Site (**Excluded Works**) and may carry out that Excluded Work itself or may engage another person to carry out the Excluded Work on its behalf.
- (r) **(No liability unless Modification Order):** Except where a Franchisee is directed to carry out a Modification pursuant to a "Modification Order" issued by the State under clause 14.1(f), 14.1(j), 14.1(l), 14.1(m) or 14.1(o), a Franchisee will not be entitled to make any Claim against the State arising out of, or in any way in connection with, a Modification proposed by the State.

14.2 Modifications proposed by a Franchisee

- (a) **(No Modification without consent):** A Franchisee must not undertake any Modification without the State's prior consent.
- (b) **(Franchisee may propose a Modification):** A Franchisee may propose a Modification by giving a written notice with details of:
 - (i) the proposed Modification;
 - (ii) the reason for the proposed Modification;
 - (iii) the Franchisee's estimate of the Modification Costs it will incur, or the Modification Savings it will derive, by carrying out the proposed Modification (including a breakdown of the Modification Costs or Modification Savings relating to the Activities);
 - (iv) the time within, and the manner in which, the Franchisee proposes to implement the proposed Modification;
 - (v) the effects which the proposed Modification will have on Tollroad Performance; and
 - (vi) the changes (if any) required to the Approvals, and any additional Approvals to accommodate the proposed Modification.

- (c) **(Franchisee to provide statement):** If the State requires, the Franchisee must provide in respect of any Modification it proposes:
- (i) a written statement stating that the proposed Modification:
 - A. will not adversely affect the functional integrity of the Tollroad or the ability of the Franchisee to carry out the Activities in accordance with this deed; and
 - B. will not adversely affect the quality standards, warranties and other obligations required under this deed; and
 - (ii) any other information and supporting documentation the State requires.
- (d) **(State may approve or reject):** If a Franchisee gives a notice under clause 14.2(b) together with any written statement or other information or supporting documentation which the State requires under clause 14.2(c), the State:
- (i) will consider the Franchisee's proposed Modification in good faith; and
 - (ii) subject to clause 14.2(e):
 - A. may approve (with or without conditions) or reject the proposed Modification in its absolute discretion by notice to the Franchisee (which in the case of an approval must be titled "Modification Approval"); and
 - B. will be under no obligation to approve the proposed Modification for the convenience of or to assist the Franchisee.

If the State approves the Modification:

- (iii) the Franchisee must proceed to implement the Modification on the basis approved by the State; and
 - (iv) the Franchisee will be relieved of its obligations under this deed to the extent specified in the State's approval.
- (e) **(Modifications required as a result of a change in Law or advancement in technology):** The State must, to the extent a Modification requested by a Franchisee is required to:
- (i) ensure that the Tollroad complies with a change in Law; or
 - (ii) upgrade the Tollroad as required under clause 11.3(c),
- do one of the following:
- (iii) not reject the Modification proposed by the Franchisee;
 - (iv) direct the Franchisee to carry out a Modification in accordance with clause 14.1 to deal with the change in Law or advancement in technology or operation and maintenance practices (as applicable); or
 - (v) take such other action as the State considers necessary (other than to implement the Modification either itself or by engaging a third party) to ensure that the Tollroad complies with the change in Law or advancement in technology or operation and maintenance practices (as applicable).

If the change in Law is a Discriminatory Change in State Law then clause 18 will apply.

- (f) **(Franchisee to bear risks and costs):** Unless otherwise agreed in writing by the State, the Franchisee will bear all risks and costs:
- (i) associated with proposing a Modification and providing the details under clause 14.2(b) and complying with clause 14.2(c);
 - (ii) reasonably incurred by the State in assessing a Modification proposed by the Franchisee; and
 - (iii) associated with carrying out a Modification (including the risk in relation to obtaining and complying with Approvals) proposed by the Franchisee.

Subject to clauses 8.3(b) and 18.1(c) of this deed, the Franchisees will not be entitled to make any Claim against the State arising out of, or in any way in connection with, a Modification proposed by a Franchisee and approved by the State under clause 14.2(d).

- (g) **(Modification Savings):** If a Franchisee implements a Modification in accordance with this clause 14.2, that has a Modification Saving, that Franchisee must pay the State 50% of any Modification Saving in the manner and at the time as agreed between the State and the Franchisee or, to the extent that they fail to agree, as resolved in accordance with clause 36. In making a determination, the expert or arbitrator must ensure, and the parties must require that, the timing of the payment will not have an adverse impact upon the ability which, prior to the change, the Franchisee had to:
- (i) pay or repay the Concession Debt on the due dates for payment (without regard to any acceleration of the obligation to repay); and
 - (ii) give the Equity Investors (treated as if each was a Notional Equity Investor) the Equity Return they would have received if the Modification had not been made.

15. Payments and revenue upside

15.1 Additional rent

- (a) **(Additional Rent):** The Franchisees must pay to the State, as additional rent under the Lease, the proportion of the amount by which the aggregate consolidated revenue derived by the Group in each relevant period as disclosed in the audited financial statements of the Group, exceeds the Reference Revenue for the same relevant period.
- (b) **(Proportion payable):** The proportion of the amount of any such excess applicable to each relevant period is specified in Part 2 of Schedule 6.
- (c) **(Revenue):** In this clause 15.1, the concept of 'revenue':
- (i) includes all tolls, charges, fees, additional revenue resulting from a Modification (except to the extent that a return to the State relating to a Modification has been agreed or determined in accordance with clause 14) and other revenue amounts received in connection with the Concession Activities; and
 - (ii) excludes:
 - A. revenue directly attributable to redress afforded under clause 18;

- B. revenue referred to in clause 12.2(a)(v) to the extent that it is remitted to the provider of another tollroad in accordance with an Interoperability Agreement;
- C. payment of Modification Costs by the State under clause 14.1(p);
- D. revenue directly attributable to insurance receipts, except under business interruption or other insurance to the extent that such receipts represent payments for loss of past or anticipated revenue; and
- E. drawings in accordance with a Refinancing in accordance with clause 28.

(d) **(Relevant periods):** In this clause 15.1, a 'relevant period' is a period which commences on 1 July 2011 and ends on 30 June 2012 and each subsequent 12 month period ending on the last day of the relevant Financial Year except in relation to the last such period which commences on the first day of the Financial Year in which the Concession Period ends and ends on the last day of the Concession Period.

If a relevant period commences on a day other than 1 July or finishes on a day other than 30 June during a Financial Year, then the Reference Revenue will be calculated in the following manner:

$$x = \left(a \times \frac{b}{c} \right)$$

where:

- x = the Reference Revenue for the relevant period;
- a = the amount set out in Part 1 of Schedule 6 as the Reference Revenue for the Financial Year (or the amount determined by the formula set out below for the relevant Financial Year) on the last day of which the relevant period ends;
- b = the number of days of the relevant Financial Year which fall within the relevant period; and
- c = the number of days in the relevant Financial Year.

If the Concession Period is extended beyond 31 December 2051 (**Original Concession Period Finish Date**) the Reference Revenue for each Financial Year ending after the Original Concession Period Finish Date will be determined in the following manner:

$$d = e \times \left(\frac{R_n}{R_{n-1}} \right)$$

where:

- d = the Reference Revenue for each Financial Year ending after the Original Concession Period Finish Date;
- e = the Reference Revenue for the previous Financial Year;
- R_n = the Reference Revenue for the final complete Financial Year; and
- R_{n-1} = the Reference Revenue in the complete Financial Year prior to the final complete Financial Year.

- (e) **(Notification):** The Franchisees must, within 15 Business Days of the expiry of the relevant period, notify the State as to whether the State is entitled to any payment (and if so, the amount of that payment) under this clause 15.1 and provide such details as the State reasonably requires as to the amount of the aggregate consolidated revenue derived by the Group in the relevant period.
- (f) **(Time for payment):** Any payment to be made under clause 15.1(a) in relation to a relevant period must be made within 25 Business Days of the expiry of that period, provided that payment for the last such period will be made on the expiration of that period.
- (g) **(Priority):** Any payment to be made under clause 15.1(a) must be treated as an "operating expense" and take priority to debt service.
- (h) **(No clawback):** A Franchisee may not withhold or recover amounts paid or revenue foregone under this clause 15.1 with respect to a relevant period if for another relevant period ending before or after that relevant period, the aggregate consolidated revenue derived by the Group does not exceed the Reference Revenue for the same relevant period.
- (i) **(Reduction in Concession Period):**
 - (i) The State may give notice to the Franchisees electing to forego its rights to a payment under clause 15.1(a) (or part of such a payment) and instead have either:
 - A. the Concession Period reduced by a period not greater than 10% of the remaining Concession Period; or
 - B. the Franchisees not charge Tolls for a period,
 that will be calculated so that the Franchisees will forego an amount which does not exceed the amount of that payment.
 - (ii) If the State gives a notice under clause 15.1(i)(i), the State and the Franchisees must use their respective reasonable endeavours to agree on the length of the reduction in the Concession Period or the Toll free period (as applicable) that is necessary to achieve the result contemplated in clause 15.1(i)(i). If the matter is not agreed within 10 Business Days of the State giving the notice under clause 15.1(i)(i) any party may refer the matter for dispute resolution under clause 36.

15.2 Interest

If a party does not pay any money payable by it under this deed by the due date, it must pay interest on that amount on demand by the other party. Interest is:

- (a) payable from the due date until payment is made by the first mentioned party before and, as an additional and independent obligation, after any judgment or other thing into which the liability to pay the money payable becomes merged;
- (b) calculated on daily balances at the rate of BBSY +2% per annum; and
- (c) capitalised monthly.

15.3 Set-off

- (a) **(State's payments):** Subject to clause 15.3(b), the State may set-off or deduct from any moneys due to a Franchisee:

- (i) any debt or other moneys due from any Group Member to the State; and
- (ii) any bona fide claim to any money which the State may have against any Group Member, whether for damages or otherwise,

whether under the State Concession Documents or otherwise at law relating to the Concession or the Activities.

- (b) **(Exception):** Clause 15.3(a) does not apply to the Concession Debt portion of any Early Termination Amount or any Upgrade Termination Amount.
- (c) **(Franchisees' payments):** Each Franchisee must make all payments to the State free from any set-off or counterclaim and without deduction or withholding for or on account of any present or future Tax, unless the Franchisee is compelled by law to make such a deduction or withholding.

15.4 GST

- (a) Notwithstanding any other provision of this deed, any amount payable for a supply made under this deed which is calculated by reference to a cost, expense or other amount paid or incurred by a party will be reduced by an amount equal to any input tax credits which that party is entitled to in respect of that cost, expense or other amount.
- (b) Subject to clause 15.4(e), if GST becomes payable on any supply made by a party (**Supplier**) under or in connection with this deed:
 - (i) any amount payable or consideration to be provided under any other provision of this deed for that supply (**Agreed Amount**) is exclusive of GST;
 - (ii) an additional amount will be payable by the party providing consideration for that supply (the **Recipient**), equal to the amount of GST payable on that supply as calculated by the Supplier in accordance with the GST law and payable at the same time and in the same manner as for the Agreed Amount; and
 - (iii) the Supplier will provide a tax invoice (or equivalent documentation which complies with the GST law) to the Recipient in respect of that supply, no later than the time at which the Agreed Amount for that supply is to be provided under this deed.
- (c) Subject to clause 15.4(e), if for any reason, the GST payable by the Supplier in respect of a supply it makes under this deed (incorporating any increasing adjustments or decreasing adjustments relating to that supply) varies from the additional amount it receives from the Recipient under clause 15.4(b) in respect of that supply, the Supplier will provide a refund or credit to or will be entitled to receive the amount of this variation from the Recipient (as appropriate). Where an adjustment event occurs in relation to a supply, the Supplier will issue an adjustment note to the Recipient in respect of that supply within 28 days after becoming aware of that adjustment event occurring.
- (d) If the Recipient is dissatisfied with any calculation to be made by the Supplier under this clause 15.4, the Recipient may, at its own expense and after notifying the Supplier accordingly, refer the matter to an independent expert nominated by the President of the Institute of Chartered Accountants for expert determination, which will be final and binding on all parties (absent manifest error). The expert will act as an expert and not as an arbitrator and will take into account the terms of this deed, the matters required to be taken into account by the Supplier under this clause 15.4 and any other matter considered by the expert to be relevant to the determination. The parties must release the expert from any liability in

acting as an expert, except in the case of fraud on the part of the expert. However, this clause 15.4(d) shall not apply to any supply dealt with under clause 15.4(e).

- (e) Notwithstanding clause 15.4(b), if two parties (or entities on whose behalf those parties are acting) in accordance with this deed exchange non-monetary consideration then, subject to clause 15.4(f), the additional amount payable by the Recipient to the Supplier on any supply shall be limited to an amount calculated as the monetary consideration provided by the Recipient for the taxable supply being made by the Supplier multiplied by the applicable GST rate.
- (f) Where it is determined, whether by agreement between the parties or by demand, assessment or private ruling issued by the Commissioner of Taxation that there is a disparity between:
 - (i) the sum of the GST exclusive market value of the non-monetary consideration and the GST exclusive monetary consideration (if any) being provided by the Recipient to the Supplier; and
 - (ii) the sum of the GST exclusive market value of the non-monetary consideration and the GST exclusive monetary consideration (if any) being provided by the Supplier and having their nexus with the non-monetary consideration and monetary consideration being provided by the Recipient and referred to in clause 15.4(f)(i),

the Supplier and the Recipient will use best endeavours to determine a mutually acceptable means of calculating additional amounts to be provided between the parties to ensure, as far as possible that neither the Supplier nor the Recipient suffers a net cost or loss.

- (g) If within 30 Business Days of the determination under clause 15.4(f), the parties are unable to agree on a means of calculating the additional amounts payable, clause 15.4(b) shall apply without any limitation imposed by clauses 15.4(e) or 15.4(f), however:
 - (i) the Supplier must only issue a tax invoice or an adjustment note to reflect the application of clause 15.4(f) after the parties have either reached an agreement under clause 15.4(f) or have determined that they are unable to reach such an agreement; and
 - (ii) the additional amount payable pursuant to clause 15.4(f) will only be payable 5 Business Days after the receipt by the Recipient of the tax invoice or adjustment note issued by the Supplier in accordance with clause 15.4(f).
- (h) Where any party to this deed receives a demand, assessment or private ruling regarding the matters addressed in clauses 15.4(e) or 15.4(f), it must notify the other parties to this deed of that fact and provide them with a copy of the demand, assessment or private ruling within 10 Business Days of receiving it. Before any party to this deed applies for a private ruling regarding the matters addressed in clauses 15.4(e) or 15.4(f), it must provide the other parties to this deed with a copy of the private ruling request it intends to lodge with the Commissioner of Taxation no less than 20 Business Days prior to its lodgement of same.
- (i) Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party in determining its GST payable on any supply made by that other party under or in connection with this deed or any input tax credits, adjustments or refunds in relation to any amount of GST paid or payable in respect of any supply made under or in connection with this deed.
- (j) Despite any other provision of this deed, this clause 15.4 will survive the termination of this deed.

- (k) A reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member, and a reference to an input tax credit entitlement of a party includes any corresponding input tax credit entitlement of the representative member of any GST group of which that party is a member.

15.5 General liability for duties and similar taxes

The Franchisees must pay, and indemnify the State against, all Taxes incurred in connection with:

- (a) the execution, stamping and registration of any the State Concession Document;
- (b) the performance of any State Concession Document and each transaction effected by or made under any State Concession Document including the Activities (other than a Modification or Upgrade ordered by the State); and
- (c) any amendment to, or any consent, approval, waiver, release or discharge of or under any State Concession Document.

15.6 Land Based Rates and Taxes

The Franchisees will be liable for all land-based rates, stamp duty and charges, including Local Government rates, water and sewerage and drainage rates in respect of the Leased Area and the CSC Leased Area.

15.7 Direction to Suspend Tolling

- (a) **(Suspension Direction):** If, during the Concession Period, the State considers that a Tolling Suspension Event has occurred, the State's Representative may, by notice in writing, direct a Franchisee to Suspend the levying of Tolls on the Tollroad:
 - (i) in relation to all or the defined type of Vehicles;
 - (ii) at the Time Slots; and
 - (iii) on the Suspension Days,which are stated in the direction **(Suspension Direction)**.
- (b) **(Multiple Suspension Directions):** More than one Suspension Direction may be given for any Tolling Suspension Event.
- (c) **(State must act in good faith):** The State when giving a direction under this clause 15.7 must act in good faith.
- (d) **(Franchisee must comply):** The Franchisee must immediately comply with a Suspension Direction.

15.8 Payment

- (a) **(Amount):** Subject to clause 15.8(b), where a Suspension Direction is given, the State shall pay the relevant Franchisee an amount calculated in accordance with clause 15.8(e).
- (b) **(Franchisee caused or contributed):** The Franchisee will not be entitled to any Claim (including under this clause 15.8) for a Suspension if it caused or contributed to the relevant Tolling Suspension Event.
- (c) **(Assessment Notice):** On receipt of a written Claim by the Franchisee which contains the Suspension Claim Details, the State must within 3 calendar months determine the amount

payable to the Franchisee under this clause and give the Franchisee written notice of its determination (**Assessment Notice**).

- (d) **(Dispute):** If the Franchisee disputes any matter contained in an Assessment Notice, it may refer the matter for dispute resolution under clause 36.
- (e) **(Amount payable):** The amount payable in relation to a Suspension Direction will be calculated by:
 - (i) for each type of Vehicle the subject of the Suspension Direction, the aggregate total of the Tolls for that type of Vehicle which were collected by the Franchisee on average during Similar Time Slots, subject to the Suspension Adjustment; plus
 - (ii) any extraordinary costs of operation which the Franchisee can demonstrate that:
 - A. it has reasonably incurred as a direct consequence of the Suspension; and
 - B. it would not have incurred had it not performed the Suspension in accordance with clause 15.7,but does not include any other Losses, including advertising revenue.
- (f) **(Time for payment):** The State must pay the Franchisee the amount in the Assessment Notice or which is determined in accordance with clause 36 within 20 Business Days after:
 - (i) the Assessment Notice is issued; or
 - (ii) the amount is determined in accordance with clause 36.
- (g) **(Limitation of liability):** The liability of the State under this clause is the limit of the State's liability to the Franchisee for the Losses incurred by the Franchisee arising from, or in connection to, a Suspension, a Suspension Direction, or a Tolling Suspension Event.

15.9 Compensation for enforcement procedures

If the State has commenced an enforcement process for non-payment of a Demand Notice, which the State decides to cease as a result of the occurrence of any Circumstance of Non-enforcement, the Franchisee must pay the State's reasonable costs incurred in pursuing and terminating the enforcement process and such amount is a debt due from the Franchisee to the State.

16. Franchisees' risks

Without limiting clause 3.3, each Franchisee accepts the following risks (except as otherwise expressly provided in this deed):

- (a) **(Cost):** the actual cost of the performance of the Activities being greater than the cost estimated;
- (b) **(Time):** the time or period of performance of the Activities being greater than estimated;
- (c) **(Traffic):** Traffic flow on the Tollroad being greater or less than estimated or not being economically viable;
- (d) **(Revenue):** revenue generated in respect of the Activities being less than estimated;

- (e) **(Extra Land):** Extra Land being necessary to enable the Franchisee to carry out the Activities;
- (f) **(Land conditions):** land conditions;
- (g) **(Condition of Tollroad):** the condition of the Tollroad;
- (h) **(Technical obsolescence):** technical obsolescence occurring in relation to any plant, equipment or systems (including the Tolling System) used, or proposed to be used, in relation to the Activities;
- (i) **(Tolling):** the Tolling System not operating effectively;
- (j) **(Laws and Taxes):** any Law or Taxes (or change in Law or Taxes) affecting the Franchisee's rights, obligations or liability under the Concession Documents;
- (k) **(Industrial action):** industrial action;
- (l) **(Weather):** inclement weather;
- (m) **(Performance Specification):** the risk that compliance with the Performance Specification will not satisfy the Franchisee's obligations under the State Concession Documents;
- (n) **(Activities):** all risks associated with carrying out the Activities including any changes in the Activities causing delay, increased cost or decreased revenue;
- (o) **(Interfaces):** the interface between performing the Activities and any other works, infrastructure, Non-Tollroad Infrastructure, plant, equipment or systems;
- (p) **(Approvals):** delay in, or refusal by, any Authority in granting an Approval or the conditions of an Approval or of a legal challenge to an Approval (except a Key Approval as referred to in clause 8.4) or obtaining an Approval subject to conditions unsatisfactory to the Franchisee;
- (q) **(Insurance):** the ability to obtain and maintain insurances required by this deed, or the adequacy of those insurances;
- (r) **(Safety):** any workplace health and safety matters;
- (s) **(Finance):** availability and cost of finance; and
- (t) **(Systems supplied by the State):** system applications supplied by the State under clause 9.1 of Part 3 of the Performance Specification are used by a Franchisee or its Associates, for purposes other than those for which the system applications are provided.

17. Changes in Law

- (a) **(Franchisees liable):** Subject to clause 17(b), each Franchisee will be liable for the consequences of, and will have no Claim against the State arising out of or in any way in connection with, any changes in Law.
- (b) **(Discriminatory Change in State Law):** Clause 18.1 will apply if a Discriminatory Change in State Law occurs.

18. Material Adverse Effect regime

18.1 Possible MAE Events

Each of the following events is a Possible MAE Event:

- (a) **(Principal Traffic Connections):** any of the Principal Traffic Connections are closed or Materially Reduced for reasons other than the Road closures which are contemplated by clause 13.2;
- (b) **(Competing Facility):** a Competing Facility is opened to Vehicles within the proximity parameters described in Schedule 14 during the relevant years of the Concession Period;
- (c) **(Change in Law):** a Discriminatory Change in State Law occurs;
- (d) **(Native Title Claim):** a Franchisee or an O&M Contractor is directed, ordered or required to cease to perform the Activities (or to change the way it does so) as referred to in clause 7.6(b) other than by way of a Final Court Decision;
- (e) **(Challenge to Key Approval):** a Franchisee or an O&M Contractor is ordered by a court to stop carrying out the Activities (or to change the way it does so) as referred to in clause 8.4(a) other than by way of a Final Court Decision (except where the legal challenge is initiated or upheld, or the court order is made, due to the Franchisee's failure to comply with its obligations under this deed or some other wrongful act or omission of the Franchisee or its Associates);
- (f) **(Artefacts):** a requirement associated with the protection of Aboriginal Cultural Heritage under the Aboriginal Cultural Heritage Act 2003 (Qld) prevents or delays, or will prevent or delay, performance of the Activities by a Franchisee;
- (g) **(Uninsurable Force Majeure):** an Uninsurable Force Majeure Event occurs that affects the Activities or the Tollroad;
- (h) **(Enforcement of tolls):** except where the State determines that a Circumstance of Non-enforcement has occurred, the offence of failing to comply with a Demand Notice for non-payment of the Toll is not enforced, or recovery procedures are not pursued, in each case in a similar manner as the enforcement and recovery procedures for other comparable tollroad offences or tollroads are pursued by the State at the Commencement Date;
- (i) **(Change to Perpetual Lease):** the Perpetual Lease is materially amended, other than as a result of a change in Law that is not a Discriminatory Change in State Law, unless such amendment is a result of a breach by a Franchisee or its Associates of any State Concession Document or some other wrongful act or omission by a Franchisee or its Associates; or
- (j) **(Additional Entry or Exit Ramps):** the State constructs, or causes to be constructed, an additional Entry Ramp or Exit Ramp that would allow Tollroad Users to avoid a Toll Point.

18.2 Franchisees to notify the State of Possible MAE Events

If a Possible MAE Event occurs and this has had, or has started to have, or will have, a Material Adverse Effect, then the Franchisees:

- (a) may provide the State with notice of that fact, including full details of the effect of the Possible MAE Event on the Activities; and

- (b) must use all reasonable endeavours to mitigate the adverse consequences of the Possible MAE Event, including advising the State about the occurrence of the Possible MAE Event as soon as practicable after it has occurred.

18.3 Time limit

A notice given under clause 18.2(a) will only be valid if given within 12 months after the occurrence of the Possible MAE Event has started to have a Material Adverse Effect.

18.4 Occurrence of Possible MAE Event

- (a) **(Obligation to negotiate):** If a notice is given under clause 18.2(a), then as soon as possible, but no later than 20 Business Days after the State has received that notice, the parties must negotiate in good faith in an endeavour to agree on:
 - (i) whether or not the notice is valid;
 - (ii) whether or not the relevant Possible MAE Event has occurred; and
 - (iii) if it has, whether or not the Possible MAE Event has had, or has started to have, or will have, a Material Adverse Effect.
- (b) **(Disputes):** If the parties do not reach agreement on the matters referred to in clause 18.4(a) within 20 Business Days after commencing the negotiations (or such longer period agreed by the parties) then any party may refer the matter for dispute resolution under clause 36.

18.5 Good faith negotiations

As soon as practicable but no later than 20 Business Days after it has been agreed or determined by dispute resolution that the notice under clause 18.2(a) is valid, the relevant Possible MAE Event has occurred, and that it has had, or has started to have, or will have, a Material Adverse Effect, the parties must negotiate in good faith in an endeavour to agree on a method of redress which will achieve the relevant objectives referred to in clause 18.6.

18.6 Objectives of negotiations

- (a) **(Generally):** Subject to clause 18.6(b), the objectives of the negotiations will be to enable:
 - (i) the Debt Finance Recipient to pay and repay to the Debt Financiers the interest and principal payments (and net interest rate management agreement payments, if any) owing under the Debt Financing Facilities, on the dates on which such amounts are due to be paid or repaid thereunder (without regard to any acceleration of the obligation to repay); and
 - (ii) the Franchisees to give to the Equity Investors (treated as if each was a Notional Equity Investor) the lower of:
 - A. the Equity Return they would have received if the Possible MAE Event had not occurred; and
 - B. the Base Case Equity Return.
- (b) **(Prior inability to repay debt or give Base Case Equity Return):** If, prior to the occurrence of the Possible MAE Event:

- (i) the Debt Finance Recipient was not able to pay or repay the Concession Debt on the due dates for payment (without regard to any acceleration of the obligation to pay or repay); and
- (ii) the Franchisees were not able to give to the Equity Investors (treated as if each was a Notional Equity Investor) the Base Case Equity Return,

then the objectives of the negotiations will be to enable them to have an equivalent ability to do so as it had prior to the occurrence of the Possible MAE Event.

18.7 Methods of redress

The parties must take a flexible approach in any negotiations under clause 18.6 and, subject to clause 18.8, must consider:

- (a) varying the Concession Documents;
- (b) varying the Concession Period and the term of the Lease;
- (c) varying the financial or other contributions of the parties;
- (d) requesting that the Debt Financiers restructure the financing arrangements;
- (e) varying the Nominated Tolling Product Schedule, to the extent permitted by Law; and/or
- (f) taking such other action as the parties may agree.

18.8 Contribution is last resort

Except for the Potential MAE Event specified in clause 18.1(j), the method of redress involving a financial contribution by the State will be considered as a measure of last resort and will, unless the State requires otherwise, only apply to the extent that the other methods of redress cannot reasonably be used so as to achieve the relevant objectives referred to in clause 18.6.

18.9 Disputes

- (a) **(Dispute resolution):** If the parties do not reach agreement on a method of redress so as to achieve the relevant objectives referred to in clause 18.6, within 90 Business Days after the State receives a valid notice under clause 18.2(a) then either party may refer the matter for dispute resolution under clause 36.
- (b) **(Methods of redress):** In making a determination, the expert or arbitrator must ensure, and the parties must require that, his or her determination as to any method of redress does not involve a method of redress other than those set out in clauses 18.7(a) to 18.7(e) without the parties' agreement, is consistent with clause 18.8, and is otherwise consistent with this clause 18.

18.10 No over compensation

The State will not be obliged under any circumstances, to make available or be bound by a method of redress to the extent that:

- (a) it will achieve an outcome in excess of that which is necessary to achieve the relevant objectives referred to in clause 18.6;
- (b) the applicable Possible MAE Event is caused, or contributed to, by a breach of a Concession Document by a Franchisee; or

- (c) any other reasonable payment, compensation or redress has been made by the State arising out of or in connection with the Possible MAE Event or the circumstances relating to the Possible MAE Event.

18.11 Implementation of redress

- (a) **(Efficient implementation):** Each Franchisee must ensure that any redress afforded under this clause 18 is efficiently applied and structured (so as, for example, not to create or increase any liability for Taxes, the liability for which need not be incurred or need only be incurred to a limited extent).
- (b) **(MAE must have commenced):** If a method of redress is agreed or determined on the basis that a Possible MAE Event will have, but has not had or started to have, a Material Adverse Effect, then no method of redress will be implemented before the Possible MAE Event has had or has started to have a Material Adverse Effect, unless the State directs otherwise.

18.12 Termination for Uninsurable Force Majeure Event

Notwithstanding any other provisions in this deed, if:

- (a) the occurrence of an Uninsurable Force Majeure Event prevents (or is reasonably expected to prevent) the Franchisees from keeping all lanes of the Tollroad open for the safe passage of vehicles for not less than 12 months; and
- (b) negotiations under this clause 18 (or Dispute resolution under clause 36) have not enabled the terms of the State Concession Documents to be amended on terms satisfactory to the State and the Franchisees,

then the State may in its absolute discretion terminate this deed by giving a notice to that effect to the Franchisees after which this deed will be terminated and clause 33.9(b) will apply.

19. Force Majeure

19.1 Force Majeure Events

Each of the following events is a Force Majeure Event:

- (a) lightning, earthquake, cyclone, natural disaster, landslide and mudslide;
- (b) explosion, malicious damage, sabotage, riots or a "*terrorist act*" (as defined in section 5 of the Terrorism Insurance Act 2003 (Cth) as at the Commencement Date);
- (c) a flood which might at the Commencement Date be expected to occur less frequently than once in every 50 years;
- (d) war, invasion, act of a foreign enemy, hostilities between nations (whether war be declared or not), civil war, rebellion, revolution or military or usurped power, martial law or confiscation by order of any Authority;
- (e) ionising radiation or Contamination by radioactivity from any nuclear waste or from combustion of nuclear fuel; and
- (f) any other material event the risk of which is not otherwise specifically allocated in the State Concession Documents,

which:

- (g) is beyond the reasonable control of the Franchisees and their Associates; and
- (h) prevents or delays the Franchisees from performing an obligation under the State Concession Documents, where that event or the consequence of that event:
 - (i) has not resulted from a Franchisee breaching a term of the State Concession Documents; and
 - (ii) could not have been prevented, avoided, remedied or overcome by the Franchisees or their respective Associates taking those steps which a prudent, experienced and competent concessionaire or operator of tollroads would have taken (including the expenditure of reasonable sums of money).

The parties acknowledge that clause 3.3 is not a specific allocation of risk for the purposes of clause 19.1(f).

19.2 Notification

- (a) **(Initial notice):** If the Franchisees allege or wish to claim that a Force Majeure Event has occurred the Franchisees must promptly give the State notice of the Force Majeure Event as soon as the Franchisees become aware of the occurrence of the Force Majeure Event.
- (b) **(Particulars):** As soon as reasonably practicable after giving notice under clause 19.2(a), the Franchisees must give the State (progressively if necessary) full particulars of all relevant matters pertaining to the Force Majeure Event including:
 - (i) the nature of the Force Majeure Event;
 - (ii) the obligations affected;
 - (iii) the action that the Franchisees have taken and/or propose to take to remedy the situation;
 - (iv) an estimate of the time during which the Franchisees will be unable to carry out the affected obligations due to the Force Majeure Event;
 - (v) an estimate of the costs that the Franchisees will incur to remedy the situation; and
 - (vi) all insurance moneys to which the Franchisees believe they will be entitled in making good damage caused by the Force Majeure Event.
- (c) **(Continuing updates):** After giving notice under clauses 19.2(a) and 19.2(b), the Franchisees must continue to keep the State informed of all relevant information pertaining to the Force Majeure Event.

19.3 Meeting

The parties must meet within 5 Business Days of service of a notice under clause 19.2(a) to determine:

- (a) whether a Force Majeure Event has occurred;
- (b) if the Force Majeure Event is covered by insurance and if so, to what extent; and
- (c) the estimated length of time for which the Force Majeure Event will continue.

19.4 Suspension of obligations

- (a) **(Suspension):** Subject to clause 19.4(b), if a Force Majeure Event occurs and the Franchisees give notice under clause 19.2(a):
 - (i) the Franchisees' obligations under the State Concession Documents (other than this clause 19) which are affected by the Force Majeure Event will be suspended, but only to the extent and for so long as those obligations are affected by the Force Majeure Event; and
 - (ii) no default notice may be given under clause 33.2 in respect of a breach of any obligations which are suspended under clause 19.4(a)(i) during the period of suspension.
- (b) **(Traffic lanes and paths):** Clause 19.4(a) will only apply to suspend the Franchisees' obligation under clause 11.2 to keep all Traffic lanes and paths of the Tollroad open where the occurrence of the Force Majeure Event prevents the safe passage of Vehicles, pedestrians or cyclists.
- (c) **(Recommendation):** Upon the Franchisees becoming able to recommence performing the obligations which were suspended under clause 19.4(a), the Franchisees must recommence the performance of those obligations.

19.5 Best endeavours to mitigate effect

During the period of suspension, the Franchisees must use their best endeavours to overcome or mitigate the effects of the Force Majeure Event, including minimising the extent to which the Franchisees' obligations under the State Concession Documents are suspended. This may include incurring reasonable expenditure, rescheduling resources or implementing appropriate temporary measures.

19.6 Alternative arrangements

During the period of suspension, the State may make alternative arrangements for the performance of any suspended obligations (without incurring any liability to the Franchisees).

19.7 Cessation of Force Majeure Event

The Franchisees must notify the State immediately after a Franchisee ceases to be prevented or delayed from performing its obligations as a result of a Force Majeure Event.

19.8 No financial relief to the Franchisees

The State will not be obliged to:

- (a) provide any financial relief to the Franchisees during the period of suspension; or
- (b) extend the Concession Period to take account of the period of suspension.

19.9 No compensation to the State

The Franchisees will not be liable to compensate the State for any costs or losses which the State incurs during the period of suspension.

20. Property damage

20.1 Risk of loss or damage

Each Franchisee bears the risk of loss or damage to the Tollroad during the Concession Period.

20.2 Reinstatement

- (a) **(Franchisees to make good):** Subject to clause 20.3 of this deed each Franchisee must promptly make good any loss or damage which occurs to any part of the Tollroad during the period it bears the risk of loss or damage.
- (b) **(Specific steps):** Without limiting clause 20.2(a), each Franchisee must:
 - (i) subject to allowing reasonable time for inspection by insurers, take immediate steps (and in any event no later than the times prescribed by Part 4 of the Performance Specification, where applicable) to clear any debris and begin initial repair work;
 - (ii) promptly consult with the State and carry out such steps as are necessary to ensure:
 - A. the prompt repair and reinstatement of the loss or damage so that:
 - 1) it complies with the Performance Specification; and
 - 2) there is minimal disruption to the Tollroad;
 - B. to the greatest extent possible, the Franchisee continues to comply with its obligations under the Concession Documents;
 - (iii) manage all repair and replacement activities so as to minimise the impact on the Tollroad;
 - (iv) keep the State fully informed of the progress of the repair and reinstatement activities; and
 - (v) subject to the Debt Finance Side Deed, apply all insurance proceeds in the repair or reinstatement of the Tollroad.

20.3 Uninsurable Force Majeure Events

If the loss or damage occurs as a result of an Uninsurable Force Majeure Event and clause 18.1(g) applies, each Franchisee's obligation to carry out repair and reinstatement is suspended until the parties have agreed an outcome in accordance with clause 18.5 or, if the parties are unable to come to an agreement, a determination, award or judgment has been made by:

- (a) an expert, that is not referred to arbitration under clause 36;
- (b) an arbitration (that is final and binding on the parties); or
- (c) a Final Court Decision.

20.4 Damage to Non-Tollroad Infrastructure or third party property

- (a) **(Franchisees to repair or compensate):** Without limiting clause 21, where any loss of or damage to Non-Tollroad Infrastructure or real or personal property of third parties occurs which arises out of, or in any way in connection with:
- (i) any failure by a Franchisee to comply with its obligations under this deed, the Franchisee must, at its cost, promptly repair any such loss or damage; and
 - (ii) the Activities, the Franchisee must, at its own cost, promptly repair such loss or damage (where the Franchisee has a legal liability to do so), or if the affected person agrees, reasonably compensate the affected person for that loss or damage (where the Franchisee has a legal liability to do so).
- (b) **(Step-in):** Without limiting clause 34, if a Franchisee fails to carry out any repair work or to pay reasonable compensation under clause 20.4(a), the State may carry out such work or pay any such reasonable compensation and any Loss incurred by the State will be a debt due and payable from the Franchisee to the State.

21. Indemnities

21.1 Indemnity for each Franchisee's breach

Each Franchisee must indemnify the State against any Loss or Claim brought against, suffered or incurred by the State caused by, arising out of, or in any way in connection with, any breach by any Group Member of any provision of this deed or any other State Concession Document.

21.2 General indemnity

Subject to clause 21.3, each Franchisee must indemnify the State against any Loss or Claim brought against, incurred or suffered by the State or its Associates in respect of:

- (a) damage to, loss or destruction of, or loss of use of (whether total or partial), any real or personal property (including property belonging to the State);
- (b) any injury to, disease or death of, persons; or
- (c) pure economic loss suffered by third parties (including any Authority, other than the State), caused by, arising out of, or in any way in connection with:
 - (d) the Activities;
 - (e) the State's ownership of the Leased Area or the CSC Leased Area; or
 - (f) the use or occupation of the Site or the Other Areas by a Franchisee or its Associates.

A Franchisee's obligation to indemnify the State under this clause 21.2 will be reduced to the extent that any wrongful or negligent act or omission by the State or its Associates contributed to the Loss or Claim.

21.3 Exclusion for certain third party claims

Clause 21.2 does not apply in respect of any third party claim for pure economic loss to the extent the claim arises as a result of:

- (a) the decision by the State to grant the Concession; or

- (b) the existence or location of the Tollroad.

21.4 Obligations not affected

Clauses 21.1 and 21.2 do not lessen or otherwise affect a Franchisee's other obligations under this deed or any other State Concession Document.

21.5 Responsibilities as if owner

Each Franchisee has the same responsibilities to third parties in respect of persons, property and all other aspects of the Activities which it would have if it held the freehold title to the Leased Area and the CSC Leased Area.

22. Insurance

22.1 Operations and maintenance insurances

From the Commencement Date (or in the case of policies which are held by a Franchisee at the Sale Date, from expiry of the relevant existing policy), each Franchisee must effect and maintain (or cause to be effected and maintained) the following insurances for amounts not less than, and with deductibles not more than, those specified in Schedule 11:

- (a) **(Industrial special risks):** industrial special risks insurance covering the Tollroad, against physical damage, loss or destruction and such other risks as reasonably required by the State from time to time;
- (b) **(Third party liability):** business specific third party liability insurance covering claims in respect of:
 - (i) damage to, loss or destruction of, or loss of use of, real or personal property; and
 - (ii) injury to, or disease or death of, persons,arising out of or in connection with the Activities;
- (c) **(Employers' liability and workers' compensation):** employers' liability and workers' compensation insurance against liability for death of, or injury to, persons employed by a Franchisee or its Associates in carrying out the Activities, whether under statute or at common law;
- (d) **(Motor Vehicle):** motor Vehicle insurance covering third party property damage and death or injury to persons for all plant, equipment and motor Vehicles to be used on any Road and registered or required to be registered in accordance with any Law and used in connection with the Activities;
- (e) **(Business interruption):** business interruption insurance;
- (f) **(Directors and officers):** directors and officers liability insurance;
- (g) **(Marine craft insurance):** hull and protection and indemnity insurance for all marine craft (owned and not owned) used by the Franchisees in connection with the Activities; and
- (h) **(Other):** any other insurances which the State reasonably requires and which are commonly effected by land owners, lessees or contractors in the position of a Franchisee provided those insurances can be obtained on payment of a reasonable premium.

22.2 Periods of insurance

Each Franchisee must maintain the Insurances until the end of the Concession Period.

22.3 General insurance requirements

All Insurances:

- (a) **(Insurers):** must be effected with Reputable Insurers or insurers approved by the State;
- (b) **(Terms):** must be on the terms required by this clause 22 and otherwise as approved by the State (which approval will not be unreasonably withheld);
- (c) **(Exclusions):** must not contain any exclusion, endorsement or alteration, unless it is first approved in writing by the State;
- (d) **(Joint names):** the following insurances:
 - (i) the industrial special risks insurance referred to in clause 22.1(a);
 - (ii) the business specific third party liability insurance referred to in clause 22.1(b); and
 - (iii) the business interruption insurance referred to in clause 22.1(e),must be in the joint names of each Franchisee and the State and such others as have an insurable interest under the Concession Documents, for their respective rights, interests and liabilities;
- (e) **(Waiver and cross liability clause):** which name more than one insured must include a waiver and cross liability clause in which the insurer agrees:
 - (i) to waive all rights of subrogation or action that it may have or acquire against all or any of the persons comprising the insured;
 - (ii) that the term "insured" applies to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased as a result); and
 - (iii) that any non-disclosure, breach of any duty or act or omission by one insured does not prejudice the right of any other insured to claim under any Insurance;
- (f) **(Prior notice):** except for the employers' liability and workers' compensation insurance referred to in clause 22.1(c), the motor Vehicle insurance covering third party death and injury to persons referred to in clause 22.1(d) and the directors and officers liability insurance referred to in clause 22.1(f), must contain a term which requires the insurer to give the State 20 Business Days notice prior to:
 - (i) the insurer giving a Franchisee a notice of cancellation;
 - (ii) the insurer cancelling the policy on the request of a Franchisee;
 - (iii) a Franchisee allowing the policy to expire; or
 - (iv) the insurer giving a Franchisee any other notice in respect of the policy;
- (g) **(Loss payee):** in the case of the Insurances specified in clauses 22.1(a) and 22.1(e), must specify each Franchisee and the State as joint loss payees; and

- (h) **(Reinstatement):** except in the case of the Insurances specified in clauses 22.1(b), 22.1(c), 22.1(d), 22.1(f) and 22.1(g) must be endorsed to note and allow a Franchisee's obligations under clause 20.2, to the effect that compliance by the Franchisee with the provisions of that clause will not prejudice the Franchisee's or any other insured parties' rights to indemnity under the Insurances.

22.4 Premiums

Each Franchisee must punctually pay all premiums and other amounts payable in respect of the Insurances effected by it, and give the State copies of receipts for payment of premiums if and when requested by the State.

22.5 Evidence of insurance

Except for the directors and officers liability insurance referred to in clause 22.1(f) to which the requirements of paragraph (a) of this clause 22.5 shall not apply, each Franchisee must, in relation to the Insurances specified in clause 22.3(d) or such other Insurances that the State nominates, give the State:

- (a) certified copies of all:
 - (i) policies;
 - (ii) renewal certificates; and
 - (iii) endorsement slips,as soon as it receives them from the insurer; and
- (b) evidence satisfactory to the State that the Insurances have been effected and maintained, whenever reasonably requested by the State.

22.6 Failure to produce evidence of insurance

If a Franchisee fails to provide evidence satisfactory to the State within 10 Business Days of a request under clause 22.5(b), the State may effect and maintain the relevant Insurances and pay the premium. The costs incurred by the State in connection with taking such action will be recoverable from the Franchisee as a debt due and payable from the Franchisee to the State.

22.7 Franchisees' obligations not limited

The effecting of Insurances does not limit the liabilities or obligations of each Franchisee under this deed.

22.8 General insurance obligations

Each Franchisee must:

- (a) not do or permit, or omit to do, anything which prejudices any Insurance;
- (b) rectify anything which might, if not rectified, prejudice any Insurance;
- (c) reinstate an Insurance if it lapses;
- (d) not cancel, vary or allow any Insurance to lapse without the prior written consent of the State;

- (e) immediately notify the State of any fact or circumstance or change in circumstances which may prejudice an Insurance;
- (f) fully and promptly disclose all material information to all relevant insurers (and any persons acting on their behalf) relating to the Insurances (whether held solely or jointly with others) in all respects, including where failure to do so would violate or invalidate the relevant policy; and
- (g) comply at all times with the terms of each Insurance.

22.9 Uninsurable risks

A Franchisee need not effect or maintain a particular insurance under clause 22.1 to the extent that, and only for so long as:

- (a) the insurance is not available with any Reputable Insurer; or
- (b) the insurance premium payable for the insurance is at such a level or the terms and conditions are such that a reputable insurance broker acceptable to the parties certifies that in its reasonable opinion the risk is not generally being insured against with Reputable Insurers by prudent, competent and experienced concessionaires and/or operators (as applicable) of tollroads.

22.10 Review of Insurances

- (a) **(5 yearly reviews):** The State and the Franchisees will meet 6 months prior to every 5th anniversary of the Commencement Date (each an **Insurance Review Commencement Date**) to review the minimum limits of liability, sub-limits of liability and deductibles for the Insurances which must be effected and/or maintained during the ensuing 5 year period with a view to reaching agreement upon the limits, sub-limits and deductibles which will apply during that ensuing 5 year period.
- (b) **(If parties reach agreement):** To the extent that the State and the Franchisees are able to reach agreement within 2 months after the Insurance Review Commencement Date on the limits, sub-limits and deductibles to apply during the ensuing 5 year period, the Franchisees must, from the commencement and for the duration of the relevant 5 year period, cause the relevant limits, sub-limits and deductibles to be adjusted to those agreed.
- (c) **(If parties do not reach agreement):** To the extent that the State and the Franchisees are unable to reach agreement within 2 months after the Insurance Review Commencement Date then:
 - (i) those limits, sub-limits and deductibles which have not been agreed will be referred for dispute resolution in accordance with clause 36;
 - (ii) if the relevant limits, sub-limits and deductibles have not been agreed or determined pursuant to the dispute resolution process before the commencement of the relevant 5 year period, then the Franchisees must, pending the outcome of the dispute resolution process, cause the then current levels of the relevant limits, sub-limits and deductibles to be adjusted in accordance with increases in the CPI from the date the relevant limit, sub-limit or deductible was last seen or adjusted; and
 - (iii) as soon as practicable after the outcome of the dispute resolution process (and notwithstanding any decision to appeal any determination of the arbitrator), the Franchisees must cause the relevant limits, sub-limits and deductibles to be

adjusted to those agreed or determined pursuant to the dispute resolution process, for the balance of the relevant 5 year period.

- (d) **(Relevant factors):** The State and the Franchisees agree that the limits, sub-limits and deductibles are to be agreed or determined (as the case may be) having regard to:
- (i) the nature of the Activities;
 - (ii) the insurances which the Franchisees have effected, or caused to be effected, at that time and the risks covered under those insurances;
 - (iii) the risks sought to be insured;
 - (iv) the risks which a prudent insured in the position of the Franchisees would seek to insure;
 - (v) the terms on which insurance is available;
 - (vi) the commercial reasonableness of those terms;
 - (vii) the insurances and risk management practices generally applying in the tollroad industry; and
 - (viii) any other factors which the State and the Franchisees may agree to be appropriate.

22.11 Insurance proceeds

- (a) **(Establish account):** Each Franchisee must:
- (i) prior to any insurance proceeds being received by a Franchisee, establish an account to be known as the Insurance Proceeds Account;
 - (ii) maintain that account in the name of the Franchisee with a financial institution nominated by the Franchisee and approved by the State (such approval not to be unreasonably withheld) or with a financial institution which is a party to the Debt Finance Side Deed;
 - (iii) give details of that account to the State;
 - (iv) notify the financial institution referred to in clause 22.11(a)(ii) of the charge over the Insurance Proceeds Account in accordance with the State Securities and procure, and copy the State with, acknowledgment of that notice from the financial institution; and
 - (v) procure the agreement of the financial institution referred to in clause 22.11(a)(ii) not to exercise any right of set off or combination of accounts in relation to the Insurance Proceeds Accounts.
- (b) **(Deposit insurance proceeds):** Each Franchisee and the State must deposit all insurance moneys received under the industrial special risks policy into the Insurance Proceeds Account.
- (c) **(Application of moneys):** Subject to the Debt Finance Side Deed, moneys in the Insurance Proceeds Account may only be applied towards the repair or reinstatement of the Tollroad.
- (d) **(Records):** Each Franchisee must give the State records of expenditure from the Insurance Proceeds Accounts within 45 days of such expenditure.

- (e) **(Surplus funds):** Any funds remaining in the Insurance Proceeds Account after application in accordance with clause 22.11(c) will be treated by a Franchisee as revenue from the Activities.

22.12 Notices of potential claims

In addition to the obligations to notify the insurer under any Insurance, each Franchisee must:

- (a) notify the State of any occurrence that has given rise to a claim under any Insurance which has a value of equal to or greater than one million dollars (\$1,000,000.00) (Indexed);
- (b) keep the State informed of subsequent developments concerning the claim;
- (c) subject to clause 22.12(d), diligently pursue any claim which it has under any Insurance; and
- (d) except in relation to the employers' liability and workers' compensation insurance referred to in clause 22.1(c) and the motor Vehicle insurance covering third party death and injury to persons referred to in clause 22.1(d), not compromise, settle, prosecute or enforce a claim under any Insurance without the prior written consent of the State (which must not be unreasonably withheld or delayed).

23. Representations and warranties

23.1 State representations and warranties

The State represents and warrants for the benefit of each Franchisee that:

- (a) **(Power):** it has the power to execute, deliver and perform its obligations under the State Concession Documents and all necessary action has been taken to authorise their execution, delivery and performance;
- (b) **(Legally binding obligation):** each State Concession Document constitutes a valid and legally binding obligation of it in accordance with its terms; and
- (c) **(Execution, delivery and performance):** the execution, delivery and performance of each State Concession Document does not violate any Law, or any document or agreement to which it is a party or which is binding on it or any of its assets.

23.2 Franchisees' representations and warranties

Each Franchisee represents and warrants for the benefit of the State that:

- (a) **(Existence):** it is duly registered and remains in existence;
- (b) **(Execution, delivery and performance):** the execution, delivery and performance of each Concession Document to which it is a party does not violate any Law, or any document or agreement to which it is a party or which is binding on it or any of its assets;
- (c) **(Due authority):** it has taken all corporate and other action required to enter into any Concession Document to which it is a party and to authorise the execution and delivery of that Concession Document and the satisfaction of its obligations under it;
- (d) **(Legally binding obligation):** each Concession Document to which it is a party constitutes a valid and legally binding obligation of it in accordance with its terms;
- (e) **(Properly constituted):** each Franchisee subsists and is properly constituted;

- (f) **(No trusts):** except as stated in this deed, it is not the trustee or responsible entity of any trust nor does it hold any property subject to or impressed by any trust;
- (g) **(Subsidiaries):**
 - (i) QML has no subsidiaries other than BSPL, GMPL, GSPL, LMPL, PML and QMMPL;
 - (ii) GMPL has no subsidiaries other than GSPL and BSPL; and
 - (iii) LMPL has no subsidiaries;
- (h) **(Tax consolidation arrangements):** except with the consent of the State:
 - (i) there has been no change in the composition of any consolidated group within the meaning of the Income Tax Assessment Act 1997 (Cth) that includes a Franchisee as a member; and
 - (ii) no agreement which regulates the Tax liabilities of such consolidated group (including any tax sharing agreement or tax funding agreement) has been amended, replaced or terminated;
- (i) **(No default):** except as notified to the State, it is not in default of its material obligations under any State Concession Document;
- (j) **(Ranking of obligations):** except as contemplated by the Debt Finance Side Deed, its obligations under the State Securities will rank ahead of, and its obligations under each State Concession Document (other than the State Securities) will rank at least equally with, all its other present and future unsecured obligations, other than in respect of Taxes and employees' remuneration which are accorded statutory priority;
- (k) **(No immunity):** it does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);
- (l) **(No litigation etc):** except as notified to the State, no litigation, arbitration, mediation, conciliation, criminal or administrative proceedings are current, pending or, to its knowledge, threatened, which, if adversely determined, would or could have a material adverse effect on its business assets or financial condition, other than the Existing Disputes;
- (m) **(No change in financial condition):** except as notified to the State, there has been no material change in the financial condition of the Franchisee or any other Group Member (since the date of their last audited accounts) which would materially prejudice the ability of the Franchisee to perform its obligations under the Concession Documents; and
- (n) **(Provided finance documents):** it has provided to the State all documents to which it is a party, or which are in its possession, relating to any Distribution to any Equity Investor, any syndication of the Debt Financing Facilities or any Refinance of the Concession Debt.

23.3 Repetition of representation and warranties

Each representation and warranty contained in this deed (including the warranties in clause 31.1):

- (a) is made on the Commencement Date; and
 - (b) will be deemed to be repeated each day during the Concession Period,
- with reference to the facts and circumstances then subsisting.

24. Each Franchisee to inform itself

24.1 No representations from the State

Each Franchisee acknowledges and agrees that, except as expressly set out in this deed, the State has not made and makes no representation, and gives no warranty, in respect of:

- (a) any of the Concession Documents;
- (b) any transaction or arrangement contemplated under any Concession Document;
- (c) the Traffic usage of the Tollroad; or
- (d) any other matter relevant to the Franchisee's decision to enter into the Concession Documents.

24.2 Concession Information

Without limiting clause 24.1 or clause 24.3, each Franchisee:

- (a) acknowledges and agrees that:
 - (i) the Existing Concession Information was provided by the State; and
 - (ii) any Future Concession Information will be provided by the State,for the information only of each Franchisee;
- (b) warrants that it has not in any way relied upon:
 - (i) the Existing Concession Information; or
 - (ii) the accuracy, adequacy, suitability or completeness of the Existing Concession Information,for the purposes of entering into this deed;
- (c) warrants that it will not rely upon:
 - (i) the Future Concession Information; or
 - (ii) the accuracy, adequacy, suitability or completeness of the Future Concession Information,for the purpose of performing the Activities;
- (d) acknowledges and agrees that:
 - (i) the State (or anyone on its behalf) has not and does not warrant, guarantee, assume any duty of care or other responsibility for, or make any representation about, the accuracy, adequacy, suitability or completeness of the Concession Information;
 - (ii) the Concession Information does not form part of this deed; and
 - (iii) insofar as is permitted by law, the State will not be liable upon any Claim by a Franchisee arising out of or in any way in connection with:

- A. the Concession Information; or
- B. a failure by the State to provide any information to a Franchisee.

24.3 Non reliance

Each Franchisee:

- (a) warrants that it did not in any way rely upon:
 - (i) any information, data, representation, statement or document made, or provided to a Franchisee, by the State or anyone on behalf of the State or any other information, data, representation, statement or document for which the State is responsible or may be responsible whether or not obtained from the State or anyone on behalf of the State; or
 - (ii) the accuracy, adequacy, suitability or completeness of such information, data, representation, statement or document,for the purposes of entering into this deed; and
- (b) acknowledges that it is aware that the State has entered into this deed relying upon the warranties, acknowledgements and agreements in clauses 24.1, 24.2 and 24.3(a).

24.4 Release and indemnity

Each Franchisee releases and indemnifies the State from and against:

- (a) any Claim against the State by, or liability of the State to, any person; or
- (b) without being limited by clause 24.4(a), any Loss suffered or incurred by the State, arising out of or in any way in connection with:
 - (c) the provision of, or the purported reliance upon, or use of, the Concession Information by a Franchisee, an Associate of a Franchisee or any other person to whom the Concession Information is disclosed by a Franchisee, an Associate of a Franchisee or any person on a Franchisee's or the Associate's behalf;
 - (d) any breach by a Franchisee of this clause 24; or
 - (e) the Concession Information being relied upon or otherwise used by a Franchisee, an Associate of a Franchisee or any other person to whom the Concession Information is disclosed by a Franchisee, an Associate of a Franchisee or any person on a Franchisee's or the Associate's behalf in the preparation of any information or document, including any Concession Information which is "misleading or deceptive" or "false and misleading" (within the meaning of those terms in sections 52 and 53 (respectively) of the Trade Practices Act 1974 (Cth) or any equivalent provision of state or territory legislation).

25. Restrictions on the Franchisees

25.1 Restrictions on Business

Each Franchisee must not conduct any business other than the:

- (a) Activities and the carrying out of its obligations and the exercise of its rights under the Concession Documents; and

(b) activities which are required to derive the revenue specified in clause 12.2, without the State's prior consent.

25.2 Restrictions on acquisition of property and liabilities being incurred

Each Franchisee must not acquire or hold any property or incur any liability other than for the purposes of the Activities without the State's prior consent.

25.3 Ring fencing

Each Franchisee must not:

- (a) enter into contracts with;
- (b) assume or permit to subsist any liability in favour of; or
- (c) buy, sell or dispose of assets to,

any Associate without the State's prior consent, other than:

- (d) contracts, liabilities or arrangements entered into, created or incurred prior to the Commencement Date; or
- (e) contracts, liabilities or arrangements that are negotiated on arms length commercial terms.

25.4 Arrangements in relation to property

- (a) **(Property owned or subject of an agreement):** Subject to clause 25.4(b), each Franchisee must ensure that all of its plant, systems, hardware, software and other assets and property comprised or used in, or for the purposes of the Tollroad (**Tollroad Property**) will be either:
 - (i) owned by the Franchisee; or
 - (ii) the subject of an agreement (such as a lease or hire purchase agreement):
 - A. under which it has the right to acquire ownership of them for nominal cost at the end of the term of the agreement;
 - B. which includes a right for it to assign and novate its rights and obligations under the agreement to the State (or its nominee) prior to the end of the term of that agreement or on termination of this deed;
 - C. which will not terminate, be suspended or impose more onerous terms on the Franchisee or the State if the State were to exercise any of its rights under the Concession Documents; and
 - D. which allows the security to be taken over it.
- (b) **(Existing agreements):** Clause 25.4(a)(ii) does not apply to Tollroad Property where the rights to use such Tollroad Property are conferred on the Franchisee pursuant to an agreement entered into before the Sale Date which does not comply with clause 25.4(a)(ii). However, if that agreement is amended, replaced or varied on or after the Sale Date the Franchisee will use its reasonable endeavours to negotiate amendments that are consistent with clause 25.4(a)(ii).

26. Assignment

26.1 Assignment by a Franchisee

Except as expressly permitted by this deed, the Debt Finance Side Deed or the State Securities, each Franchisee must not assign, novate, transfer, mortgage, charge or otherwise deal with its interest in, or obligations under, any of the Concession Documents, without the State's prior approval (which must not be unreasonably withheld).

26.2 Debt Financier's Securities

A Franchisee may, after execution of the Debt Finance Side Deed, mortgage or charge its interest under the Concession Documents to secure its obligations to any Debt Financier (or the trustee or agent for any Debt Financier) under the Debt Financing Documents, if, and for so long only as, the Debt Financier (or the trustee or agent for any Debt Financier) is a party to the Debt Finance Side Deed.

26.3 Restrictions on sale, lease and parting with possession

A Franchisee must not:

- (a) create or allow to exist any Security Interest over; or
- (b) lease, license, transfer, sell, dispose of, part with possession of, or otherwise deal with,

the whole or any part of the Leased Area, the CSC Leased Area or the Tollroad, except as expressly permitted under this deed, the Debt Finance Side Deed or the Debt Financing Documents or as otherwise approved by the State.

26.4 Assignment by the State

- (a) **(No assignment without consent):** Subject to clause 26.4(b), the State may not sell, transfer or assign or otherwise dispose of its interest in the Concession Documents without the prior written consent of the Franchisees.
- (b) **(Assignment of revenue rights):** The State may assign any of its rights under the Concession Documents to receive revenue.
- (c) **(Where consent to be given):** A Franchisee must give its consent under clause 26.4(a) if:
 - (i) it has been provided with written details of the proposed transferee and the terms and conditions of the proposed transfer;
 - (ii) the proposed transferee is an Authority and has the requisite power and financial capability to comply with the State's obligations under the relevant Concession Documents; and
 - (iii) the proposed transferee has agreed to be bound by the relevant Concession Documents.

26.5 Restrictions on Share Capital Dealings

Subject to clause 26.7, each Franchisee undertakes not to:

- (a) at any time during the Concession Period:

- (i) redeem, repurchase, cancel, retire, repay or change the rights that are applicable to any share capital in a Franchisee (other than for the purpose of making a Distribution permitted by the Debt Financing Documents) or resolve to do so;
 - (ii) issue any share capital in a Franchisee;
 - (iii) issue or agree to issue any warrants or options over any unissued share capital in a Franchisee;
 - (iv) permit or suffer any change to (or transfer of) the share capital in a Franchisee which results in a Franchisee ceasing to be directly and beneficially wholly owned and controlled by the Holding Entity of that Franchisee prior to such change;
- (b) allow the Holding Entity, at any time during the Concession Period, to:
- (i) redeem, repurchase, cancel, retire, repay or change the rights that are applicable to any units or share capital in the Holding Entity (other than for the purpose of making a Distribution equivalent to a Distribution which was permitted under clause 26.5(a)(i)), or resolve to do so;
 - (ii) issue any units or share capital in the Holding Entity;
 - (iii) issue or agree to issue any warrants or options over any unissued units or unissued share capital in the Holding Entity;
 - (iv) permit or suffer any change to (or transfer of), the issued units or share capital in the Holding Entity which changes the percentage of issued units or issued share capital owned (legally and/or beneficially) by the Equity Investors; or
 - (v) permit the transfer of unitholder or shareholder loans (or other loans in the nature of equity funding) from an Equity Investor to a party other than one wholly owned and controlled by that Equity Investor;
- (c) permit or suffer any change to (or transfer of the share capital or units in) the ultimate holding company (as defined in the Corporations Act) of, or the ultimate holding trust of, or the ultimate holder of the entire limited partners' interest in an Equity Investor which results in:
- (i) a change in Control of a Franchisee;
 - (ii) an entity becoming a Controlling Unit Holder of a Franchisee; or
 - (iii) a change in the Controlling Unit Holder of a Franchisee,
- other than as a result of the acquisition of securities which are publicly listed on a stock exchange,

(each a **Share Capital Dealing**) without the State's prior consent which must not be unreasonably withheld.

26.6 State to be notified

Each Franchisee must inform the State of a Share Capital Dealing as soon as reasonably practicable and, in any event, not less than 10 Business Days prior to the Share Capital Dealing.

26.7 Permitted Share Capital Dealing

Subject to clause 26.6, a Franchisee may effect a Permitted Share Capital Dealing at any time during the Concession Period without the State's prior consent.

26.8 Consent

The State must advise a Franchisee, within 10 Business Days (or such longer period as the State reasonably requests given the nature of the proposed Share Capital Dealing) of receiving a Franchisee's request for consent pursuant to clause 26.5, that:

- (a) it consents to the Share Capital Dealing;
- (b) the Share Capital Dealing is unacceptable to it and, the reasons why the Share Capital Dealing is unacceptable; or
- (c) it requires further information from the Franchisee regarding the Share Capital Dealing. If so, the Franchisee must provide the additional information sought by the State within a further period of 10 Business Days, after which the State must respond in terms of clause 26.8(a) or clause 26.8(b) within 10 Business Days.

26.9 State's right to withhold consent

The State may only withhold its consent to a proposed Share Capital Dealing if the State is of the opinion (acting reasonably) that:

- (a) the new Equity Investor or Equity Investors (or any direct or indirect holding company of the new Equity Investor or Equity Investors):
 - (i) is or are not solvent and reputable; or
 - (ii) has or have an interest or duty which conflicts or may conflict in a material way with the interests of the State in respect of the Tollroad; or
- (b) the proposed Share Capital Dealing:
 - (i) is against the public interest;
 - (ii) would adversely affect the ability or capability of the Franchisees to perform their obligations under any State Concession Documents;
 - (iii) would have a material adverse effect on the Tollroad;
 - (iv) would increase the liability of, or risks accepted by, the State under the State Concession Documents or in any other way in respect of the Tollroad; or
 - (v) would negatively impact the State's commercial position under the State Concession Documents.

27. Amendments to Concession Documents

27.1 State's consent required

- (a) **(Consent):** Subject to clause 27.1(b), a Franchisee may not at any time after the execution of this deed:

- (i) make or permit any amendment or supplement to, replacement of or waiver of a provision of;
- (ii) terminate, surrender, rescind or accept repudiation of;
- (iii) permit the novation, assignment or substitution of any counterparty's rights, obligation or interest in; or
- (iv) enter into any agreement or arrangement which affects the operation or interpretation of,

any Concession Document (each an **Amendment** for the purposes of this clause 27) without the State's prior consent.

(b) **(Exceptions):** This clause 27 does not apply to an Amendment:

- (i) which constitutes a Refinancing to which clause 28 applies;
- (ii) to a Debt Financing Document,
- (iii) which is an Excluded Refinancing; or
- (iv) to the constitution of the Sun Group Property Trust which **will not have an adverse impact on the State Deed of Charge** granted by the Sun Group Property Trust in favour of the State.

27.2 Notice of intended Amendment

If a Franchisee desires an Amendment, it must submit to the State a written request seeking its consent. In such request, the Franchisee must set out:

- (a) the Amendment and the reasons for it;
- (b) the response or anticipated response of any other party to the Concession Documents regarding the Amendment;
- (c) the response or anticipated response of any assignee of the Concession Documents to the Amendment; and
- (d) copies of any documents relevant to the Franchisee's request.

27.3 State's consent

- (a) **(State to respond):** The State must advise the Franchisee, within 20 Business Days of receiving its written request under clause 27.2 that:
 - (i) it consents to the Amendment;
 - (ii) the Amendment is unacceptable to it and the reasons why the Amendment is unacceptable; or
 - (iii) it requires further information from the Franchisee regarding the Amendment. If so, the Franchisee must provide the additional information sought by the State within a further period of 20 Business Days, after which the State must respond in terms of clause 27.3(a)(i) or clause 27.3(a)(ii) within 10 Business Days.
- (b) **(Reminder notice):** If the State fails to respond for any reason within the period specified by clause 27.3(a) in relation to an Amendment in respect of a Concession Document which is

not a State Concession Document, the Franchisee may send a reminder notice which must specify the consequence if the State does not reply as set out in this clause 27.3(b). If that notice is not responded to within 10 Business Days, the State will be deemed to have given its consent to such Amendment.

28. Refinancings

28.1 Restriction on refinancing

Each Franchisee must, and must ensure that the Debt Finance Recipient does, not Refinance all or any part of the Actual Debt otherwise than with the prior consent of the State under clause 28.3.

28.2 Notice of intended Refinancing

If the Debt Finance Recipient intends to undertake any Refinancing, the Franchisee must submit a notice to the State seeking its consent at least 30 Business Days prior to the Refinancing. In that notice, the Franchisee must set out:

- (a) full details as to the terms of the proposed Refinancing (including copies of all relevant draft contractual and security documentation in the form proposed to be signed by all relevant parties);
- (b) its good faith and detailed view of the impact or potential impact of the proposed Refinancing on the State's liabilities, rights or obligations under the Concession Documents;
- (c) in the case of a Refinancing (other than an Assumed Refinancing, a Bond Refinancing or a Permitted Refinancing):
 - (i) the reasons why the Debt Finance Recipient wishes to implement the Refinancing;
 - (ii) its good faith and detailed view of the impact or potential impact of the proposed Refinancing on:
 - A. performance of the Activities by the Franchisee;
 - B. performance under the State Concession Documents;
 - C. the financial structure or business of the Group; and
 - D. the State's interest under or in respect of the State Concession Documents;
 - (iii) all other material information in respect of the Refinancing which it believes in good faith is relevant to the State's decision to give or withhold its consent to the Refinancing; and
 - (iv) copies of any documents and models relevant to the Franchisee's request; and
- (d) in the case of an Assumed Refinancing, detailed information to enable the State to verify that the relevant Refinancing Assumptions will not be contravened.

28.3 State consent to refinancing

The State must advise the Franchisee within 20 Business Days of receiving the Franchisee's notice under clause 28.2 that:

- (a) it consents to the proposed Refinancing;
- (b) the proposed Refinancing is unacceptable to it and the reasons why this is the case;
- (c) it requires further information from the Franchisee regarding the proposed Refinancing. If so, the Franchisee must provide the additional information reasonably sought by the State within a further period of 5 Business Days, after which the State must respond in terms of clauses 28.3(a) and 28.3(b) within 10 Business Days of receiving the further information; or
- (d) in relation to a Bond Refinancing, it requires details of the class of potential bond holders to which it is proposed that the Bond Refinancing will be marketed. If so, the Franchisee must provide this information within a further period of 15 Business Days, after which the State must, subject to clause 28.5(c), respond in terms of clauses 28.3(a) and 28.3(b) within 10 Business Days of receiving the information. The State agrees to keep any information provided under this clause 28.3(d) confidential.

28.4 Consent not to be unreasonably withheld

The State must not unreasonably withhold or delay its consent to a proposed Refinancing (other than a Refinancing referred to in clause 28.5) if the State is reasonably satisfied that:

- (a) the requirements of clause 28.6 are, or will be, satisfied;
- (b) to the extent that the Refinancing involves bank debt and not bonds, notes, debt instruments or debentures, the incoming financier has the Required Rating or is guaranteed and indemnified on terms acceptable to the State by a financial institution or investment fund that has the Required Rating;
- (c) the Refinancing is on commercial terms and is effected on an arm's length basis;
- (d) the Franchisee has complied with clauses 28.2 and 28.3(c);
- (e) if the Franchisee has a credit rating, the Refinancing would not result in the credit rating (if any) of each Franchisee being downgraded below investment grading; and
- (f) the Refinancing would not result in any of the State's rights, obligations or liabilities under the Concession Documents being worse than they would have been if the financing for the Activities remained unchanged.

28.5 State must consent to certain Refinancings

- (a) **(Assumed Refinancing):** The State must provide its consent in accordance with clause 28.3 to any Assumed Refinancing if the State is reasonably satisfied that:
 - (i) the requirements of clauses 28.4(a), 28.4(b) (to the extent that the Refinancing involves bank debt and not bonds or debentures), and 28.4(d) are satisfied; and
 - (ii) the terms and conditions of the financing documentation relating to the Refinancing other than:
 - A. the terms and conditions of the financing documentation which are substantially the same as the terms and conditions of the Debt Financing Documents in their form immediately before the Assumed Refinancing is effected; and
 - B. terms and conditions to the extent they provide for the relevant Refinancing Assumptions,

would not result in the State's rights, obligations or liabilities under the State Concession Documents being materially worse compared with the respective rights, obligations or liabilities of the State under the State Concession Documents immediately before the Assumed Refinancing is effected.

(b) **(Permitted Refinancing):** The State must provide its consent in accordance with clause 28.3 to any Permitted Refinancing if the State is reasonably satisfied that:

- (i) the requirements of clause 28.6 are, or will be, satisfied;
- (ii) the Franchisee has complied with clauses 28.2 and 28.3(c); and
- (iii) the terms and conditions of the financing documentation relating to the Refinancing, other than the terms and conditions of the financing documentation which:
 - A. are substantially the same as the terms and conditions of the Debt Financing Documents in their form immediately before the Permitted Refinancing is effected; or
 - B. relate to the amount of the Refinancing,

would not result in the State's rights, obligations or liabilities under the State Concession Documents being materially worse compared with the respective rights, obligations or liabilities of the State under the State Concession Documents immediately before the Permitted Refinancing is effected.

(c) **(Bond Refinancing):** The State must provide its consent in accordance with clause 28.3 to any Bond Refinancing if the State is reasonably satisfied that:

- (i) the requirements of clause 28.6 are, or will be, satisfied;
- (ii) the Bond Refinancing is on commercial terms and is effected on an arm's length basis;
- (iii) the Franchisees have complied with clauses 28.2, 28.3(c) and 28.3(d);
- (iv) if any of the Franchisees have a credit rating, the Bond Refinancing would not result in the credit rating of that Franchisee being downgraded below investment grade;
- (v) the terms and conditions of the financing documentation relating to the Refinancing, other than the terms and conditions of the financing documentation which:
 - A. are substantially the same as the terms and conditions of the Debt Financing Documents in their form immediately before the Bond Refinancing is effected; or
 - B. relate to the amount of the Refinancing,

would not result in any of the State's rights, obligations or liabilities under the State Concession Documents being materially worse compared with the respective rights, obligations or liabilities of the State under the State Concession Documents immediately before the Bond Refinancing is effected; and

- (vi) the Bond Refinancing achieves the Minimum Refinancing Requirements.

- (d) **(State's rights etc. not affected):** The parties agree that where a Refinancing involves refinancing bank debt with bonds, that Refinancing will be deemed not to result in any of the State's rights, obligations or liabilities under the Concession Documents being worse than they would have been if the financing for the Activities remained unchanged to the extent that the Franchisee can demonstrate to the State on reasonable grounds that the change in those rights, obligations or liabilities is the result of changes in the terms and conditions which are a reasonable consequence of a Bond Refinancing on commercial terms and effected on an arm's length basis.

28.6 Incoming financier's obligation

For any change in the identity of the Debt Financiers:

- (a) the incoming financiers (or their agent or trustee) must execute a deed substantially in the form of the Debt Finance Side Deed; and
- (b) the incoming financiers must receive no greater security than is held by the Debt Financiers.

28.7 Cost of the State review

The Franchisees must pay the State's reasonable costs (including any reasonable legal or financial advisers' fees incurred by the State) in reviewing and, if approved, implementing any Refinancing proposal.

28.8 Execution of agreements

In the event of a Refinancing that is permitted or consented to by the State under this clause 28:

- (a) the State must promptly, at the request of the Franchisees, execute a deed substantially in the form of the Debt Finance Side Deed, and otherwise on terms reasonably acceptable to the State with the incoming financiers (or their agents or trustees), the Debt Finance Recipient and the Franchisees; and
- (b) the Franchisees must provide the State with certified copies of all executed documentation in relation to the Refinancing, within 10 Business Days of the Refinancing being implemented.

28.9 Excluded Refinancings

Clauses 28.1 to 28.5 do not apply to any Excluded Refinancing.

28.10 List of Debt Financiers

- (a) **(Debt Financiers):** Prior to each Quarterly Date the Franchisee must, subject to clause 28.10(b), provide the State with a list of Debt Financiers and their respective commitments under the Debt Financing Documents.
- (b) **(Bond Refinancing):** In respect of a Bond Refinancing, the Franchisee need only comply with clause 28.10(a) to the extent that the Franchisee has, or is able to readily obtain (acting reasonably), the information required by clause 28.10(a).
- (c) **(Confidential):** The State agrees to keep the information referred to in clause 28.10(a) confidential.

29. Financial Model

29.1 Changes to Financial Model

The Franchisees must:

- (a) update the Financial Model as reasonably necessary to reflect:
 - (i) the costs, and effects, of any Modification or Upgrade that has been (or is being) carried out; and
 - (ii) actual results and outcomes (including actual Traffic numbers and Distributions); and
- (b) obtain the prior approval of the State (which approval must not be unreasonably withheld or delayed) to any other change in the Financial Model such as a change in Traffic projections (other than in relation to historic measurable data incorporated under clause 29.2 or in accordance with clause 29.3).

29.2 Financial Model to incorporate data

The Franchisees must ensure that the Assumptions Book for the Financial Model (and consequently the Financial Model itself) incorporates relevant and accurate data (including actual data when available) when operated, or to be provided to the State from time to time, for the purposes of, or in connection with, this deed.

29.3 Checking and revising models

The Franchisees must ensure that:

- (a) such persons as may from time to time be nominated by the State are given such access to the Financial Model as that person considers necessary in order to enable the person to check whether the obligations concerning the Financial Model under this deed have been observed (including technical assistance and information as to structure and operation or so as to allow the person to establish an operating version of the model on that person's computer system), provided that the State will only nominate such a person if it reasonably considers the person to be skilled in the operation or audit (or the operation and audit) of computer models and has informed the person of the confidentiality of the contents of the Financial Model; and
- (b) revisions to the Financial Model specified by such a person by notice to a Franchisee are promptly effected unless the Franchisee by notice to the State promptly disputes the reasonableness, accuracy or relevance of any such revisions. In that event, the Franchisee may promptly refer the dispute for resolution in accordance with clause 36.

30. Records and reporting obligations

30.1 Accounting Records

- (a) **(Keep records):** Each Franchisee must keep proper books of account and all other records it has relating to the Tollroad and the Activities at its offices, and must ensure that each other Group Member does likewise.
- (b) **(Audit accounts):** Each Franchisee must have its accounts audited annually on both an unconsolidated basis and on a consolidated basis (to the extent that a Franchisee is part of a consolidated entity, within the meaning of the Corporations Act) and must ensure that each other Group Member does likewise.

- (c) **(Records to be available for inspection):** Each Franchisee must ensure that its books of account and records referred to in clause 30.1(a) are available to the State and its Associates:
 - (i) at any time during Business Hours (subject to receiving 2 Business Days notice from the State) during the Concession Period; or
 - (ii) if the Franchisee is in breach of any of its obligations under a Concession Document, immediately on demand by the State,
 for examination, audit, inspection, transcription and copying, and must ensure that each other Group Member does likewise.
- (d) **(Access following termination):** Without limiting its obligations under clause 35, if this deed is terminated, the Franchisees must give to the State and its Associates access to all of its books of account and records referred to in clause 30.1(a) which are necessary for the continued operation, repair and maintenance of the Tollroad, and must ensure that each other Group Member does likewise.
- (e) **(State to give access):** The State must give a Franchisee access to any books of account or records given to it by a Group Member for a period of 7 years after the date they are given.
- (f) **(Exemption):** Notwithstanding anything else in this clause 30.1, for so long as a Franchisee is eligible for relief from the relevant requirements of Chapter 2M of the Corporations Act pursuant to a class order made by the Australian Securities and Investments Commission under section 341 of the Corporations Act (including, for the avoidance of doubt, CO98/1418), the relevant Franchisee will comply with this clause 30.1 by having its accounts audited on a consolidated basis only.

30.2 Financial statements

Not later than 31 October in each year, each Franchisee must give to the State:

- (a) a certified copy of the consolidated audited financial statements for the previous Financial Year for:
 - (i) the QMH Consolidated Group; and
 - (ii) the QML Hold Co Consolidated Group; and
- (b) the unaudited unconsolidated financial statements for the previous Financial Year for each entity in the QML Hold Co Consolidated Group, certified as correct by an Officer of the Group.

30.3 Model information

- (a) **(Annual electronic copy):** Not later than 30 September in each year, the Franchisees must give to the State certified copies of:
 - (i) an electronic copy on which the Financial Model is encoded updated (if applicable) in accordance with clause 29.2 showing the actual performance of the Group in the previous Financial Year and cumulatively since the Commencement Date, and such other changes as have been made in accordance with clause 29.1;
 - (ii) a statement in such detail as the State may reasonably require reconciling the information in the electronic copy with the audited financial statements of the Franchisees for the same period and the Base Case Financial Model; and

- (iii) a statement in such detail as the State may reasonably require reconciling the information in the electronic copy of the Financial Model provided under clause 30.3(a)(i) with any financial information or Financial Model information provided for, or utilised for the purposes of, the Debt Financing Documents.
- (b) **(Form of information):** Without limiting clause 30.3(a), the Franchisees must ensure that the State is provided with such results from the operation of the Financial Model, in a form and substance reasonably satisfactory to the State, as and when reasonably requested by the State.
- (c) **(No duty to review):** Each Franchisee acknowledges that:
 - (i) the State owes no duty to the Franchisee to review the Financial Model; and
 - (ii) no review of Financial Model will in any way:
 - A. indicate the State's acceptance of Financial Model for the purposes of this deed; or
 - B. otherwise affect either party's rights and obligations under this deed.

30.4 Other information

Each Franchisee must give to the State the following information:

- (a) **(ASIC and ASX information):** copies of all material documents or information given or received by any Group Member or an Equity Investor to or from the Australian Securities & Investments Commission or Australian Stock Exchange Limited, promptly after the information is first given or received;
- (b) **(Notices to and from Equity Investors):** copies of all notices from any Group Member to any Equity Investor relating to any Distributions;
- (c) **(Early Termination Amount/Upgrade Termination Amount):** if the State is, or is likely to become, liable to pay the Early Termination Amount or the Upgrade Termination Amount, reasonable details of each component of that amount and the way the component was calculated, promptly after being requested to do so by the State;
- (d) **(Counterparty Details):** details of any changes to the Counterparty Details within 20 Business Days after the change; and
- (e) **(Other):** such other information relating to the Activities or the Tollroad as the State may reasonably require from time to time.

31. Intellectual Property Rights

31.1 Warranties

- (a) **(Franchisee warranties):** Subject to clause 31.1(b), each Franchisee warrants that:
 - (i) no Intellectual Property Rights or moral rights or other protected rights of any person will be infringed or breached in performing the Activities;
 - (ii) the design, construction, delivery, supply, use or enjoyment of the Deliverables in accordance with, or as contemplated by, this deed will not infringe any Intellectual Property Rights or moral rights or other protected rights of any person;

- (iii) it owns, or has the authority to grant the rights granted under this clause 31 in respect of, the Concession Intellectual Property Rights and neither the use nor the exercise of those rights by the State, its Associates or any person sub-licensed by the State in accordance with, or as contemplated by, this deed will infringe any Intellectual Property Rights or moral rights of any person or give rise to any liability on the part of the State, its Associates or any person sub-licensed by the State to pay any compensation (including any royalty) to any third party, other than payment required under clause 31.5); and
 - (iv) it has or will at the relevant time obtain the authority to grant the rights granted under this clause 31 in respect of all Intellectual Property Rights which are owned by third parties.
- (b) **(Franchisee no liability):** A Franchisee will have no liability or obligation under clause 31.1(a) to the extent the infringement of Intellectual Property Rights or moral rights arises from:
- (i) a modification made to a Deliverable or Concession Intellectual Property Rights by anyone other than the Franchisee or an Associate of the Franchisee; or
 - (ii) the use of a Deliverable or Concession Intellectual Property Rights as part of or in combination with any material not provided by the Franchisee or an Associate of the Franchisee,
- which is:
- (iii) done without the Franchisee's written approval as to the nature of the modification or combination; and
 - (iv) not contemplated in the Concession Documents.
- (c) **(No warranty):** A Franchisee is not required to give a warranty in clause 31.1(a) if and to the extent that there is a breach of that warranty as at the Sale Date. However, if and when a Franchisee is negotiating any amendment to an Existing Agreement, it will use its reasonable endeavours to negotiate amendments or arrangements sufficient to remedy that breach.

31.2 Grant of licence for Concession purposes

- (a) **(Licence):** Subject to clause 31.2(b), each Franchisee:
- (i) hereby grants to the State and its Associates;
 - (ii) without limiting the Franchisee's obligations under clause 31.9, where the Intellectual Property Rights are not owned by the Franchisee, the Franchisee must procure that each person legally entitled to do so grants directly to the State and its Associates (with effect from the date of creation of the relevant Concession Intellectual Property Rights); and
 - (iii) must do all things necessary to give effect to the grant to the State and its Associates of,
- an irrevocable, non-exclusive, perpetual, transferable, royalty-free licence (including the right of sub-licence) to use and exercise all or any of the Concession Intellectual Property Rights in or used in:
- (iv) each of the Deliverables; and

- (v) each method of working used by the Franchisee in performing the Activities,
for:
 - (vi) the purposes of the State carrying out the Activities (including operating, maintaining and repairing the Tollroad and):
 - A. in the exercise of the State's rights under the State Concession Documents (including its step-in-rights under clause 34); and
 - B. on and from the date the Concession Period ends; and
 - (vii) the purposes of the design, construction, operation, maintenance, repair and alteration of infrastructure and other things (including any Proximate Work) which interface with the Tollroad, during and after the Concession Period, but only to the extent the use or exercise of the Concession Intellectual Property Rights is required to enable the proper design, construction, operation, maintenance, repair and alteration of that interface.
- (b) **(Existing Agreements):** A Franchisee is not required to comply with clause 31.2(a) if, and to the extent, that the terms of an Existing Agreement do not grant the necessary rights.

31.3 Grant of licence for other purposes

Subject to clause 31.5, each Franchisee grants to:

- (a) the State; and
- (b) such other persons as may be nominated by the State from time to time,
(collectively, the **Licensees**),

a world-wide, irrevocable, non-exclusive, perpetual licence to use and exercise all or any of the Concession Intellectual Property Rights owned by the Franchisee, in or used in:

- (c) each of the Deliverables; and
- (d) each method of working used by the Franchisee in performing the Activities,

as each Licensee sees fit, for one or more uses (other than for the purposes described in clauses 31.2(a)(vi) and 31.2(a)(vii)) as may be nominated by the State in writing to the Franchisee from time to time.

31.4 Grant of licence for other Franchisee Intellectual Property Rights

Each Franchisee grants to:

- (a) the State; and
- (b) such other persons as may be nominated by the State from time to time,

(collectively, the **Licensees**), a world-wide, irrevocable, non-exclusive, perpetual licence to use and exercise (including the right to sub-licence) all Intellectual Property Rights which are:

- (c) owned by the Franchisee as at the Commencement Date, excluding the Concession Intellectual Property Rights; and

- (d) which are embodied in any materials including tangible and intangible information, documents, reports, software (including source and object code), inventions, data and other materials in any media whatsoever, that are in the possession or control of the Licensees as at the Commencement Date.

31.5 Licence fees

- (a) **(State to pay licence fees):** If the State nominates an intended use for particular Concession Intellectual Property Rights under the licence granted under clause 31.3, then the State must pay to the Franchisee licence fees in accordance with clause 31.5(b).
- (b) **(Calculation of licence fees):** The licence fees payable under clause 31.5(a) will be:
 - (i) equal to the Reasonable Fee;
 - (ii) calculated on and from the day on which the State commences using or exercising the relevant Concession Intellectual Property Rights (or any part of them) in accordance with the intended use (the **Licence Commencement Date**); and
 - (iii) payable in advance in respect of each period of use by the State, with the first instalment of the Reasonable Fee to be paid to the Franchisee no later than 60 Business Days after the Licence Commencement Date or such other period as may be agreed.
- (c) **(Dispute resolution):** If the parties are unable to agree on the amount of the Reasonable Fee by the date that is 30 Business Days after the Licence Commencement Date, then the amount of the Reasonable Fee will be determined in accordance with the dispute resolution procedures set out in clause 36.
- (d) **(Cessation of licence fees):** Notwithstanding any other provision of this deed, if at any time the Licensees cease to use or exercise certain Concession Intellectual Property Rights for a nominated purpose (and the State has notified a Franchisee of this occurrence), then, on and from the date the Franchisee receives that notice, no further licence fees referable to that purpose will be payable by the State to the Franchisee under or in connection with that licence for so long as such use ceases.

31.6 Licences not affected

Notwithstanding any other provision of this deed, the existence, validity or scope of the licences granted under clauses 31.2, 31.3 and 31.4 are not in any way affected by or conditional on:

- (a) the State's failure to pay any amounts required to be paid under or in connection with this deed; or
- (b) any dispute between the parties in connection with, or any delay in the parties agreeing or an expert or arbitrator determining, the amount of any licence fees payable under this deed,

but this clause 31.6 shall not affect the obligation of the State to pay to a Franchisee any amounts payable under or in connection with this deed.

31.7 Deliverables

Without limiting the Franchisees' other obligations under this deed with respect to the delivery of any Deliverables, each Franchisee will provide, and procure that its employees, officers and agents provide, all documentation, information and assistance as the State may reasonably require in connection with the State's:

- (a) use and enjoyment of the Deliverables; and
 - (b) use and exercise of the Intellectual Property Rights in such Deliverables,
- in accordance with and as contemplated by this deed.

31.8 Indemnities

- (a) **(Franchisees to defend and indemnify):** Each Franchisee must defend, and indemnify the State, its Associates and any other party sub-licensed by the State in accordance with clauses 31.2, 31.3 and 31.4 **(Indemnified Persons)** from and against, all IPR Claims.
- (b) **(Indemnity re infringement or violation):** Each Franchisee must indemnify the Indemnified Persons against any Loss or Claim brought against, suffered or incurred by the Indemnified Persons arising out of or in connection with any infringement, violation, alleged infringement or alleged violation by the Franchisee or its Associates of any Intellectual Property Rights, moral rights or other protected rights of any person while performing the Activities.
- (c) **(Indemnity re breach of warranty):** Each Franchisee must indemnify the Indemnified Persons against any Loss or Claim arising from any breach of the warranties set out in clause 31.1.
- (d) **(Franchisees to reimburse):** Subject to clause 31.8(g), each Franchisee will reimburse any Loss incurred by the Indemnified Persons in connection with any Claim for which the Indemnified Persons is indemnified under clauses 31.8(a) to 31.8(c) provided that:
 - (i) the Franchisee may conduct any defence and/or settlement in any such Claim;
 - (ii) the Indemnified Persons will (at the Franchisee's expense) fully cooperate with such defence; and
 - (iii) the Franchisee receives written notice from the State of the Claim (to the extent that the Claim comes to the attention of the State before it comes to the attention of the Franchisee).
- (e) **(Replace, modify or licence):** If an IPR Claim substantially interferes with the Indemnified Persons use or enjoyment of a Deliverable or if a Franchisee reasonably believes in consultation with the State that such an IPR Claim may substantially interfere with such use, the Franchisee will use its best endeavours to:
 - (i) replace the Deliverable, without additional charge with a non-infringing product or service of at least equivalent functionality and performance;
 - (ii) modify the Deliverable to overcome the infringement without additional charge and without materially impeding functionality or performance; or
 - (iii) obtain a licence for the Indemnified Persons to continue use and enjoyment of the Deliverable and pay any additional fee required for such licence.
- (f) **(Not limited):** Neither the State's rights nor a Franchisee's liabilities or obligations, whether under this deed or otherwise according to Law, in respect of Intellectual Property Rights or IPR Claims, will be limited by the terms of this clause 31.8.
- (g) **(No liability of Franchisee):** Clauses 31.8(a) to (e) do not apply to, and a Franchisee will have no liability or obligation for, a Claim to the extent the Claim arises from:

- (i) a modification made to a Deliverable by anyone other than the Franchisee or an Associate of the Franchisee; or
- (ii) the use of a Deliverable as part of or in combination with any material not provided by the Franchisee or an Associate of the Franchisee,

which is:

- (iii) done without the Franchisee's written approval as to the nature of the modification or combination; and
- (iv) not contemplated in the Concession Documents.

31.9 Moral rights

- (a) **(Franchisee to obtain consent and waiver):** If a Franchisee, in the course of performing the Activities, including in relation to the design, manufacture, delivery, supply, use or enjoyment of any Deliverable, includes or makes use of any work or other subject matter in which copyright subsists, the Franchisee must procure from every person (including any officer, employee, agent, consultant or subcontractor of the Franchisee or any of its Associates) who is an author of that work or subject matter a written consent signed by that person for the benefit of the State, its Associates and any person nominated or authorised by the State (including sub licensees) as well as the Franchisee and its Associates (the **Beneficiaries**), and any person authorised to do acts comprised in the copyright, under which (to the maximum extent permitted by law) that person irrevocably and unconditionally:
 - (i) consents to the Beneficiaries and any person authorised to do acts comprised in the copyright:
 - A. using, disclosing, reproducing, transmitting, exhibiting, communicating, adapting, publishing or otherwise exercising its rights in relation to that work or subject matter anywhere in the world in whatever form any of the Beneficiaries thinks fit (including the making of any distortions, additions or alterations to that work or subject matter or any adaptation thereof, or to any part of that work or subject matter or of any such adaptation in a manner which but for the consent, infringes or may infringe that person's moral rights in the work or other subject matter) as so used, disclosed, reproduced, transmitted, exhibited, communicated, adapted or published; and
 - B. using, disclosing, reproducing, transmitting, exhibiting, communicating, adapting, publishing or otherwise exercising its rights in relation to that work or subject matter or any adaptation thereof (or any part of that work or subject matter or of any such adaptation) anywhere in the world without making any identification of that person in relation thereto; and
 - (ii) waives, to the extent permitted by law, all and any moral rights to which that person may be entitled anywhere in the world in relation to any Deliverable.
- (b) **(No duress or false or misleading statements):** In procuring such consents and waivers, the Franchisee will not (and must not encourage or permit anyone else to) apply any duress to any person or make a statement to any person knowing that the statement is false or misleading in a material particular, or knowing that a matter or thing has been omitted from the statement without which the statement is false or misleading in a material particular.

- (c) **(Existing Activities):** A Franchisee is not required to comply with clause 31.9(a) if, and to the extent that, the Franchisee was using the relevant work as at the Sale Date, and the Franchisee has not (before that date) obtained the relevant consent from the relevant author.

31.10 Third party materials

- (a) **(Third Party Intellectual Property Rights):** Clauses 31.2, 31.3 and 31.9 will not extend to any Intellectual Property Rights that are Third Party Intellectual Property Rights if, and only to the extent that:
- (i) the material the subject of the relevant Intellectual Property Rights (the **Third Party Material**) is generally commercially available on reasonable commercial terms;
 - (ii) the Franchisees have been unable (despite using their reasonable endeavours and paying any reasonable licence fees) to procure from the relevant third party the right to grant the licences in clauses 31.2 and 31.3 and the consents required in clause 31.9 in respect of that Third Party Material;
 - (iii) the Franchisees have notified the State that they have been unable to procure the necessary licence or consent rights for that Third Party Material; and
 - (iv) the State has given its approval to the Third Party Material being excluded from the subject matter of the licenses granted in clauses 31.2 and 31.3 and the consents required in clause 31.9. This approval may be given at the State's sole discretion, and is subject to such conditions as the State sees fit, and will be deemed given if:
 - A. the State has given its prior approval in writing to the Franchisee to the Third Party Material forming part of a Deliverable; and
 - B. prior to each such approval being given, the Franchisee has informed the State in writing that the relevant approval would also constitute a deemed approval under this clause 31.10(a)(iv), and that this would have certain Intellectual Property Rights implications in relation to the State's ability to use the material the subject of the approval.

The State not giving its approval under this clause will not excuse a Franchisee from any of its obligations under this deed or any of the Concession Documents.

- (b) **(Franchisees to procure licence):** If the State has reasonable grounds to withdraw, and notifies a Franchisee that it has withdrawn, its approval under clause 31.10(a) in respect of any Third Party Material, the Franchisee must immediately procure for the State from the relevant third party (or parties), at the Franchisee's sole cost and expense, all licences necessary under the terms of this deed in respect of that Third Party Material.

31.11 Survival of rights

The rights granted pursuant to clauses 31.2, 31.3, 31.4 and 31.9 will survive:

- (a) rescission, termination or expiration of this deed; and
- (b) works being taken out of the hands of a Franchisee pursuant to the exercise of the State's step-in rights under clause 34.

32. Disclosure and publicity

32.1 Disclosure by the State

The State may publish or disclose (on the internet or otherwise):

- (a) the terms and conditions of this deed and any other Concession Document; and
- (b) information about the performance of the Franchisees measured against the KPI Benchmarks,

other than any financial annexures to the Concession Documents, such as:

- (c) the Base Case Financial Model, the Financial Model and the Assumptions Book; and
- (d) the Base Case Equity Return, the Equity Return or the margin, pricing or fees payable by or to Franchisee or another Group Member under any Debt Financing Document or under any other contract that a Group Member enters into.

32.2 Public disclosure

- (a) **(Public Disclosure Obligations):** Each Franchisee acknowledges and agrees that disclosure by the State or any Authority may be required:

- (i) by law, including under the Transport Infrastructure Act and the Right to Information Act 2009 (Qld); or
- (ii) to satisfy the disclosure requirements of the Auditor General and to satisfy the requirements of Parliamentary accountability,

(Public Disclosure Obligations).

- (b) **(Endeavours to assist):** Each Franchisee must, at its own cost and expense, use all reasonable endeavours to assist the State or an Authority in meeting its Public Disclosure Obligations.

32.3 Disclosure by the Franchisees

Each Franchisee:

- (a) must not, and must ensure that its Associates do not, make any Restricted Disclosure without the State's prior consent and if such Restricted Disclosure is required as a matter of Law, such consent will not be unreasonably withheld;
- (b) must use its reasonable endeavours to agree with the State the wording and timing of all Restricted Disclosures before the relevant Restricted Disclosure is made;
- (c) must give the State a draft of any proposed Restricted Disclosure (including media releases) and must obtain the State's approval of the Restricted Disclosure before distributing such Restricted Disclosure (including media releases); and
- (d) as soon as practicable, must give to the State a copy of any Restricted Disclosure (including media releases) agreed to or approved by the State under this clause 32.3.

33. Default and Termination

33.1 Events of Default in respect of the Franchisees

Each of the following events is an Event of Default in respect of a Franchisee:

- (a) **(Abandonment):** a Franchisee displays an intention to permanently abandon, or permanently abandons the Activities;
- (b) **(Closure of vehicular Traffic lanes):** a Franchisee closes or permits the closure of one or more vehicular Traffic lanes, in whole or in part, of the Tollroad other than for closures permitted or required under clause 11.2;
- (c) **(Failure to operate, maintain, repair or insure):** a Franchisee fails in a material respect to operate, maintain, repair or insure the Tollroad in accordance with its obligations under this deed;
- (d) **(Material default of State Concession Document):** a Franchisee defaults in a material respect in the due observance and performance of any of its other material obligations under this deed or any other State Concession Document;
- (e) **(Material default of Concession Document):** a Franchisee defaults in a material respect in any of its material obligations under any Concession Document (which is not a State Concession Document) unless either:
 - (i) the Franchisee disclosed the default as soon as practicable after it first becomes aware of it and, it is remedied or waived to the satisfaction of the relevant counterparty(s) to that Concession Document within the time permitted by that counterparty); or
 - (ii) the Franchisee reasonably satisfies the State that the default does not have a material adverse effect on its ability to carry out the Activities substantially in accordance with the terms of this deed;
- (f) **(Debt Financing Documents):** the obligation of a Debt Financier to provide funding under a Debt Financing Document is cancelled (unless that commitment is replaced by another debt or equity commitment);
- (g) **(Breach of representation or warranty):** a representation or warranty given by a Franchisee under a State Concession Document is found to be materially incorrect or misleading (unless the Franchisee disclosed the misrepresentation or breach of warranty as soon as practicable after it first became aware of the misrepresentation or breach of warranty and either:
 - (i) the Franchisee reasonably satisfies the State that the default does not have a material adverse effect on its ability to carry out the Activities substantially in accordance with the terms of this deed; or
 - (ii) if the State is not so satisfied, and if the State gives it notice to rectify the misrepresentation or breach of warranty, the Franchisee remedies the misrepresentation or breach of warranty in a manner acceptable to the State (acting reasonably) in accordance with that notice);
- (h) **(Insolvency of a Franchisee):** an Event of Insolvency occurs in relation to a Franchisee whether or not the Franchisee has been in breach of a State Concession Document; and

- (i) **(Insolvency of Contractor or Guarantor):** an Event of Insolvency occurs in relation to an O&M Contractor or an O&M Guarantor, whether or not a Franchisee is then in breach of a State Concession Document, and that O&M Contractor or O&M Guarantor is not replaced within 60 days by a party which is:
 - (i) reputable, solvent and has the resources and experience to perform its obligations under the relevant O&M Contract, (or in the case of the relevant O&M Guarantor, the relevant O&M Contractor's obligations under the relevant O&M Contract); or
 - (ii) otherwise acceptable to the State.

33.2 Notice of default

- (a) **(Notice of default):** If an Event of Default occurs in respect of a Franchisee then the State may give the Franchisees a notice:
 - (i) stating that it is a notice under this clause 33.2; and
 - (ii) requiring the relevant Franchisee to remedy the Event of Default (or overcome its effects) within:
 - A. in the case of an Event of Default referred to in clause 33.1(b), 2 days; and
 - B. in all other cases, such period specified in the notice (not less than 2 days) as is in the reasonable opinion of the State required to remedy the Event of Default (or to overcome its effects).
- (b) **(Franchisee to comply with notice and provide remedy program):** If the State gives such a notice to the Franchisees, then:
 - (i) the relevant Franchisee must comply with the notice; and
 - (ii) unless the relevant Event of Default is a failure to pay money or to provide, replace or top-up any Bond, in which case no program will be required:
 - A. the relevant Franchisee must give the State a program to remedy the Event of Default (or overcome its effects) in accordance with the terms of the State's notice;
 - B. the parties must consult in good faith to develop and settle the remedy program; and
 - C. following agreement or determination of the remedy program, the relevant Franchisee must implement and comply with the remedy program.
- (c) **(Requests for extensions to remedy period):**
 - (i) If the Franchisee is diligently pursuing rectification of the Event of Default, but it considers, in good faith, that the time specified in a default notice is not reasonable (or cannot be achieved, despite the diligent efforts of the Franchisee and its Associates), it must immediately notify the State of that belief, the reasons for that belief and the time which it believes is reasonably required to remedy the Event of Default (or overcome its effects).
 - (ii) The Franchisee may give a notice under clause 33.2(c)(i), even if the Franchisee has previously given one or more such notices.

- (d) **(When extensions to be given):** If the Franchisee gives a notice under clause 33.2(c)(i) and:
- (i) the Franchisee is and has been diligently pursuing the program to remedy the Event of Default (or to overcome its effects); and
 - (ii) if all vehicular Traffic lanes of the Tollroad are open to the public to the extent that it is safe to do so except to the extent that:
 - A. a closure is permitted or required under clause 11.2; or
 - B. the closure of vehicular Traffic lanes occurs on that part of the Tollroad comprising the Facility, the GUP Project Deed has not expired or otherwise been terminated, and the Franchisees are diligently pursuing remedies to enable all vehicular Traffic lanes of that part of the Tollroad comprising the Facility to be open to the public,

then the time specified in the notice given by the State under clause 33.2(a) will be extended by such period as the State determines is reasonably required to enable the Franchisees to remedy the Event of Default (or to overcome its effects), as notified by the State to the Franchisees.

- (e) **(Disputes):** If the Franchisee considers in good faith that the time specified in the notice given by the State under clause 33.2(d) is not reasonable or there is a failure to agree a remedy program as required by clause 33.2(b)(ii) it:
- (i) may (providing that it is and has been diligently pursuing the remediation of the Event of Default (or the overcoming of its effects)) refer the matter for resolution in accordance with clause 36; and
 - (ii) whilst the matter is being determined, must continue to diligently pursue the remediation of the Event of Default (or the overcoming of its effects).

33.3 Termination by the State

- (a) **(Notice of intention to terminate):** If:
- (i) an Event of Default is not remedied (or its effects overcome) within the time specified in the State's notice under clause 33.2(a) (as extended, if at all, in accordance with clause 33.2(d) or 33.2(e));
 - (ii) at any time after the State has given notice under clause 33.2(a), a Franchisee is not diligently pursuing or has not diligently pursued the remediation of the Event of Default (or the overcoming of its effects), including implementing any remedy program agreed under clause 33.2(b)(ii) or agreed or determined under clause 36; or
 - (iii) all vehicular Traffic lanes of the Tollroad are not open to the general public to the extent that it is safe to do so (except to the extent that a closure is permitted or required under clause 11.2),

the State may give the Franchisees 20 Business Days notice of its intention to terminate this deed. During this 20 Business Day period the Franchisees will have the right to remedy the Event of Default (or overcome its effects).

- (b) **(Notice of termination):** If at the end of the 20 Business Day period following notice under clause 33.3(a):

- (i) the Event of Default has not been remedied (or its effects overcome); or
- (ii) all vehicular Traffic lanes of the Tollroad are not open to the general public to the extent that it is safe to do so (except to the extent that a closure is permitted or required under clause 11.2),

the State may (subject to the Debt Finance Side Deed) thereafter terminate this deed by notice to the Franchisees.

- (c) **(No compensation):** Upon any termination of this deed under this clause 33.3, the State will not be liable to pay any compensation or other amounts whatsoever to the Franchisees by reason of that termination.
- (d) **(Restrictions on the State's right to terminate):** If:
 - (i) the State would, but for this clause 33.3(d), be entitled to terminate this deed because of an Event of Default in respect of a Franchisee; and
 - (ii) the Event of Default arose as a sole and direct cause of a breach by the State of a State Concession Document,

then, in the context of that Event of Default, the State will not be entitled to exercise that entitlement to terminate.

33.4 Events of Default in respect of the State

Each of the following events is an Event of Default in respect of the State:

- (a) **(Final Court Decision):** a court makes a Final Court Decision which makes it impossible for the Franchisees to undertake all, or substantially all, of the Activities, for a continuous period of 2 months (except where the Final Court Decision is issued as a result of a breach by a Franchisee or its Associates of the Concession Documents or some other wrongful act or omission by a Franchisee or its Associates);
- (b) **(State enacts legislation):** the State enacts legislation which makes it impossible for the Franchisees to undertake all, or substantially all, of the Activities for a continuous period of 2 months (except where the legislation is enacted as a result of a breach by a Franchisee or its Associates of the Concession Documents or some other wrongful act or omission by a Franchisee or its Associates);
- (c) **(Resumption of Leased Area):** an Authority of the State resumes any part of the Leased Area which makes it impossible for the Franchisees to undertake all, or substantially all, of the Activities for a continuous period of 2 months;
- (d) **(Declaration under the Transport Infrastructure Act):** at any time during the Concession Period the Tollroad is not declared to be a "toll road" under the Transport Infrastructure Act or such a declaration is in force, but it is subject to a condition that makes it impossible for the Franchisees to undertake all, or substantially all, of the Activities (except where that non-declaration, or that condition, is a result of a breach by a Franchisee or its Associates of the Concession Documents or some other wrongful act or omission by a Franchisee or its Associates); and
- (e) **(Gazette Notice):** at any time during the Concession Period, a notice is not published in the State Government Gazette which is in force and is in relation to Nominated Tolling Products (and at the rate of Tolls and other charges) consistent with the Nominated Tolling Product Schedule.

33.5 Termination by the Franchisees

- (a) **(Notice of intention to terminate):** If an Event of Default occurs in respect of the State then the Franchisees may give the State 30 Business Days notice of their intention to terminate this deed.
- (b) **(Suspension of right to terminate):** If the Franchisees give a notice under clause 33.5(a), the State may suspend the Franchisees' right to terminate by giving the Franchisees a suspension notice within 30 Business Days of receipt of the Franchisees' notice.
- (c) **(Expiry of suspension period):** The State's suspension of the Franchisees' right to terminate expires on the earliest of:
 - (i) the State notifying the Franchisees that it is ending the suspension period;
 - (ii) in the case of any Event of Default in respect of the State, 24 months after the date of the Franchisees' notice under clause 33.5(a) provided that if a principal amount of the Concession Debt falls due for payment under the Debt Financing Documents more than 18 months after the suspension period started (without regard to acceleration of the obligation to repay or election to repay money early), either (subject to clause 33.5(e)), the payment of that principal shall be procured by the State when due (and the Early Termination Amount will be reduced accordingly) or at the election of the State, the suspension period shall end on the date for payment; and
 - (iii) when the relevant Event of Default has been remedied (or its effects overcome).
- (d) **(Payment by the State):** If the State pays a principal amount in accordance with clause 33.5(c)(ii) and this deed is not terminated by the Franchisees:
 - (i) before the relevant Event of Default is remedied (or its effects overcome); or
 - (ii) within 6 months of the date the State paid the principal amount despite the subsistence of the relevant Event of Default and the expiry of the suspension period,

then the Franchisees must repay the principal amount paid by the State, less the reasonable direct costs incurred by the Franchisees in Refinancing that amount (to the extent such costs are not payable by the State under clause 33.5(g)), and this amount will be a debt due and payable by the Franchisees to the State,
 - (iii) in the case of 33.5(d)(i), within 45 Business Days of the relevant Event of Default being remedied (or its effects overcome); and
 - (iv) in the case of 33.5(d)(ii), on the date that is 6 months from the date the State paid the principal amount.
- (e) **(Effect of expiry):** If the State's suspension of the Franchisees' right to terminate expires:
 - (i) under clause 33.5(c)(i) or clause 33.5(c)(ii), the Franchisees may immediately terminate this deed by notice to the State, and clause 33.9(b) will apply; and
 - (ii) under clause 33.5(c)(iii), this deed will continue in force.
- (f) **(Continue to perform):** Each Franchisee must continue to perform its obligations under the State Concession Documents while its right to terminate is suspended to the extent that it is lawful and practicable to do so.

- (g) **(Compensation during suspension period):** If the State suspends the Franchisees' right to terminate, the State must pay the Franchisees, in respect of the period of suspension, which, for the purposes of this clause 33.5, will be deemed to have started from the beginning of the 2 month period referred to in clauses 33.4(a), 33.4(b) or 33.4(c) (as applicable), an amount sufficient to place the Franchisees in the net after tax position they would have been in had the relevant Event of Default in respect of the State not occurred. The State must pay this amount monthly in arrears.
- (h) **(Termination):** If the State does not give a suspension notice under clause 33.5(b) and the relevant Event of Default has not been remedied (or its effects overcome) within 30 Business Days of receipt of the Franchisees' notice under clause 33.5(a), the Franchisees may if the relevant Event of Default is still subsisting, immediately terminate this deed by notice to the State, and clause 33.9(b) will apply.
- (i) **(Progress reports):** The State will keep the Franchisees regularly informed on developments in any avenues that it is pursuing with a view to curing the Event of Default by the State. If the State is reasonably of the view that no further material progress towards such a cure is likely to be made, it will notify the Franchisees accordingly and will end the suspension period.
- (j) **(Suspension of defaults):** During the suspension period, the State will not give notice of default under clause 33.1(h) (nor in respect of anything else that would be an Event of Default by the Franchisees, to the extent that it results from the relevant Event of Default in respect of the State).

33.6 Termination for default in connection with Upgrades

The State may, in accordance with clause 7.2(e) (Election by the State) of the Upgrade Process Deed, terminate this deed by giving notice to that effect to the Franchisees after which this deed will be so terminated and clause 33.9(c) will apply.

33.7 Not used

33.8 No prejudice to right to damages

Subject to clause 33.9(b)(ii), termination of this deed under this clause 33 will not in any way prejudice a party's right to claim and recover damages for any breach of contract by another party.

33.9 Payments on termination

- (a) **(State's right to damages):** Any termination of this deed by the State under clause 33.3 will entitle the State to recover from the Franchisees any Loss that the State may suffer or incur arising out of or in any way in connection with the termination of this deed.
- (b) **(Early Termination Amount):**
 - (i) If this deed is terminated under clause 7.6(d), clause 18.12, clause 33.5(e)(i) or clause 33.5(h) then the State must pay to the Franchisees the Early Termination Amount within 30 Business Days of determination of the Early Termination Amount (or such other period as the parties agree).
 - (ii) Payment of the Early Termination Amount will be full and final settlement of the Franchisees' rights against the State for breach and/or termination of this deed. On termination of this deed the Franchisees will not be entitled to make any Claim against the State for any amount other than for payment of the Early

Termination Amount (except for any liability which arose prior to the date of termination (but not from the termination itself) that has not already been taken into account in the Early Termination Amount).

- (iii) If the State is, or is likely to become, liable to pay the Early Termination Amount, the Franchisee must, promptly after being requested to do so by the State, give the State reasonable details of each component of that amount and the way the component was calculated.

(c) **(Upgrade Termination Amount):**

- (i) If this deed is terminated under clause 33.6 then the State must pay to the Franchisees the Upgrade Termination Amount, within 30 Business Days of determination of the Upgrade Termination Amount (or such other period as the parties agree).
- (ii) Payment of the Upgrade Termination Amount will be full and final settlement of the Franchisees' rights against the State for termination of this deed. On termination of this deed the Franchisees will not be entitled to make any Claim against the State for any amount other than for payment of the Upgrade Termination Amount (except for any liability which arose prior to the date of termination (but not from the termination itself) that has not already been taken into account in the Upgrade Termination Amount).
- (iii) If the State is, or is likely to become, liable to pay the Upgrade Termination Amount, the Franchisee must, promptly after being requested to do so by the State, give the State reasonable details of each component of that amount and the way the component was calculated.

33.10 No other termination rights

Despite any rule of law or equity to the contrary, neither party may terminate, rescind or treat as repudiated this deed or any rights under this deed other than, as expressly provided for in this deed.

33.11 Waiver

If a termination occurs under this deed, each Franchisee waives any right it might otherwise have to pursue a claim of restitution of any kind, including a claim of unjust enrichment or quantum meruit and the Franchisee's only entitlement in the circumstances will be in respect of its rights (if any) under clause 33.9.

34. Step-in by the State

34.1 Notice from the State

If a Franchisee breaches an obligation under any State Concession Document, the State may give the Franchisees notice:

- (a) stating that it is a notice under this clause 34.1; and
- (b) requiring the Franchisees to remedy the breach.

34.2 Right to step-in

If the Franchisees:

- (a) have not, within a reasonable time after receipt of the State's notice under clause 34.1 taken steps to remedy the breach; or
- (b) having taken such steps, fail to remedy the breach within a reasonable time,

then the State may take such action as may be necessary to remedy the breach (including requiring the Tollroad or part of it to be closed).

34.3 Franchisees to assist the State

If the State elects to exercise its step-in right under clause 34.2, the Franchisees must assist the State wherever and however possible to ensure that the State is able to:

- (a) exercise its step-in right effectively and expeditiously, including giving the State or its nominees access to the Site and the Other Areas; and
- (b) use all plant and equipment necessary to operate, maintain and repair the Tollroad.

34.4 Cessation of step-in rights

If the State exercises its step-in rights under clause 34.2, the State may cease to exercise that right at any time and, in any event, will cease to exercise its step-in right once the relevant breach has been remedied.

34.5 State not required to remedy breach

Each Franchisee acknowledges and agrees that the State is not obliged to remedy any breach, or to overcome or mitigate any risk or risk consequences, in respect of which the State exercises its step-in rights.

34.6 Franchisees must compensate the State

Any Loss suffered or incurred by the State arising out of or in connection with the exercise by the State of its step-in rights under this clause 34 will be a debt due and payable from the Franchisees to the State.

34.7 No liability

The State will have no liability to a Franchisee, and a Franchisee will not be entitled to make any Claim against the State, arising out of or in connection with the exercise by the State of its step-in rights under this clause 34.

34.8 No limitation on other rights

The exercise (or non-exercise) by the State of its step-in rights will not limit any other right of the State whether under this deed or otherwise, including its rights under clause 33.

34.9 Assignment or novation

Each Franchisee must assign or novate its rights and obligations under any contract entered into by it in connection with the Activities, to the State (or its nominee) and execute any documents required by the State to give effect to such assignment or novation if:

- (a) this deed is terminated for any reason; or
- (b) the State exercises its step-in rights or otherwise takes over the performance of, or engages a third party to perform, any part of the Activities.

34.10 Power of Attorney

Each Franchisee irrevocably appoints the State and such persons as are from time to time nominated by the State, jointly and severally, as its attorney with full power and authority to execute any document that is required by the State (acting reasonably) to exercise any right or power under this clause 34.

35. Handover at end of Concession Period

35.1 Obligations approaching end of Concession Period

- (a) **(Joint inspection):** If required by the State, the Franchisees and the State must carry out joint inspections of the Tollroad at least 3 years before the expected expiry of the Concession Period and every 6 months after that initial inspection until the end of the Concession Period.
- (b) **(Program to achieve proper Handover):** Following each inspection under clause 35.1(a), the parties must use their reasonable endeavours to agree on:
 - (i) the maintenance and repair work required to be carried out by the Franchisees to achieve Handover (taking account of planned maintenance scheduled in accordance with Best Practices);
 - (ii) following the first inspection, a program for carrying out those works by the Franchisees and following the other inspections updates of that program; and
 - (iii) an estimate of the total costs of carrying out those works (including an appropriate margin for risks and contingencies being not less than 10% of the estimate of those total costs without that margin or contingency added) determined in accordance with Best Practices.
- (c) **(Dispute resolution process):** If the parties do not agree on all the matters referred to in clause 35.1(b) within 20 Business Days after the date of inspection, any party may refer those aspects of the matters in dispute for dispute resolution under clause 36.
- (d) **(Implement program):** Without limiting the Franchisees' operation, maintenance, repair or handover obligations under this deed, each Franchisee must:
 - (i) carry out the works and implement the program agreed or determined under clause 35.1(b) or clause 35.1(c); and
 - (ii) either:
 - A. progressively deposit into an account opened by the State in the State's name with a registered bank as nominated by the State (the **Handover Escrow Account**) all revenue it receives (after deducting operating and maintenance expenses, payments under clause 15.1, scheduled capital expenditure and taxes) with respect to the last 3 years of the Concession Period until such time as the balance of the Handover Escrow Account equals or exceeds the estimated total cost of the works (as agreed or determined pursuant to clause 35.1(b) or clause 35.1(c)); or
 - B. provide to the State a bond having a face value equal to the estimated total cost of the works (as agreed or determined pursuant to clause 35.1(b) or clause 35.1(c)) and which complies with the requirements of clause 4 (**Handover Bond**),

as security for the performance of such works and the Franchisee's obligations under this clause 35.

For the avoidance of doubt, operating expenses in clause 35.1(d)(ii)A includes all interest, fees and other non-principal amounts due and payable under the Debt Financing Documents.

- (e) **(Training of personnel):** During the expected final 3 months of the Concession Period, the Franchisees must train personnel nominated by the State in all aspects of the operation, maintenance and repair of the Tollroad to a level of competency that will allow those personnel to manage, operate, maintain and repair the Tollroad to the standards required of the Franchisees under this deed from the expiry of the Concession Period.

35.2 Handover

At the end of the Concession Period:

- (a) **(Condition at handover):** the Franchisees must handover the Tollroad and the Leased Area (including all rights, title and interest in them) to the State or its nominee free from any Security Interests and in a state and condition which complies with the requirements of this deed (including the Performance Specification) including:
 - (i) that there are no Defects in, or repair works required to, any part of the Tollroad;
 - (ii) that the residual design life of the asset items comprising the Tollroad is at least equal to the required residual design life specified in the Performance Specification; and
 - (iii) that no material asset item replacement is anticipated to be required for 5 years;
- (b) **(Extra Land):** each Franchisee must transfer to the State or its nominee all of the Franchisee's rights, title and interest in the Extra Land required to allow the State or its nominee to operate, maintain and repair the Tollroad to the standards required of the Franchisees under this deed (including the Performance Specification) free from any Security Interests;
- (c) **(Plant and equipment):** each Franchisee must transfer to the State or its nominee all of the Franchisee's rights, title and interest in plant and equipment required to allow the State or its nominee to operate, maintain and repair the Tollroad to the standards required of the Franchisees under this deed (including the Performance Specification) free from any Security Interests;
- (d) **(Concession Plans, records and other information):** each Franchisee must deliver to the State or its nominee all Concession Plans, records and other information under the control of the Franchisee which are relevant to the design, construction, operation, maintenance or repair of the Tollroad;
- (e) **(Novation of contracts):** each Franchisee must procure the novation to the State or its nominee of:
 - (i) such contracts for services to which it or an O&M Contractor is a party as they relate to the Tollroad as the State may nominate; and
 - (ii) any leases, subleases and licences agreed to by the State;
- (f) **(Intellectual Property Rights):** without limiting clause 31, each Franchisee must grant or procure the grant to the State or its nominee of such Intellectual Property Rights owned by the Franchisee, that are used in performing the Activities, as will enable the State or its

nominee to be in a position to operate, maintain and repair the Tollroad at the higher of the performance level specified in this deed (including the Performance Specification) and that applicable immediately before the end of the Concession Period;

- (g) **(Insurances):** each Franchisee must pay to the State or its nominee any insurance proceeds from any Insurances for the reinstatement or replacement of the Tollroad to the extent not already reinstated or replaced, and assign to the State any rights available to the Franchisee under the Insurances;
- (h) **(Insurance Proceeds Account):** each Franchisee must pay to the State or its nominee the balance of the Insurance Proceeds Account as of that date;
- (i) **(Software, hardware etc.):** each Franchisee must provide to the State all software, hardware, equipment, materials and documentation owned by a Franchisee and used in performing the Activities, that is necessary or desirable in order for the State or its nominee to fully operate and maintain the Tollroad;
- (j) **(Software licences):** each Franchisee must procure for the State an assignment or sublicense of all licences (including assignment of any escrow arrangements) relating to any software belonging to any third party which relates to the use or operation of the Tolling System or any other aspect of the Tollroad;
- (k) **(Approvals):** each Franchisee must do all acts and things necessary to enable the State (or its nominee) to have transferred or obtain all Approvals necessary for the operation, maintenance and repair of the Tollroad; and
- (l) **(All other acts):** each Franchisee must do all other acts and things to enable the State (or its nominee) to be in a position to operate, maintain and repair the Tollroad at the higher of the performance level specified in this deed (including the Performance Specification) and that applicable immediately before the end of the Concession Period, with minimum disruption to its public use.

35.3 Assistance in securing continuity

Each Franchisee must, before the end of the Concession Period, do all things reasonably required by the State to ensure the smooth and orderly transmission of responsibility for the operation, maintenance and repair of the Tollroad to the State or its nominee including:

- (a) meeting with the State and such other persons notified by the State to discuss the operation, maintenance and repair of the Tollroad;
- (b) providing access to its operations for managers and supervisors of the State or its nominee for the purpose of familiarisation; and
- (c) providing sufficient information to the State or its nominee to determine the status and condition of the Tollroad and any works programs in place at the time.

35.4 Non-frustration of handover

Each Franchisee must not do or omit to do anything which avoids or materially prejudices or frustrates the handover of the Tollroad as a going concern to the State.

35.5 Power of Attorney

Each Franchisee irrevocably appoints, with effect from the end of the Concession Period, the State and such persons as are from time to time nominated by the State, jointly and severally, as its attorney with

full power and authority to execute any agreement or novation contemplated by clause 35.2 or clause 35.3.

35.6 Inspection at end of Concession Period

- (a) **(Handover notice):** Within 45 Business Days after the end of the Concession Period, the State must give the Franchisees a notice (**Handover Notice**) specifying:
- (i) details of matters or things which the State considers each Franchisee needs to do or rectify to achieve Handover;
 - (ii) the extent to which the State considers the residual design life of an asset item is less than the required residual design life specified in the Performance Specification; and
 - (iii) the amount which the State considers necessary is required to be spent by the State to do or rectify the matters specified in clause 35.6(a)(i) and to ensure that the asset items comprising the Tollroad have a residual design life at least equal to the required residual design life (**Handover Amount**).
- (b) **(Franchisees election):** The Franchisees must, within 20 Business Days after receiving the Handover Notice, notify the State that they:
- (i) agree with the amount set out in the Handover Notice (**Handover Agreement Notice**); or
 - (ii) disagree with the details or the amount set out in the Handover Notice, together with details of why they disagree (**Handover Disagreement Notice**).
- (c) **(Agreement notice):** If the Franchisees give the State a Handover Agreement Notice, or fails to give a Handover Disagreement Notice, then:
- (i) the amount set out in the Handover Notice will be a debt due and payable by the Franchisees to the State; and
 - (ii) without prejudice to any other rights the State may have, the State may draw on the Handover Escrow Account or make a demand under the Handover Bond to recover the amount set out in the Handover Notice.
- (d) **(Disagreement notice):** If the Franchisees give the State a Handover Disagreement Notice, the parties must consult in good faith and use their reasonable endeavours to agree on the details of the Handover Notice or the Handover Amount.
- (e) **(Consequences following consultation):** If the parties, following the consultation in clause 35.6(d):
- (i) reach agreement as to the Handover Amount, then:
 - A. the agreed Handover Amount will be a debt due and payable by the Franchisees to the State; and
 - B. without prejudicing any other rights the State may have, the State may draw on the Handover Escrow Account or make a demand under the Handover Bond to recover the agreed Handover Amount; or
 - (ii) are unable to reach agreement as to the Handover Amount within 10 Business Days after service of the Handover Disagreement Notice, then:

- A. without prejudicing any other rights the State may have, the State may draw on the Handover Escrow Account or make a demand under the Handover Bond up to the amount set out in the Handover Notice; and
 - B. the matters in dispute will be referred for dispute resolution in accordance with clause 36.
- (f) **(State to reimburse the Franchisees):** The State must pay to the Franchisees the difference between the amount drawn from the Handover Escrow Account or paid by the issuer of the Handover Bond following a demand under clause 35.6(e)(ii)A and any lesser amount which is determined to be the Handover Amount within 20 Business Days of the determination.
- (g) **(No obligation in respect of monies):** Each Franchisee acknowledges and agrees that the State is under no obligation to apply any monies it receives under this clause 35.6 towards the cost of satisfying the conditions precedent to Handover.
- (h) **(Money remaining in Handover Escrow Account):** If after:
- (i) the State has recovered the amounts (if any) owing under clause 35.6(c), clause 35.6(e)(i) or clause 35.6(e)(ii) (as applicable); and
 - (ii) any set-off or deduction by the State under clause 15.3,
- and there is any money remaining in the Handover Escrow Account, then such money must be paid by the State to the Franchisees.
- (i) **(No limitation of rights):** Nothing in this clause 35.6 will limit the State's rights against a Franchisee, whether under this deed or otherwise according to Law, in respect of any Defect or other failure to comply with clause 35.2.

36. Dispute resolution

36.1 Procedure for resolving disputes

- (a) Unless a State Concession Document provides otherwise, any dispute between the State and a Franchisee arising out of or in connection with the State Concession Documents or the Activities (including questions concerning this deed's existence, meaning or validity) **(Dispute)** must be resolved in accordance with the procedures set out in this clause 36.
- (b) The sequential procedure that is to be followed to resolve a Dispute is as follows:
- (i) **(Negotiation):** Firstly, the Dispute must be negotiated in accordance with clause 36.2;
 - (ii) **(Expert determination):** Secondly, if the Dispute remains unresolved (in whole or in part) after the expiration of the period for negotiation referred to in clause 36.2 and the dispute is one of the following:
 - A. a Dispute as to the necessity or reasonableness of changes to a Concession Plan proposed by the State or a Franchisee under clause 9.4 or 9.6, as applicable;
 - B. a Dispute under clause 11.5(f) regarding the Forecast Maintenance Program;

- C. a Dispute under clause 12.11(d) regarding the budget or other fee arrangement for a Tollroad User Service Audit and/or Toll Management Audit;
 - D. a Dispute as to a Modification, including whether it will adversely affect Tollroad Performance, or as to the necessary consequential changes required to the State Concession Documents arising from a Modification ordered by the State under clause 14;
 - E. a Dispute as to the calculation, manner and timing of the payment of any Modification Costs or Modification Savings;
 - F. a Dispute in relation to a matter set out in the Franchisees' Modification Notice;
 - G. a Dispute in relation to a matter determined by the State under clause 14.1(l) or clause 14.1(o)
 - H. a Dispute in relation to reduction of the Concession Period or the Toll Free Period under clause 15.1(i);
 - I. a Dispute as to the content of an Assessment Notice;
 - J. a Dispute as to:
 - 1) whether or not a notice under clause 18.2 is valid;
 - 2) whether or not a relevant Possible MAE Event has occurred;
 - 3) if a Possible MAE Event has occurred, whether it has had, or has started to have, or will have, a Material Adverse Effect; or
 - 4) a method of redress so as to achieve the objectives referred to in clause 18.6;
 - K. a Dispute as to any insurance liability limit, sub-limit or deductible referred for dispute resolution pursuant to clause 22.10(c)(i);
 - L. a Dispute as to the reasonableness, accuracy or relevance of any revision to the Financial Model specified by a person nominated by the State under clause 29.3;
 - M. a Dispute as to the period that is reasonable to remedy an Event of Default, or to the contents of a rectification plan under clause 33;
 - N. a Dispute in relation to the amount of the licence fee under clause 31.5;
 - O. a Dispute as referred to in clause 33.2(e), or
 - P. a Dispute as to a matter referred to in clause 35.1(b),
- or
- Q. a Dispute in relation to the Handover Amount referred to in clause 35.6(a)(iii),

then the Dispute must be referred to expert determination in accordance with clauses 36.3 to 36.8 (inclusive); and

(iii) **(Arbitration):** Thirdly, if:

A. the dispute remains unresolved (in whole or in part) after the expiration of the period for negotiation referred to in clause 36.2 and the Dispute is not one of those referred to in clause 36.1(b)(ii); or

B. the Dispute has been referred to expert determination and;

1) a determination is not made by the expert within 60 days after the expert's acceptance of appointment; or

2) a notice of dissatisfaction is given under clause 36.6(a),

then the Dispute must be referred to arbitration in accordance with clauses 36.9 to 36.11 (inclusive).

(c) It is a condition precedent to a party being entitled to refer a Dispute to arbitration in accordance with clauses 36.9 to 36.11 (inclusive) that the procedures referred to in clauses 36.1(b)(i) and 36.1(b)(ii) (as applicable) first be complied with.

36.2 Negotiation

(a) **(Notice requesting referral to representatives for negotiation):** If a Dispute arises then a party may give notice to the other parties requesting that the Dispute be referred for resolution by negotiation between the Chief Executive Officer of QML and the Director-General of the Department of Transport and Main Roads or their nominees (the **Representatives**).

(b) **(Requirements for notice):** A notice under clause 36.2(a) must:

(i) state that it is a notice under this clause 36.2; and

(ii) include or be accompanied by reasonable particulars of the matters the subject of the Dispute.

(c) **(Joint decision binding):** If a Dispute is referred for resolution by negotiation under clause 36.2(a), then the Representatives must meet and use reasonable endeavours acting in good faith to resolve the Dispute (in whole or in part) within 10 Business Days of the date on which the notice under clause 36.2(a) is received (or such later date as the parties may agree). The joint decision (if any) of the Representatives will be reduced to writing and will be contractually binding on the parties.

36.3 Expert determination

(a) **(Notice requiring referral to an expert for determination):** If a Dispute which has been referred to the Representatives for negotiation pursuant to clause 36.2 remains unresolved (in whole or in part) after the expiration of the period for negotiation referred to in clause 36.2(c) and the Dispute is one of those referred to in clause 36.1(b)(ii) then any party may by giving notice to the other parties in accordance with clause 36.3(b) require that those parts of the Dispute which remain unresolved be referred to an expert for determination in accordance with clauses 36.4 to 36.8 (inclusive).

(b) **(Requirements for notice):** A notice under clause 36.3(a) must:

- (i) be given no earlier than 10 Business Days and no later than 60 Business Days after the expiry of the period for negotiation referred to in clause 36.2(c);
- (ii) state that it is a notice under this clause 36.3; and
- (iii) include or be accompanied by reasonable particulars of those parts of the Dispute which remain unresolved.

36.4 Selection of expert

- (a) **(Exchange written lists):** Within 10 Business Days after the date of the notice under clause 36.3(a), the State and the Franchisees must exchange written lists of 3 persons who, if appointed, would satisfy the requirements of clause 36.4(c), from whom the expert is to be chosen in order of preference.
- (b) **(Appointment of expert):** Any person that appears on both lists under clause 36.4(a) will be appointed as the expert to determine a Dispute and if more than one person appears on both lists the person given the highest order of priority by the party that gave the notice under clause 36.3(a) will be appointed. If no person appears on both lists, the party which gave the notice under clause 36.3(a) must procure the Secretary-General of the Australian Centre for International Commercial Arbitration to nominate a person to act as the expert.
- (c) **(Person with appropriate skills):** It is the intention of the parties that the expert appointed to determine a Dispute will be a person with appropriate skills having regard to the nature of the matters in dispute.
- (d) **(No entitlement to challenge re appropriate skills):** No party will be entitled to challenge the appointment of an expert under this clause 36.4 on the basis that the expert does not satisfy the requirements of clause 36.4(c).
- (e) **(Not constitute arbitration agreement):** Any agreement for expert determination under this deed will not constitute an arbitration agreement for the purposes of the Commercial Arbitration Act 1990 (Qld).
- (f) **(Expert Determination Agreement):** The State and the Franchisees must enter into an agreement with the expert on the terms of Schedule 7 or such other reasonable terms as the expert may require.

36.5 Rules of expert determination

The expert determination process will be administered, and the expert will be required to act in accordance with the terms of the agreement in Schedule 7.

36.6 Expert finding

- (a) **(Determination final and binding unless referred to arbitration):** The determination of the expert must be in writing and will be final and binding on the State and the Franchisees unless within 15 Business Days of receipt of the determination, a party gives notice to each other party of its dissatisfaction and intention to refer the matter to arbitration pursuant to clauses 36.9 to 36.11 (inclusive).
- (b) **(Amendment of expert determination):** Upon submission by any party, the expert may amend the determination to correct:
 - (i) a clerical mistake;
 - (ii) an error from an accidental slip or omission;

- (iii) a material miscalculation of figures or a material mistake in the description of any person, thing or manner; or
- (iv) a defect in form.

36.7 Liability of expert

The parties agree that the expert will not be liable in respect of the expert determination, except in the case of fraud on the part of the expert. The State and each Franchisee agree to indemnify the expert from and against all claims, except in the case of fraud on the part of the expert, which may be made against him or her by any person in respect of the expert's appointment to determine the Dispute.

36.8 Costs

The State and each Franchisee must bear their own costs in connection with the expert determination proceedings and must pay an equal portion of the cost of the expert.

36.9 Arbitration

(a) **(Notice requiring referral to arbitration):** If:

- (i) a Dispute which has been referred to the Representatives for negotiation pursuant to clause 36.2 remains unresolved (in whole or in part) after the expiration of the period for negotiation referred to in clause 36.2(c) and the Dispute is not one of those referred to in clause 36.1(b)(ii); or
- (ii) in the case of a Dispute which is referred to expert determination:
 - A. a determination is not made within 60 days of the expert's acceptance of the appointment; or
 - B. a notice of dissatisfaction is given under clause 36.6(a),

then the State or the Franchisees may notify the other that it requires the Dispute to be referred to arbitration.

(b) **(Referral to arbitration):** Upon receipt by the other party of a notice under clause 36.9(a) the Dispute will then be referred to arbitration.

36.10 Identity of arbitrator

Any arbitration under clause 36.9 must be conducted by a single arbitrator to be agreed between the parties or, failing such agreement within 10 Business Days after referral of the Dispute to arbitration under clause 36.9(b), then at the insistence of either party by an arbitrator to be nominated by the Secretary-General of the Australian Centre for International Commercial Arbitration.

36.11 Rules for conduct of arbitration

Except as otherwise expressly provided in this clause 36, an arbitration under this clause 36 will be conducted as follows:

- (a) if the arbitration is in respect of a matter which has been the subject of an expert determination, in accordance with the Expedited Arbitration Rules set out in Schedule 9; or
- (b) otherwise, in accordance with the Arbitration Rules of the Australian Centre for International Commercial Arbitration current at the date of reference of the dispute to arbitration,

provided that notwithstanding anything else, to the extent permissible by law, the arbitrator will have no power to apply or to have regard to the provisions of any proportional liability legislation which might, in the absence of this provision, have applied to any dispute referred to arbitration pursuant to this clause 36.

36.12 Place of expert determination or arbitration

The place of any expert determination or arbitration will be Brisbane.

36.13 Continue to perform

Notwithstanding the existence of a Dispute, each party must continue to perform its obligations under the State Concession Documents.

36.14 Summary or urgent relief

Nothing will prejudice the right of a party to institute proceedings to seek urgent injunctive, interlocutory or declaratory relief.

37. Notices and time bar

37.1 Notices

All communications (including notices, consents, approvals, requests and demands) under or in connection with this deed:

- (a) must be in writing;
- (b) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):

The State

Name: Department of Transport and Main Roads
Address: Level 12, 85 George Street,
Brisbane, Queensland, 4000

Fax: 617 3306 7322
Email: staterep@tmr.qld.gov.au
For the attention of: Deputy Director-General (Policy, Planning and Investment)

QML

Name: Queensland Motorways Pty Limited
Address: 7 Brandl Street,
Eight Mile Plains,
Queensland, 4113

Fax: 617 3243 3209
Email: Not applicable
For the attention of: Chief Executive Officer

GMPL

Name: Gateway Motorway Pty Limited
c/- Queensland Motorways Pty Limited
Address: 7 Brandl Street,
Eight Mile Plains,
Queensland, 4113

Fax: (07) 3243 3209
Email: Not applicable
For the attention of: Chief Executive Officer

LMPL

Name: Logan Motorways Pty Limited
c/- Queensland Motorways Pty Limited
Address: 7 Brandl Street,
Eight Mile Plains,
Queensland, 4113

Fax: 617 3243 3209
Email: Not applicable
For the attention of: Chief Executive Officer

Transurban

Name: Transurban Limited
Address: Level 23, Tower One, Collins Square
727 Collins Street,
Docklands,
Victoria, 3008

Fax: 61 3 9649 7380
For the attention of: Company Secretary

- (c) must be signed by the party making the communication or (on its behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
- (d) must be delivered or posted by prepaid post to the address, or sent by fax to the number, or sent by email to the email address, of the addressee, in accordance with clause 37.1(b);
- (e) must be copied to Transurban Limited ACN 098 143 410 (**Transurban**) using the address details set out in clause 37.1(b); and
- (f) are taken to be received by the addressee:

- (i) (in the case of prepaid post) on the third Business Day after the date of posting to an address within Australia and on the fifth Business Day after the date of posting by airmail to an address outside Australia;
- (ii) (in the case of fax) at the local time (in the place of receipt of that fax) which then equates to the time that fax is sent as shown on the transmission report produced by the machine from which that fax is sent confirming transmission of that fax in its entirety, unless that local time is outside Business Hours, when that communication is taken to be received at 9:00 am on the next Business Day; and
- (iii) (in the case of delivery by hand) on delivery at the address of the addressee as provided in clause 37.1(b), unless that delivery is outside Business Hours, when that communication is taken to be received at 9:00 am on the next Business Day.
- (iv) (by email to the nominated email address): when the email (including any attachment) comes to the attention of the recipient party or a person acting on its behalf. Notices can only be issued by email in respect of notices to be provided under clause 10.2(a)(iv).

37.2 Notices of Claims

Subject to any provisions of this deed containing specific notice requirements, the State will not be liable upon any Claim by a Franchisee arising out of or in any way in connection with any act or omission of, or breach of a provision of this deed by the State or any other fact, matter or thing, under, arising out of, or in connection with the Activities unless the Franchisee gives the State the notices required by clause 37.3 and, if applicable, clause 37.4.

37.3 Prescribed notices

Notices referred to in 37.2 are:

- (a) a written notice from the Franchisee in which the Franchisee states that it intends to submit a Claim and the event on which the Claim will be based and which must be given to the State within the earlier of:
 - (i) 15 Business Days of when the Franchisee first became aware of the events on which the Claim is based; or
 - (ii) 45 Business Days of the first occurrence of the event on which the Claim is based (provided that, if the Franchisee reasonably demonstrates that the event is not something of which it ought reasonably to have been aware within that 45 Business Day Period, the period for submission of the notice will be extended to 15 Business Days after the Franchisee first became aware of, or ought reasonably to have become aware of, that event); and
- (b) a written Claim by the Franchisee to be given to the State within 20 Business Days of giving notice under clause 37.3(a) and which must include:
 - (i) detailed particulars concerning the events on which the Claim is based;
 - (ii) the legal basis for the Claim whether based on a term of this deed or otherwise, and if based on a term of this deed, clearly identifying the specific term;
 - (iii) the facts relied upon in support of the Claim in sufficient detail to permit verification; and
 - (iv) details of the amount claimed and how it has been calculated.

37.4 Continuing events

If the events upon which the Claim under clause 37.3(b) is based or the consequences of the events are continuing, the Franchisee must continue to give information required by clause 37.3(b) every 20 Business Days after the written Claim under clause 37.3(b) was submitted, until after the events or consequences have ceased.

38. Governing law and jurisdiction

38.1 Governing law

This deed is governed by and must be construed according to the laws of Queensland.

38.2 Jurisdiction

Without limiting clause 36, each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of Queensland, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this deed; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 38.2(a).

39. Miscellaneous

39.1 Entire Agreement

To the extent permitted by law, in relation to its subject matter, this deed and the other State Concession Documents:

- (a) embody the entire understanding of the parties, and constitute the entire terms agreed by the parties; and
- (b) supersede any prior written or other agreement of the parties.

39.2 Further acts and documents

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

39.3 Survival of certain provisions; no merger

- (a) Without limiting clause 39.11(a), clauses 4, 5.1, 5.2, 5.4, 15.2, 15.3, 15.4, 20.2, 20.4, 30.1, 31, 32, 33.3(c), 33.9, 33.11, 35, 36, 37, 38, this clause 39.3 and any other provision which expressly or by implication from its nature is intended to survive termination (together, the **Surviving Clauses**) will survive rescission, termination or expiration of this deed.
- (b) Without limiting clause 39.11(a), if this deed is rescinded or terminated, no party will be liable to any other party except:
 - (i) under the Surviving Clauses; or
 - (ii) subject to clause 33.9(b)(ii), in respect of any breach of this deed occurring before such rescission or termination.

- (c) No provision of this deed which is expressed to survive the termination of this deed will prevent any other provision of this deed, as a matter of interpretation, also surviving the termination of this deed.
- (d) No right or obligation of any party will merge on completion of any transaction under this deed. All rights and obligations under this deed survive the execution and delivery of any transfer or other document which implements any transaction under this deed.

39.4 Waiver

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

39.5 Consents

- (a) A consent required under this deed from the State may be given or withheld, or may be given subject to any conditions, as the State (in its absolute discretion) thinks fit, unless this deed expressly provides otherwise.
- (b) A consent required under this deed from a Franchisee may not be unreasonably withheld, unless this deed expressly provides otherwise.

39.6 Amendments

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

39.7 Expenses

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

39.8 Severance

If at any time any provision of this deed or any other State Concession Document is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this deed or the other relevant State Concession Document; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this deed or the other relevant State Concession Document.

39.9 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on a party's behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed.

- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for representations or inducements expressly set out in this deed.

39.10 Counterparts

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

39.11 Indemnities

- (a) Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this deed.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this deed.
- (c) A party must pay on demand any amount it must pay under an indemnity in this deed.

39.12 Moratorium legislation

To the fullest extent permitted by law, the provisions of all laws which at any time operate directly or indirectly to lessen or affect in favour of a Franchisee any obligation under this deed, or to delay or otherwise prevent or prejudicially affect the exercise by the State of any right, power or remedy under this deed or otherwise, are expressly waived.

39.13 No agency

Except as expressly permitted or contemplated by this deed, each Franchisee must not, in connection with the Concession, the Activities or otherwise, directly or indirectly hold out or permit to be held out to any person any statement, act, agreement, matter or thing indicating that the Activities are being carried on or managed or supervised by the State nor may a Franchisee act as or represent itself to be the servant or agent of the State.

39.14 Time

Any time specified in this deed may be extended or shortened by agreement of the State and the Franchisees.

Schedule 1 (Form of Bond)

(Clause 4.1)

This deed poll (Bond) made the _____ day of _____ 20

In favour of: **The State of Queensland** of [_____] (the State)

Given by: [_____] ACN [_____] of [_____] (Bank)

Background

- A. By a deed dated [_____] (**Road Franchise Agreement**) between Queensland Motorways Pty Limited ACN 067 242 513, Gateway Motorway Pty Limited ACN 010 127 303 and Logan Motorways Pty Limited ACN 010 704 300 (each a **Franchisee** and together the **Franchisees**) and the State, the Franchisees agreed to perform the Activities.
- B. Under the provisions of the Road Franchise Agreement, a Franchisee is required to provide this Bond to the State.

This deed poll provides

1. The Bank unconditionally and irrevocably undertakes and covenants to pay to the State forthwith upon demand without reference to a Franchisee and notwithstanding any notice given by a Franchisee to the Bank not to do so, any sum or sums which may from time to time be demanded in writing by the State to a maximum aggregate sum of [_____].
2. The Bank's liability under this Bond will be a continuing liability and will continue until payment is made under this Bond of the maximum aggregate sum or the State notifies the Bank that this Bond is no longer required.
3. The liability of the Bank under this Bond will not be discharged or impaired by reason of any variation or variations (with or without the knowledge or consent of the Bank) in any of the stipulations or provisions of the State Concession Documents or acts or things to be executed, performed and done under the State Concession Documents or by reason of any breach or breaches of the State Concession Documents by a Franchisee or the State.
4. This Bond will be governed by and construed in accordance with the laws for the time being of Queensland.
5. Terms defined in the Road Franchise Agreement have the same meaning in this Bond.

Signed as a deed poll.

Signed sealed and delivered for and on behalf of [_____] by [_____] its Attorney under a Power of Attorney dated _____ and registered Book _____ No. _____ and the Attorney declares that the Attorney has not received any notice of the revocation of such Power of Attorney, in the presence of:

Signature

Signature of Witness

Name of Witness in full

Schedule 2 (Consumer Price Index)

(Clause 1.1)

Consumer Price Index or **CPI** means:

- (a) the "All Groups Consumer Price Index Brisbane" (**CPIB**) published quarterly by the Australian Bureau of Statistics, as long as there is no change in the coverage, periodicity or reference base from those applying at the Commencement Date. Unless otherwise specified, the base CPI for the purposes of this deed will be the CPIB published by the Australian Bureau of Statistics for the last full Quarter ending immediately prior to the Commencement Date;
- (b) if there is a change in the coverage of the CPIB from that applying at the Commencement Date and the new CPIB is linked to previous All Groups Consumer Price Indexes, CPI is the new CPIB;
- (c) if there is a change in the reference base of the CPIB from that applying at the Commencement Date and the Australian Bureau of Statistics provides a conversion factor, that conversion factor must be applied to calculate revised CPI figures for the purpose of this deed, in terms of the new reference base;
- (d) if there is a change in the reference base of the CPIB from that applying at the Commencement Date and the Australian Bureau of Statistics does not provide a conversion factor, the parties must request the President of The Institute of Actuaries (or his nominee) to calculate revised CPIs for the purposes of this deed, and his determination is final and binds the parties;
- (e) if the CPIB is published and:
 - (i) there is a change in its coverage and it is not linked to previous All Groups Consumer Price Indexes; or
 - (ii) there is a change in its periodicity,the parties must request the President of the Institute of Actuaries (or his nominee) to determine:
 - (iii) whether the new CPIB is appropriate as a general indicator of the rate of price change for consumer goods and services; or
 - (iv) if it is not, what other index should be used as a substitute index for the purpose of this deed,and his determination is final and binds the parties;
- (f) if the CPIB is not published and the Australian Bureau of Statistics publishes another index which is:
 - (i) a replacement of the CPIB; and
 - (ii) linked to the CPIB,all CPIs relevant to this deed must be re-calculated to the same reference base as the replacement index;

- (g) if the CPIB is not published and the Australian Bureau of Statistics publishes another index which is not linked to the CPIB, the parties must request the President of the Institute of Actuaries (or his nominee) to calculate revised CPIs for the purposes of this deed, and his calculation is final and binds the parties; or
- (h) if the CPIB is not published and the Australian Bureau of Statistics does not publish another index in replacement of the CPIB, the parties must request the President of the Institute of Actuaries (or his nominee) to determine an appropriate index which is a general indicator of the rate of price change for consumer goods and services, and his determination is final and binds the parties.

If paragraph (e), (g) or (h) applies, paragraphs (a) to (h) will apply to the index determined in accordance with paragraph (e), (g) or (h) (as the case may be) as if all references to the CPIB are references to that replacement index.

Schedule 3 (Not used)

Schedule 4 (Nominated Tolling Product Schedule)

(Clause 12)

1. Definitions

Definitions in clause 1.1 of this deed apply to this Schedule 4 unless the relevant term is defined in this Schedule 4.

Account means an account established by a Franchisee with respect to a Product User and a Pre-paid or Post-paid Tolling Product (Tag and Video).

Car has the meaning given to it in the Gazette Notice.

Commercial Vehicle has the meaning given to it in the Gazette Notice.

CPI_n has the meaning given to it in the Gazette Notice.

CPI_{n-1} has the meaning given to it in the Gazette Notice.

Exempt Vehicle has the meaning given to it in the Gazette Notice.

GST Rate Change means any change in the rate of GST after the Commencement Date.

Interoperable Post-paid Pass means the Nominated Tolling Product specified in clause 2.2(c) of this Schedule 4.

IVR means interactive voice response telephone technology.

LPN means a licence plate number used for identification of a Vehicle.

Motor Cycle has the meaning given to it in the Gazette Notice.

Motor Vehicle has the meaning given to it in the Gazette Notice.

Pre-paid Pass means the Nominated Tolling Product specified in clause 2.2(b) of this Schedule 4.

Pre-paid Account Product (Tag and Video) means the Nominated Tolling Product specified in clause 2.2(a) of this Schedule 4.

Post-paid Account Product (Tag and Video) means the Nominated Tolling Product specified in clause 2.2(d) of this Schedule 4.

Taxable Supply has the meaning given to it in the GST law, excluding the reference to section 84-5 of A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Toll Review Date has the meaning given to it in the Gazette Notice.

Toll Year has the meaning given to it in the Gazette Notice.

Vehicle means a Motor Vehicle that is a Motor Cycle, Car or Commercial Vehicle.

2. Nominated Tolling Products, Product Charges and Account Requirements

2.1 Nominated Tolling Products

Each of the following is a Nominated Tolling Product:

- (a) Pre-paid Account Product (Tag and Video), as detailed in Annexure A of this Schedule 4 with only those Product Charges and Account Requirements specified in clause 2.2(a) of this Schedule 4;
- (b) Pre-paid Pass, as detailed in Annexure B of this Schedule 4 with only those Product Charges and Account Requirements specified in clause 2.2(b) of this Schedule 4;
- (c) Interoperable Post-paid Pass, as detailed in Annexure C of this Schedule 4 with only those Product Charges and Account Requirements specified in clause 2.2(c) of this Schedule 4;
- (d) Post-paid Account Product (Tag and Video), as detailed in Annexure D of this Schedule 4 with only those Product Charges and Account Requirements specified in clause 2.2(d) of this Schedule 4.

2.2 Product Charges and Account Requirements

A Franchisee is permitted to impose Product Charges and Account Requirements on a Product User or a Non-Product User pursuant to a Product Contract in respect of a Nominated Tolling Product. The Product Charges and Account Requirements must not exceed the amounts set out in this clause 2.2, subject to variation in accordance with this Schedule 4.

(a) **Pre-paid Account Product (Tag and Video)**

In respect of the Pre-paid Account Product (Tag and Video):

- (i) the circumstances in which each Product Charge or Account Requirement may be imposed are specified below;
- (ii) the Product Charges that a Franchisee may impose on Product Users will not be greater than the amount set out below in respect of each Product Charge, subject to variation in accordance with this Schedule 4; and
- (iii) Account Requirements enable a Franchisee to impose a minimum deposit or top-up amount on Product Users. These minimum amounts cannot be increased by a Franchisee except in accordance with clause 2.4 or 4.2.

Product Charge/ Account Requirement	Unit	\$/Unit	Circumstances in which the Product Charge or Account Requirement may be imposed
Manual Top-Up Fee	Per top-up transaction	\$1.03	The Manual Top-Up Fee may be imposed each time a Product User makes a manual payment to an Account.

Product Charge/ Account Requirement	Unit	\$/Unit	Circumstances in which the Product Charge or Account Requirement may be imposed
Statement Fee	Per Statement requested	\$3.09 Statements are available via the internet at no charge for up to 18 months.	The Statement Fee may be imposed for each statement issued in response to a request from a Product User.
Damaged/Non-return Tag Fee	Per Tag	\$41.16	The Damaged/Non-return Tag Fee may be imposed for each Tag that a Product User: (a) does not return to the Franchisee when required to do so; or (b) returns to the Franchisee where the returned tag is spoiled or cannot be re-used due to damage (other than as a result of normal wear and tear).
Video Matching Fee	Per Toll Point	\$0.41	The Video Matching Fee may be imposed if a Tollroad User passes through a Toll Point without a Tag in a Vehicle or where the Tag does not function as a result of action or inaction by the Tollroad User. The Video Matching Fee will not be charged for motorcycles registered on the Account.
Video Matching Fee - Other tollroad	As applied by other tollroad operator	Pass through costs	The Video Matching Fee - Other tollroad may be charged or imposed when a Product User travels on another tollroad and is allocated this fee by the other tollroad operator, This fee will be the video matching fee applicable to the other tollroad.
Dishonour Fee	Per Dishonoured Transaction	Pass through, without any margin, of bank fees incurred by the Franchisee as a result of the Product User's failure to pay amounts due on the due date.	The Dishonour Fee may be charged or imposed if a Product User's payment is not successfully made, unless the unsuccessful payment is due to any act, omission or failure by the Franchisee, its bank or any of their Associates.
Merchant	Per	Pass through	No Merchant Costs will be passed

Product Charge/ Account Requirement	Unit	\$/Unit	Circumstances in which the Product Charge or Account Requirement may be imposed
Costs	Transaction Pass through costs	only	through or payable by Product Users using cash or cheque other than the fee payable in respect of any dishonoured cheque.
Account Set Up Amount	Per Account	\$25.00 minimum deposit	The Account Set Up Amount may be imposed on establishment of an Account. This amount forms the opening balance of the Account and operates as a credit against future Tolls.
Top-up Amount	Per Account	\$25.00 minimum top-up amount	The Top-up Amount may be imposed when, following debit of an Account in respect of travel on the Tollroad, the balance of the Account is less than \$10.00 per Tag. In these circumstances, the Top-up Amount may be paid by or on behalf of the Product User by cash-deposit or cash transfer or will be drawn from a bank account or credit card account.
Unpaid Toll Notice Fee	Per notice	\$7.20	The Unpaid Toll Notice Fee may be charged when a Pre-paid Account is not in credit and an Unpaid Toll Notice is sent to the Account holder for travel on the Tollroad.

(b) **Pre-paid Pass**

In respect of the Pre-paid Pass:

- (i) the circumstances in which each Product Charge may be imposed are specified below; and
- (ii) the Product Charges that a Franchisee may impose on Product Users will not be greater than the amount set out below in respect of each Product Charge, subject to variation in accordance with this Schedule 4.

Product Charge	Unit	\$/Unit	Circumstances in which the Product Charge may be imposed
Retail Purchase Fee	Per Pass purchase at QML customer service centre or	\$1.03	The Retail Purchase Fee may be imposed in respect of the purchase of a Pre-paid Pass where that purchase occurs at a retail outlet or customer service centre. A Pre-paid Pass purchased by any

Product Charge	Unit	\$/Unit	Circumstances in which the Product Charge may be imposed
	retail outlet		automated means, including IVR or online, will not be subject to a Retail Purchase Fee
Video Matching Fee	Per Toll Point	\$0.41	The Video Matching Fee may be imposed every time a Product User passes through a Toll Point in a Vehicle.
Merchant Costs	Per Transaction	Pass through costs	No Merchant Costs will be passed through or payable by Product Users using cash or cheque other than the fee payable in respect of any dishonoured cheque.

(c) **Interoperable Post-paid Pass**

In respect of the Interoperable Post-paid Pass:

- (i) the circumstances in which each Product Charge may be imposed are specified below; and
- (ii) the Product Charges that the Franchisee may impose on Product Users or Non-Product Users will not be greater than the amount set out below in respect of each Product Charge, subject to variation in accordance with this Schedule 4.

Product Charge	Unit	\$/Unit	Circumstances in which the Product Charge may be imposed
Video Matching Fee	Per Toll Point	\$0.41	Video Matching Fee may be charged or imposed every time a Product User or Non-Product User passes through a Toll Point in a Vehicle.
Video Matching Fee - Other tollroad	As applied by other tollroad operator	Pass through costs	The Video Matching Fee – Other tollroad may be charged or imposed when a Product User or Non-Product User travels on another tollroad and is allocated this fee by the other tollroad operator. This fee will be the video matching fee applicable to the other tollroad.

(d) **Post-paid Account Product (Tag and Video)**

In respect of the Post-paid Account Product (Tag and Video):

- (i) the circumstances in which each Product Charge or Account Requirement may be charged or imposed are specified below;

- (ii) the Product Charges that a Franchisee may charge or impose on Product Users will not be greater than the amount set out below in respect of each Product Charge, subject to variation in accordance with this Schedule 4; and
- (iii) Account Requirements cannot be increased by a Franchisee except in accordance with clause 2.4 or 4.2.

Product Charge/ Account Requirement	Unit	\$/Unit	Circumstances in which the Product Charge or Account Requirement may be imposed
Video Matching Fee	Per Toll Point	\$0.41	Video Matching Fee may be imposed if a Product User passes through a Toll Point without a Tag in a Vehicle or where the Tag does not function as a result of action or inaction by the Product User.
Video Matching Fee - Other tollroad	As applied by other tollroad operator	Pass through costs	The Video Matching Fee - Other tollroad may be charged or imposed when a Product User travels on another tollroad and is allocated this fee by the other tollroad operator. This fee will be the video matching fee applicable to the other tollroad.
Dishonour Fee	Per Dishonoured Transaction	Pass through, without any margin, of bank fees incurred by the Franchisee as a result of the Product User's failure to pay amounts due on the due date	The Dishonour Fee may be charged or imposed if a Product User's payment is not successfully made, unless the unsuccessful payment is due to any act, omission or failure by the Franchisee, its bank or any of their Associates.
Merchant Costs	Per Transaction	Pass through costs	No Merchant Costs will be passed through or payable by Product Users using cash or cheque other than the fee payable in respect of any dishonoured cheque.
Overdue Interest Charge	Per month	1.25% per month (calculated daily)	The overdue interest charge may be charged on the overdue balance of the Account.
Eligibility criteria	Per account	N/A	Credit applications must be approved prior to deciding eligibility or otherwise for these accounts. Other eligibility criteria may be applied include minimum

Product Charge/ Account Requirement	Unit	\$/Unit	Circumstances in which the Product Charge or Account Requirement may be imposed
			monthly toll costs.
Damaged/Non-return Tag Fee	Per Tag	\$41.16	The Damaged/Non-return Tag Fee may be imposed for each Tag that a Product User: (a) does not return to the Franchisee when required to do so; or (b) returns to the Franchisee where the returned tag is spoiled or cannot be re-used due to damage (other than as a result of normal wear and tear).
Statement Fee	Per Statement requested	\$3.09 - statements are available via the internet at no charge for up to 18 months	The Statement Fee may be imposed for each statement issued in response to a request from a Product User.

2.3 Product Charge Increases

On each Toll Review Date, the Product Charge for a Nominated Tolling Product (excluding the Product Charges defined as pass-through costs in clause 2.2) is calculated in accordance with the following formula:

$$A = B \times C$$

Where:

A = the maximum amount that may be imposed by the Franchisee for each Product Charge applicable to the Toll Year commencing from the relevant Toll Review Date, rounded to the nearest whole cent (rounding upwards amounts ending in 0.5 cents);

B = the relevant component of the Product Charge applicable to the Toll Year immediately prior to the relevant Toll Review Date, but disregarding any rounding that was applied in the calculation of that component of the Product Charge for that prior Toll Year;

C = On any Toll Review Date when CPI_n is less than CPI_{n-1} , $C = 1.00$;

On every other Toll Review Date, $C = CPI_n / CPI_{n-1}$.

2.4 Account Requirement Changes

The Account Requirements for a Nominated Tolling Product may be adjusted as reasonably determined by the Franchisee and approved by the State if the reasonable direct and indirect costs to the Franchisee of providing the goods and services to which the Account Requirement relates change after the

Commencement Date, so as to enable the Franchisee to recover the change in the reasonable direct and indirect costs to the Franchisee of providing those goods and services.

If requested by the State, the Franchisee must provide the State with such information and access to records (on an open book basis) as the State may reasonably require to verify that the Account Requirement does not exceed the direct and indirect costs to the Franchisee of providing the goods and services to which the Account Requirement relates.

2.5 Notification of Changes to Product Charges

In order to increase the Product Charges as outlined in clause 2.3, the Franchisee must:

- (a) give the State notice of:
 - (i) the new Product Charges; and
 - (ii) the Financial Year in which the Franchisee intends that it first apply, at least 20 Business Days prior to the commencement of the relevant Financial Year; and
- (b) place a notice outlining:
 - (i) the new Product Charges; and
 - (ii) the Financial Year in which the Franchisee intends that it first apply,

in a newspaper circulating throughout Queensland at least 5 Business Days prior to the commencement of the relevant Financial Year.

3. Exempt Vehicles

Notwithstanding anything else in this deed, the Franchisee must not impose any Product Charge or Account Requirement for or in connection with the use of the Tollroad by any Exempt Vehicle.

4. GST

4.1 Amounts GST inclusive

All amounts set, calculated, determined or specified as payable under this Schedule 4 include any GST that is payable in respect of that amount under GST law.

4.2 Product Charge and Account Requirement

If, at any time during the period between the Commencement Date and the end of the Concession Period there is a GST Rate Change, in respect of each Product Charge and Account Requirement which is consideration for a Taxable Supply, the Product Charge or Account Requirement which will apply for the purposes of clause 2.2 of this Schedule 4 after the date on which the GST Rate Change becomes effective will be determined as:

Product Charge or Account Requirement = $Y \times (1 + X)$

where:

X = the changed rate of GST (expressed as a decimal) under GST law applicable after the GST Rate Change; and

Y = the current Product Charge or Account Requirement calculated in accordance with clause 2.2, 2.3 or 2.4, net of any applicable GST.

4.3 GST Rate Change

Notwithstanding any other provision of this Schedule 4 the GST Rate Change in respect of any Product Charge or Account Requirement will not take into account any change to the rate of applicable GST if the change to the rate of GST does not apply to the relevant Product Charge or Account Requirement.

4.4 Statements must qualify as a Tax Invoice

The Franchisee must ensure that any statement which is required to be generated in respect of a Nominated Tolling Product qualifies as a Tax Invoice in respect of any amount listed on that statement which is consideration for a Taxable Supply.

Annexure A to Schedule 4

Pre-paid Account Product (Tag and Video)

Product Charge Parameter	Pre-paid Account Product (Tag and Video)
Product description	<p>This product is designed for every day or frequent motorists expected to utilise the Tollroad more than 12 times a year.</p> <p>The Pre-paid Account Product permits Product Users to travel on the Tollroad and other tollroads with which the Franchisee has established an Interoperability arrangement.</p>
LPNs and Tags	More than one LPN or Tag may be attached to an Account.
Account Set Up Amount	A Product User may nominate an amount in excess of the Account Set Up Amount.
Top-up	Top-up may be automatic or manual. Manual top-up transactions may incur a fee.
Top-up Amount	A Product User may nominate an amount in excess of the Top-up Amount.
Top-up Trigger	A Product User may nominate a higher amount as the amount that will trigger the requirement to Top-up.
Statements	<p>Detailed monthly or quarterly statements will be generated and will be available free of charge to Product Users through the internet.</p> <p>Up to 18 months of previous statements will be available on the internet for Product Users to view any time for no charge.</p> <p>Product Users may elect to have a statement printed at a customer service centre or have a printed/reissued statement mailed to their nominated address. Printed or emailed statements may incur a fee.</p>
Account Closure	A Product User may, at any time, request that an Account be closed. Upon receipt of that request, the Franchisee must promptly close that Account and (subject to compliance with the provisions of the Product Contract in relation to the return of all Tags, including the payment of any Non-return Tag Fee) refund the balance of the account to the Product User.
Product Charges/Account Requirements	The only Product Charges or Account Requirements that may be charged to or imposed on Product Users are those specified in clause 2.2(a) of this Schedule 4.

Annexure B to Schedule 4

Pre-paid Pass

Product Charge Parameter	Pre-paid Pass
Product description	This product is designed for infrequent or inadvertent Tollroad Users and caters for one-off or occasional users, casual users, first-time users, Tollroad Users without a Pre-paid or Post-paid Tolling Product or rental Vehicles.
Purchase options	May be purchased prior to travel or up to 3 days after travel on the Tollroad. The Pre-paid Pass may be purchased singularly or in multiples for one LPN. The Pre-paid Pass may be used at any time after purchase but must be used within 90 days of the start date, or until there is no remaining credit.
Product Charges	The only Product Charges that may be imposed on Tollroad Users are those specified in clause 2.2(b) of this Schedule 4.

Annexure C to Schedule 4

Interoperable Post-paid Pass

Product Charge Parameter	Interoperable Post-paid Pass
Product description	This product is designed for infrequent or inadvertent Tollroad Users and users of other tollroads in Queensland with which a casual user pass interoperability agreement exists, and caters for one-off or occasional users, casual users, first-time users, Tollroad Users without a Pre-paid or Post-paid Tolling Product or rental Vehicles.
Purchase options	May be purchased prior to travel or up to 3 days after travel on the Tollroad. Payment is to be made by credit card. Interoperable Post-paid Pass may be used at any time after the start date and is valid for up to 30 days of purchase.
Product Charges	The only Product Charges that may be imposed on Product Users are those specified in clause 2.2(c) of this Schedule 4.

Annexure D to Schedule 4

Post-paid Account (Tag and Video)

Product Charge Parameter	Post-paid Account (Tag and Video)
Product description	This product is designed for commercial motorists. This is a post-paid Account.
Credit terms and Conditions	This product has credit terms and conditions including an eligibility criteria.
Payment Terms	This is a post-paid Account. Product Users are invoiced monthly, on trade terms for the amount of Tolls and Product Charges incurred by the Product User during that month.
Account Closure	A Product User may, at any time, request that an Account be closed. Upon receipt of that request, the Franchisee must promptly close that Account.
Product Charges or Account Requirements	The only Product Charges or Account Requirements that may be imposed on Product Users are those specified in clause 2.2(d) of this Schedule 4.
Statements	<p>Detailed monthly or quarterly statements will be generated and will be available free of charge to Product Users through the internet.</p> <p>Up to 18 months of previous statements will be available on the internet for Product Users to view any time for no charge.</p> <p>Product Users may elect to have a statement printed at a customer service centre or have a printed/reissued statement mailed to their nominated address. Printed or emailed statements may incur a fee.</p>

Schedule 5 (Principal Traffic Connections)

(Clause 18.1(a))

The Principal Traffic Connections are connections between:

1. **(Gateway Motorway Facility):** the Gateway Motorway Facility and each of the following Roads:
 - (a) Pacific Motorway;
 - (b) Miles Platting Road (and for the avoidance of doubt excludes the northbound 'bus only' motorway exit ramp into Eight Mile Plains Busway Station);
 - (c) Mt Gravatt-Capalaba Road (and for the avoidance of doubt excludes Weedon Street West);
 - (d) Old Cleveland Road;
 - (e) Wynnum Road (and for the avoidance of doubt excludes Graystone Street and Stanton Road);
 - (f) Port of Brisbane Motorway;
 - (g) Lytton Road;
 - (h) Kingsford Smith Drive;
 - (i) Moreton Drive;
 - (j) Southern Cross Way; and
 - (k) Gateway Motorway; and
2. **(Logan Motorway Facility):** the Logan Motorway Facility and each of the following Roads:
 - (a) Compton Road;
 - (b) Logan Road;
 - (c) Ipswich Motorway (and for the avoidance of doubt includes the motorway lanes which connect to the system interchange at the junction of the Ipswich and Logan Motorways, but excludes the east facing motorway ramps connecting to the service interchange that feeds the SEQ Road Network in this location);
 - (d) Centenary Motorway;
 - (e) Stapylton Road (and for the avoidance of doubt excludes Stradbroke Street);
 - (f) Paradise Road;
 - (g) Beaudesert Road (except for connections which provide for westbound right turn movements from Beaudesert Road to the Logan Motorway);
 - (h) Jutland Street (eastbound motorway exit ramp only) and Station Road (westbound motorway entry ramp only);
 - (i) Loganlea Road and University Drive;

- (j) Drews Road; and
- (k) Pacific Motorway (and for the avoidance of doubt includes the motorway lanes which connect to the system interchange at the junction of the Pacific and Logan Motorways, except for the eastbound motorway exit ramp to the SEQ Road Network located adjacent to the junction of the Pacific and Logan Motorways).

Schedule 6 (Additional rent)

(Clause 15.1)

Part 1 Reference Revenue

Reference Revenues (A\$m, real 30 June 2010, to be Indexed)

Period ended	30 June 12	30 June 13	30 June 14	30 June 15	30 June 16	30 June 17	30 June 18
Revenue	316.5	340.6	363.5	385.9	409.1	426.0	440.0
Period ended	30 June 19	30 June 20	30 June 21	30 June 22	30 June 23	30 June 24	30 June 25
Revenue	453.4	468.6	481.0	494.2	507.4	522.2	533.0
Period ended	30 June 26	30 June 27	30 June 28	30 June 29	30 June 30	30 June 31	30 June 32
Revenue	545.0	556.2	568.3	576.7	586.9	596.7	607.6
Period ended	30 June 33	30 June 34	30 June 35	30 June 36	30 June 37	30 June 38	30 June 39
Revenue	612.0	620.2	627.0	635.6	640.2	646.7	653.1
Period ended	30 June 40	30 June 41	30 June 42	30 June 43	30 June 44	30 June 45	30 June 46
Revenue	661.0	664.8	670.6	677.3	684.5	688.9	695.6
Period ended	30 June 47	30 June 48	30 June 49	30 June 50	30 June 51	31 Dec 51	
Revenue	699.8	708.3	711.5	716.0	722.3	377.6	

Part 2 Additional Rent Proportions

Revenue in excess of Reference Revenues (%)	Excess revenue payable (%)	
	Years 1-10	Years 11+
0 - 10	0	0
10.01 - 20	40	30
20.01 +	60	50

Schedule 7 (Expert Determination Agreement)

(Clause 36.4(f))

Expert Determination Agreement

The State of Queensland

The State

[Insert name of expert]

Expert

Queensland Motorways Pty Limited ACN 067 242 513,

Gateway Motorway Pty Limited ACN 010 127 303 and

Logan Motorways Pty Limited ACN 010 704 300

Franchisees

Expert Determination Agreement made on

Parties **The State of Queensland (the State)**

Queensland Motorways Pty Limited ACN 067 242 513, Gateway Motorway Pty Limited ACN 010 127 303 and Logan Motorways Pty Limited ACN 010 704 300
(each a **Franchisee** and together the **Franchisees**)

[Insert name and address of expert] (**Expert**)

Background

- A. The State and the Franchisees (together the **Concession Parties** and each a **Concession Party**) are parties to a Road Franchise Agreement (the **Road Franchise Agreement**) under which the Franchisees have agreed to operate, maintain and repair a tollroad.
- B. By written notice dated *[to be inserted]*, *[insert the State or the Franchisees as applicable]* has required that the matter described in Annexure 1, being a matter that the Road Franchise Agreement requires or permits to be referred to an expert for determination, be determined by an expert appointed under clause 36 of the Road Franchise Agreement (**Matter**).
- C. Pursuant to clause 36 of the Road Franchise Agreement, the Expert has been appointed to determine the Matter in accordance with the process set out in this agreement.

Operative provisions

1. Interpretation

In this agreement:

- (a) headings are for convenience only and do not affect interpretation;
- (b) terms defined in the Road Franchise Agreement have the same meaning;

and unless the context indicates a contrary intention:

- (c) "**person**" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (e) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (g) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;

- (h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) **"includes"** in any form is not a word of limitation; and
- (k) a reference to "\$", "AU\$" or "dollar" is to Australian currency.

2. Appointment of Expert

- (a) The Concession Parties appoint the Expert to determine the Matter in the manner and within the times set out in this agreement and the Expert accepts the appointment on the basis set out in this agreement.
- (b) The Concession Parties agree that:
 - (i) the Expert will act as an expert and not as an arbitrator;
 - (ii) neither the determination of the Matter, nor the process required by this agreement is an arbitration and any conference conducted during the determination is not a hearing conducted under any legislation or rules relating to any form of arbitration;
 - (iii) the rules of evidence do not apply to the determination process required by this agreement or to any determination; and
 - (iv) the Expert must conduct the determination of the Matter in accordance with:
 - A. the Rules for Expert Determination Process set out in Annexure 2 (**Rules**); and
 - B. the requirements of procedural fairness.
- (c) If, at any time during the determination process, the Expert becomes aware of circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially, the Expert must inform the Concession Parties immediately and, unless the Concession Parties agree otherwise, terminate this agreement.
- (d) The Expert must take all reasonable steps to avoid any conflict of interest, potential conflict of interest or other circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially.

3. Confidentiality

All proceedings and submissions relating to the determination process (including the fact that any step in the determination process is occurring), and all documents prepared for the purposes of the determination process (including the Expert's determination), must be kept confidential between the Concession Parties and the Expert. No such proceedings, submissions or documents, nor any other information relating to or arising out of the determination process, may be divulged to any other person, except with the prior written consent of each of the Concession Parties or as may be required by law or to the extent necessary to give effect to or enforce the Expert's determination.

4. Fees and disbursements

- (a) As between the Concession Parties and the Expert, the Concession Parties are jointly and severally liable for the payment of the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements set out in Annexure 3. The Concession Parties agree to comply with any direction from the Expert as to the provision of security deposits in respect of his or her fees and disbursements.
- (b) The Concession Parties agree as between themselves that:
 - (i) they will each pay one half of the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements set out in Annexure 3; and
 - (ii) they will each bear their own costs of and incidental to the preparation of this agreement and their participation in the determination.

5. Exclusion of liability and indemnity

Except in the case of fraud, the Expert will not be liable to any Concession Party for any act or omission by the Expert in the performance or purported performance of this agreement. The Concession Parties jointly and severally indemnify the Expert against all claims arising out of or in any way referable to any act or omission by the Expert (except fraud) in the performance or purported performance by the Expert of the terms of this agreement.

6. Co-operation of the Concession Parties

Each Concession Party agrees to take part in the determination process in good faith and to comply with the reasonable requests and directions of the Expert in relation to the conduct of the determination process. If a Concession Party does not comply with the Expert's reasonable directions, the Expert may continue with the determination process and determine the Matter despite the non-compliance.

7. Governing Law

This agreement is governed by and must be construed according to the laws of Queensland.

8. Jurisdiction

The Concession Parties and the Expert irrevocably:

- (a) submit to the non-exclusive jurisdiction of the court of Queensland and the courts competent to determine appeals from those courts with respect to any proceedings that may be brought at any time relating to this agreement; and
- (b) The Concession Parties and the Expert irrevocably waive any objection they may now or in the future have to the venue of any proceedings, and any claim they may now or in the future have that any proceedings have been brought in an inconvenience forum, if that venue falls within clause 8(a).

9. GST

9.1 GST payable

Unless otherwise stated, all amounts set out in this agreement are GST exclusive.

Notwithstanding any other provision in this agreement, if any party to this agreement (**Supplier**) is or becomes liable to pay GST in connection with any supplies made pursuant to this agreement (**the affected supplies**) for which GST is not otherwise included in the consideration:

- (a) the Supplier may, subject to clause 9.1(d), add to the price of all affected supplies an additional amount equal to the amount of GST for which the Supplier is or becomes liable in respect of those affected supplies, as calculated by Supplier in accordance with the GST law;
- (b) the party providing consideration for the affected supplies (**Recipient**) will pay the amounts or provide any other consideration required to be provided under other provisions of this agreement for the affected supplies (in this clause "the price") plus the additional amount on account of GST in accordance with clause;
- (c) the additional amount or amounts will be payable at the same time or times as the price is required to be provided to Supplier under the other provisions of this agreement; and
- (d) the Supplier is only entitled to the additional amount payable under clause 9.1(a) where the Supplier has issued a tax invoice to the Recipient in respect of the relevant supply.

9.2 Necessary adjustments

If the additional amount on account of GST recovered by the Supplier from the Recipient on any supply made under this agreement differs for any reason from the amount of GST paid or payable by the Supplier to the Commissioner of Taxation, including by reason of:

- (a) an amendment to the GST law;
- (b) the issue of or an alteration in a ruling or advice of the Commissioner of Taxation;
- (c) a decision of any tribunal or court; and
- (d) any adjustment to the consideration under this agreement,

then the difference between the two amounts will be payable by the Supplier or the Recipient as appropriate. Where an adjustment event (as defined in the GST law) has occurred in relation to any supply under this agreement, the Supplier will provide an adjustment note to the Recipient within 14 days of the date of the adjustment event.

9.3 Reimbursements and similar payments

Any payment or reimbursement required to be made under this agreement for a cost, expense or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

10. General

10.1 Notices

All communications (including notices, consents, approvals, request and demands) under or in connection with this agreement:

- (a) must be in writing;
- (b) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):

(i) in the case of a notice or other written communication to a Concession Party, in accordance with the contact details for the receiving Concession Party stated in clause 37 of the Road Franchise Agreement; and

(ii) in the case of a notice or other written communication to the Expert, as follows:

Name: *[Name of Expert]*
Address: *[Address for service on Expert]*
Fax: *[Fax number for service on Expert]*
For the attention of: *[Person's name to whom correspondence is directed]*

(c) must be signed by the party making the communication or (on its behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;

(d) must be delivered or posted by prepaid post to the address, or sent by fax to the number of the addressee in accordance with clause 10.1(b); and

(e) are taken to be received by the addressee:

(i) (in the case of prepaid post) on the third Business Day after the date of posting to an address within Australia and on the fifth Business Day after the date of posting by airmail to an address outside Australia;

(ii) (in the case of fax) at the local time (in the place of receipt of that fax) which then equates to the time that fax is sent as shown on the transmission report produced by the machine from which that fax is sent confirming transmission of that fax in its entirety, unless that local time is outside Business Hours, when that communication is taken to be received at 9.00 am on the next Business Day; and

(iii) (in the case of delivery by hand) on delivery at the address of the addressee as provided in clause 37.1(b), unless that delivery is outside Business Hours, when that communication is taken to be received at 9.00 am on the next Business Day.

10.2 Further acts and documents

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

10.3 Counterparts

This agreement may be executed in any number of counterparts and by each of the Concession Parties and the Expert on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement.

Annexure 1
The Matter

[To be inserted when it comes time for expert determination]

Annexure 2

Rules for Expert Determination Process

1. Commencement

The expert determination process begins when the Concession Parties and the Expert enter into the agreement to which these Rules are annexed.

2. Written Submissions

- 2.1 Within 7 days after the date this process begins, the Concession Party who gave notice under clause 36.3 of the Road Franchise Agreement (**Party A**) must, in addition to any particulars provided by Party A under clause 36.3 of the Road Franchise Agreement, give the other Concession Parties and the Expert a written statement of the Matter referred for Expert determination, any agreed statement of facts and a written submission on the Matter in support of Party A's contentions.
- 2.2 Within 7 days after the statement in clause 2.1 is served, the other Concession Parties must give Party A and the Expert a written response to Party A's submissions.
- 2.3 If the Expert considers it appropriate, Party A may reply in writing to the other Concession Parties' response in clause 2.2 within the time allowed by the Expert.
- 2.4 If the Expert decides further information or documentation is required for the determination of the Matter, the Expert may direct one or more Concession Parties to provide such further submissions, information or documents as the Expert may require.
- 2.5 The Expert must disclose to the Concession Parties all information and documents received.
- 2.6 If a Concession Party fails to make a written submission, the Expert may continue with the process.

3. Conference

- 3.1 The Expert may, if he or she thinks appropriate, call a conference of the Concession Parties. Unless the Concession Parties agree otherwise, the conference will be held in Brisbane.
- 3.2 At least 5 days before the conference, the Expert must inform the Concession Parties of the date, venue and agenda for the conference.
- 3.3 The Concession Parties must appear at the conference and may make submissions on the subject matter of the conference. If a Concession Party fails to appear at a conference of which that Concession Party had been notified under clause 3.2, the Expert and the other Concession Parties may nevertheless proceed with the conference and the absence of that Concession Party will not terminate or discontinue the Expert determination process.
- 3.4 The Concession Parties:
 - (a) may be accompanied at a conference by legal or other advisers; and
 - (b) will be bound by any procedural directions as may be given by the Expert in relation to the conference both before and during the course of the conference.
- 3.5 The conference must be held in private.
- 3.6 If required by any Concession Party, transcripts of the conference proceedings must be taken and made available to the Expert and the Concession Parties.

4. General

- 4.1 In making a determination or calling or holding a conference, the Expert must proceed in accordance with:
- (a) the agreement between the Expert and the Concession Parties to which these Rules are annexed;
 - (b) these Rules; and
 - (c) the State Concession Documents.
- 4.2 Except where otherwise required by these Rules, the Expert may receive information in any way the Expert thinks fit (including as inquisitor).
- 4.3 Subject to clause 3.3, meetings and discussions with the Expert must only take place in the presence of all Concession Parties.
- 4.4 The Expert must:
- (a) inform the Concession Parties of:
 - (i) any relationship or interest which the Expert has with a Concession Party or its officers, employees, consultants or agents;
 - (ii) any interest the Expert has in the matters in dispute; and
 - (iii) any circumstance which might reasonably be considered to adversely affect the capacity of the Expert to act independently or impartially,immediately upon becoming aware of any such circumstances; and
 - (b) upon making any disclosure under this clause 4.4, unless and until the Concession Parties agree otherwise, terminate the proceedings.
- 4.5 The determination process for a Matter may be terminated at any time prior to the issue of the Expert's determination by the Concession Parties giving joint written notice to the Expert terminating the determination process.

5. The Determination

- 5.1 As soon as possible after receipt of the submissions or after any conference and, in any event not later than 45 Business Days after the Expert's acceptance of appointment, the Expert must:
- (a) determine the Matter between the Concession Parties; and
 - (b) notify the Concession Parties of that determination.
- 5.2 The determination of the Expert must:
- (a) be in writing stating the Expert's determination and giving reasons;
 - (b) be made on the basis of the submissions (if any) of the Concession Parties, the conference (if any) and the Expert's own expertise; and
 - (c) meet the requirements of the State Concession Documents.

- 5.3 Subject to clause 5.4, to the extent permitted by law, the Expert's determination will be final and binding on the Concession Parties unless a notice of dissatisfaction is given in accordance with clause 36.6(a) of the Road Franchise Agreement.
- 5.4 If the Expert's determination contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the Expert must correct the determination.

6.Costs

Security for costs must be deposited by all Concession Parties at the commencement of the Expert determination process in accordance with any direction of the Expert.

7.Modification

These rules may be modified only by agreement of the Concession Parties and, if the Expert has been appointed, the Expert.

8.Proportionate Liability

Notwithstanding anything else, to the extent permissible by law, the Expert will have no power to apply or to have regard to the provisions of any proportional liability legislation which might, in the absence of this provision, have applied to any dispute referred to Expert determination pursuant to clause 36 of the Road Franchise Agreement.

Appendix to Rules for Expert Determination Process - Code of Conduct for an Expert

1. The function of the Expert is to make a determination of the Matter in accordance with the State Concession Documents and the Expert Determination Agreement, including the Rules and this Code of Conduct.
2. The Expert must receive the written submissions and responses of the Concession Parties in accordance with the procedures specified in the Rules and may require further information or documentation from the Concession Parties which is reasonably necessary to determine the Matter.
3. The Expert must decide whether a conference is necessary to receive further information. The Expert must inform the Concession Parties of the subject matter of any conference and may hear representations only on those matters during any such conference.
4. The Expert must disclose to the Concession Parties all information and documents received.
5. If a Concession Party fails to make a written submission, the Expert may continue with the process.
6. Subject to clause 3 of the Rules in relation to conferences, meetings and discussions with the Expert must only take place in the presence of the Concession Parties.

Annexure 3
The Expert's Fees and Disbursements

[To be inserted when it comes time for expert determination]

Schedule 8 (Not used)

Schedule 9 (Expedited arbitration rules)

(Clause 36.11)

1. Arbitration Notice and Reply

1.1 The party referring the Dispute to arbitration (**Claimant**) must within 5 Business Days of giving notice under clause 36.9(a) of the Road Franchise Agreement, give to the other party (**Respondent**) a notice in writing (**Arbitration Notice**). The Arbitration Notice must set out, in brief, the following matters:

- (a) the nature of the Dispute;
- (b) the matters of liability in respect of which the Claimant seeks relief;
- (c) the relief sought; and
- (d) the basis or bases of such liability.

1.2 The Respondent must, within 5 Business Days after receipt of the Arbitration Notice, give to the Claimant a written reply (**Reply**) which sets out the following matters:

- (a) any responses it may have in respect of the matters contained in the Arbitration Notice;
- (b) any counter-contentions and the basis or bases of such counter-contentions; and
- (c) the relief sought (if any).

2. Pleadings

2.1 Within 15 Business Days of the Reply, the Claimant must deliver to the Respondent its statement of contentions.

2.2 Within 15 Business Days of the date for delivery of the contentions, the Respondent must deliver to the Claimant a response to such contentions and any counter-contentions it wishes to make.

2.3 Within 10 Business Days of the date for delivery of the response and any counter-contentions, the Claimant must deliver to the Respondent any response to the counter-contentions and any reply to the response to the contentions.

3. Evidence

3.1 Within 40 Business Days of close of pleadings each party must deliver all evidence-in-chief (including sworn witness statements and documents) in support of its contentions or counter-contentions that it wishes to rely upon.

3.2 Within 40 Business Days of the date for delivery of the evidence-in-chief, each party must deliver all evidence (including sworn witness statements and documents) in response to the evidence-in-chief that it wishes to rely upon.

3.3 Within 20 Business Days of the date for delivery of the response to the evidence-in-chief, each party must deliver all evidence (including sworn witness statements and documents) in reply to the evidence in response that it wishes to rely upon.

3.4 Within 15 Business Days of the date for delivery of the evidence in reply, each party must deliver all expert reports in chief upon in support of its contentions or counter-contentions that it wishes to rely upon.

3.5 Within 30 Business Days of the date for delivery of the expert reports in chief, each Party must deliver all expert reports in response that it wishes to rely upon.

4.1 Discovery

4.1 Save as set out in this section 4, no party is entitled to discovery.

4.2 Within 10 Business Days of the close of pleadings, each party must provide to the other parties a list of all documents in its possession, custody or power relevant to the issues in the Dispute.

4.3 Within 10 Business Days of the receipt of the other parties' list of documents any party may make a request for discovery of any specified document or class of documents. Any such request must state why discovery of such document or documents is necessary for the fair and expeditious resolution of the Dispute.

4.4 The party receiving a request for discovery must comply with the request within 10 Business Days.

4.5 If the production of any of the documents requested is objected to, or no documents are produced, the requesting party may make an application to the arbitrator to determine whether, and if necessary how, such documents should be produced.

5. Powers of the Arbitrator

5.1 The arbitrator must act fairly and impartially and give each party a reasonable opportunity to be heard. The arbitrator must determine every Dispute according to law.

5.2 Each party must comply with all requirements of this section and the orders and directions of the arbitrator within the time-limits prescribed. A party may not rely upon any pleading, evidence or request for discovery delivered or amended after the time-limits prescribed, except with the leave of the arbitrator. The arbitrator may only grant such leave where:

- (a) it is satisfied that there are adequate grounds for the leave;
- (b) it is satisfied that granting leave in such circumstances would not prejudice the rights of the other party; and
- (c) it is satisfied that granting leave in such circumstances would not have a substantial detrimental effect on the expeditious and cost-effective resolution of the Dispute.

5.3 If a party fails, without the leave of the arbitrator, to comply with any requirement of this section or any order or direction of the arbitrator, within the time-limits prescribed, the arbitrator:

- (a) may continue the arbitration of the Dispute in spite of such failure;
- (b) may direct that the party in default is not entitled to rely on any matter, including any allegation or material, which was the subject of the requirement, order or direction;
- (c) may draw any adverse inferences from such failure as he or she thinks fit;

- (d) may make any procedural or other order or direction to ensure that the arbitration of the Dispute is carried out in as fair, cost-efficient and expeditious a manner as is possible in the circumstances; and
- (e) may make any order as to payment of costs of the arbitration of the Dispute in consequence of such failure.

5.4 The arbitrator may extend any prescribed time-limit if it is satisfied that this is required for the fair or efficient resolution of the Dispute.

6. Conduct of the hearing

6.1 The hearing of the evidence will be for a maximum period of two weeks. The arbitrator will sit for 5 days per week.

6.2 Each party must have a maximum of 100 hours to put its case including opening its case, leading evidence, cross-examining and re-examining witnesses. Subject to the other provisions of this section each party may utilize the time allocated to it at the hearing of the evidence in any manner it thinks appropriate for the presentation of its case.

6.3 There will be no oral evidence-in-chief without the leave of the arbitrator.

6.4 The rules of evidence will not apply to the arbitration.

6.5 The weight that will be given to any evidence, of whatever nature and however presented, is wholly a matter for the discretion and decision of the arbitrator. In exercising his or her discretion, the arbitrator must not be in any way limited by any particular evidential or procedural rule (in particular the rule that evidence that is uncontradicted is to be accepted).

6.6 Following the close of the hearing of the evidence, the parties and the arbitrator must sit again within 10 Business Days. At that time, each party must make any oral submissions. Each party will be limited to one day for such oral submissions.

6.7 The arbitrator may limit the length of any part of the oral evidence or submissions notwithstanding the time limits set out in this section.

7. Award

7.1 The arbitrator must render an award in respect of the Dispute.

7.2 The arbitrator must issue the relevant award within 40 Business Days of the completion of the oral submissions. The award must be reasoned.

7.3 The award will be final and binding.

7.4 To the extent possible by law, and in particular the Commercial Arbitration Act 1990 (QLD), the parties agree that there will be no right of appeal from the award of the arbitrator.

8. Proportionate Liability

8.1 Notwithstanding anything else, to the extent permissible by law, the arbitrator will have no power to apply or to have regard to the provisions of any proportional liability legislation which might, in the absence of this provision, have applied to any dispute referred to arbitration pursuant to clause 36 of the Road Franchise Agreement.

Schedule 10 (Approved Advertising signage)

(Clause 11.10)

Advertising signage which is erected or installed:

- (a) in accordance with the requirements of the Outdoor Displays Portfolio Master Plan;
and
- (b) at locations identified in the Outdoor Displays Portfolio Master Plan, or at other locations approved by the State.

Schedule 11 (Insurances - sums insured and deductibles)

(Clause 22.1)

Insurance	Minimum Sum Insured	Maximum Deductible
Industrial Special Risks	A sum equivalent to the full cost of reinstatement and replacement, including extra cost of reinstatement and replacement, of the whole of the Tollroad for any one occurrence, plus an additional amount sufficient to cover the cost of demolition and removal of debris, fees for project managers and consultants, and an amount to cover additional costs and expenses to expedite the commencement and completion of the repair, replacement or reinstatement of the Tollroad.	\$1,500,000
Third Party Liability	\$375 million for any single occurrence and unlimited in the aggregate as to the number of occurrences for any one period of insurance (and in the annual aggregate in respect of products liability).	\$1,000,000
Employers' Liability and Workers' Compensation Insurance	As required by Law.	As required by Law.
Motor Vehicle Insurance	With respect to: (a) third party property damage insurance - \$20 million for any one claim and unlimited in the aggregate; and (b) compulsory third party insurance covering death or injury to persons, as required by Law.	With respect to: (a) third party property damage insurance - \$50,000; and (b) compulsory third party insurance covering death or injury to persons, as required by Law.
Business Interruption Insurance	All standing charges (including the Franchisees' debt service obligation) or the loss of gross revenues, whichever is the lesser for a 48 month indemnity period.	72 hours
Directors and Officers Insurance	\$20 million per occurrence and in the aggregate in any one 12 month period of insurance.	\$250,000
Marine Craft Insurance	Hull and protection and indemnity insurance for marine craft (owned and non owned) used in the Activities for \$100 million for any one occurrence.	\$500,000

Schedule 12 (Permitted Share Capital Dealings)

(Clause 26.7)

Any one or more of the following is a Permitted Share Capital Dealing:

- (a) A change to or an issue of or the transfer of the share capital or units in, a Holding Entity, provided that it does not result in:
 - (i) a change in Control of that Holding Entity; or
 - (ii) an entity becoming a Controlling Unit Holder of that Holding Entity; or
 - (iii) a change in the Controlling Unit Holder of that Holding Entity.
- (b) The following issues or transfers of the share capital or units are also Permitted Share Capital Dealings:
 - (i) issue of share capital or units in a Franchisee or a Holding Entity to:
 - A. any Related Body Corporate or Related Trust Entity of the Franchisee or Holding Entity;
 - B. a person that is eligible to participate in any employee or executive equity scheme established by the Franchisee or the Holding Entity;
 - (ii) transfer of share capital or units in the Franchisee or a Holding Entity to any Permitted Transferee of a shareholder or a unit holder; and
 - (iii) issue of units to the public pursuant to, or as envisaged by, a product disclosure statement or prospectus (or a combination of the two) lodged by a Holding Entity, which for the avoidance of doubt may include the issue of units pursuant to a public offer, broker firm offer or institutional offer, provided the issue does not result in:
 - A. a change in Control of that Holding Entity; or
 - B. an entity becoming a Controlling Unit Holder of that Holding Entity; or
 - C. a change in the Controlling Unit Holder of that Holding Entity.
- (c) Any issue or agreement to issue any warrants or options over any unissued share capital or units in a Franchisee or a Holding Entity to:
 - (i) any Related Body Corporate or Related Trust Entity of the Franchisee or a Holding Entity; or
 - (ii) a person that is eligible to participate in any employee or executive equity scheme established by the Franchisee or the Holding Entity.
- (d) A change in the responsible entity (as defined in the Corporations Act) in accordance with the constitution of the Holding Entity (or a change or transfer of the issued shares of that trustee or responsible entity).

Schedule 13 (Not used)

Schedule 14 (Competing Facility proximity parameters)

(Clause 18.1(b))

Facility	Proximity parameters	
	First 15 years after Commencement Date	16-30 years after Commencement Date
Sir Leo Hielscher Bridges	Within 5 kilometres either side of the Sir Leo Hielscher Bridges	Within 2.5 kilometres either side of the Sir Leo Hielscher Bridges
Gateway Extension Motorway	Within 5 kilometres either side of the Gateway Extension Motorway	Within 2.5 kilometres either side of the Gateway Extension Motorway
Logan Motorway	Within 5 kilometres either side of the Logan Motorway	Within 2.5 kilometres either side of the Logan Motorway

Schedule 15 [Not Used]

Schedule 16 (Debt Financing Documents)

1. Syndicated Facility Agreement between, amongst others, Sun Group Finance Pty Limited (ACN 169 093 850) and each of Australia and New Zealand Banking Group Limited, Commonwealth Bank of Australia, National Australia Bank Limited and Westpac Banking Corporation (each an "**Original Lender**").
2. Security Trust Deed between, amongst others, Sun Group Finance Pty Limited (ACN 169 093 850), each of Sun Group Invest Pty Limited (ACN 169 090 733) as trustee of Sun Group Invest Trust, Sun Group Holdings 1 Pty Limited (ACN 169 090 804), and Sun Group Holdings 2 Pty Limited (ACN 169 090 788) (each an "**Initial Security Provider**") and National Australia Bank Limited ("**Security Trustee**").
3. Common Terms Deed between, amongst others, Sun Group Finance Pty Limited (ACN 169 093 850), the Initial Security Providers (each an "**Initial Obligor**"), the Original Lenders and the Security Trustee.
4. On-Loan Agreement between Sun Group Finance Pty Limited (ACN 169 093 850), Sun Group Property Pty Limited (ACN 169 093 878) as trustee of the Sun Group Property Trust, National Australia Bank Limited ("**On-Loan Security Trustee**") and others.
5. On-Loan Security Trust Deed between Sun Group Finance Pty Limited (ACN 169 093 850), Sun Group Property Pty Limited (ACN 169 093 878) as trustee of the Sun Group Property Trust and the On-Loan Security Trustee.
6. Mortgage of Lease between Gateway Motorway Pty Ltd and the On-Loan Security Trustee.
7. Mortgage of Lease between Logan Motorways Pty Ltd and the On-Loan Security Trustee.
8. Mortgage of Lease between Sun Group Property Pty Limited (ACN 169 093 878) as trustee of the Sun Group Property Trust and the On-Loan Security Trustee.
9. General Security Agreement between Sun Group Property Pty Limited (ACN 169 093 878) as trustee of the Sun Group Property Trust and the On-Loan Security Trustee.
10. General Security Agreement between Gateway Motorway Pty Ltd, Logan Motorways Pty Ltd, Queensland Motorways Pty Ltd and the On-Loan Security Trustee.

Gateway Motorway Facility & Logan Motorway Facility

Performance Specification Part 1

Management

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1 Introduction

1.1 Structure of this series of documents

The Performance Specification is part of the RFA and comprises five Parts as described in Figure 1-1 and in Table 1-1 below.

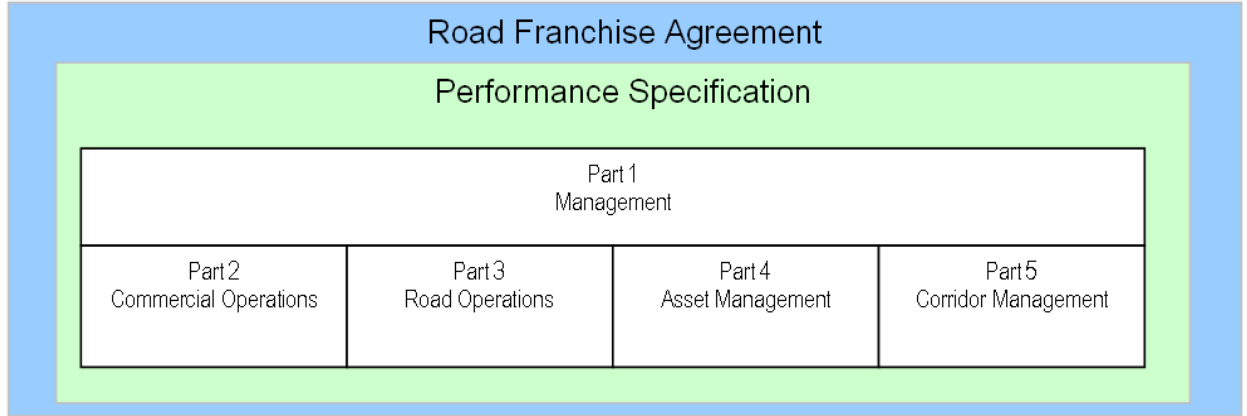


Figure 1-1: Road Franchise Agreement and the Performance Specification

Table 1-1 shows the basic content of the five Parts.

Table 1-1: Performance Specification Parts and Scope

Part	Title	Scope
1	Management	Performance Management including Environmental Management, Workplace Health and Safety Management and Key Performance Indicator Management
2	Commercial Operations	Performance Management of Tollroad User Service and Toll Management
3	Road Operations	Performance Management of the Tollroad Road Operations
4	Asset Management	Performance Management of the Tollroad Infrastructure, Assets and Maintenance.
5	Corridor Management	Performance Management of the Tollroad Corridor and Access to it

1.2 Definitions

In this Performance Specification (Parts 1 to Part 5), unless the context indicates a contrary intention, a word or phrase given a defined meaning in the RFA, and any other part of speech or grammatical form of that word or phrase shall have a corresponding meaning. A word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender.

The following definitions shall apply to the following terms for the purposes of the Performance Specification (Part 1 to Part 5):

'131940' means TMR's internet and voice communication system for Road Users and the Community providing traffic and travel information about the road network including traffic and roads events in Queensland and which allows the Community to report Incidents or other information.

'AC' means asphalt.

'Affected Road Network' means any road adjoining the Tollroad that is affected by the operation of the Tollroad.

'Affected Road Operators' means all road operators affected by Tollroad Operations, and includes TMR, BMTMC, Local Government and BAC.

'Annual Works Program' (AWP) means the current year of the 10 year program required by the Tactical Asset Management Plan.

'ANPR' means automatic numberplate recognition.

'ANZECC' means the Australian and New Zealand Environment Conservation Council.

'ARI' means average return interval.

'ARMIS' means an integrated suite of computer systems and supporting databases used by TMR to store and process data on the Queensland's State-controlled road network.

'Assessment Manager' has the meaning in the *Sustainable Planning Act 2009* (QLD).

'Asset Group' means the broader categorisations of the asset types, such as flexible pavement, concrete bridges, warning signs and road marking.

'Asset Inventory' has the meaning defined in Clause 5.3 of Part 4.

'Asset Item' means single occurrences of an asset, such as a pavement section, a structure, specific items of plant or equipment, a warning sign or a length of barrier line.

'Asset Management System' (AMS) means a combination of processes, data and software applied to provide outcomes required by the Tactical Asset Management Plan.

'Asset Sub-Item' means components of an Asset Item which have a specified Design Life or maintenance requirement which varies from that established for the Asset Item of which it forms a part, such as light lamps and fan bearings.

'Australian Design Rules' (ADRs) are national standards for vehicle safety, anti-theft and emissions.

'Austroads' means the association of Australian and New Zealand road transport and traffic authorities whose purpose is to contribute to the achievement of improved road transport outcomes.

'BAC' means Brisbane Airport Corporation Pty Limited.

'BMTMC' means Brisbane Metropolitan Transport Management Centre.

'Clarification' means a question or challenge to the Franchisees by any person who clarifies an administrative action that falls within the Franchisees' performance obligations under the RFA, including the Performance Specification, including:

- (a) account management; or
- (b) fees and charges incurred.

'Clear Zone' means the area adjacent to the traffic lane that is available for emergency use by errant vehicles that run off the road and includes any adjoining shoulder, verge and batter.

'Community' means a person or people resident in or visiting SEQ.

'Contact Channel' means any communication that requires direct human involvement including:

- a) inbound telephone calls (including attempted inbound calls);
- b) emails;
- c) facsimile; and
- d) letters.

'Coordinated Ramp Signalling System' (CRSS) means a ramp signalling system that is designed to collate information about vehicle queues on Entry Ramps and traffic speeds and flows on the Mainline Carriageways and is able to respond dynamically to control the number and/or types of vehicles that can enter the Mainline Carriageway of the Tollroad at any time to prevent traffic flow breakdown on the Mainline Carriageway.

'CRCP' means continually reinforced concrete pavement.

'CS' means condition state.

'DERM' means the Queensland Department of Environment and Resource Management.

'Design Life' means the period for which an Asset must be designed, constructed and remain capable of performance at its intended level of functionality as ascertained from the Performance Specification with only Routine Maintenance during the specified period.

'Diversion TMP' means a TMP which diverts Tollroad Traffic on to part of the SEQ Road Network.

'Environmental Management Plan (Operation)' (EMP(O)) means the Concession Plan relating to environmental management required under Part 1.

'Environmental Management System' (EMS) has the meaning defined in *AS/NZS ISO 14001 Environmental management systems – Requirements with guidance for use*.

'Facility' has the meaning given to that term in the GUP Project Deed.

'Forward List of Works' means the Franchisees' record of Programmed Maintenance Activities in accordance with and as updated to meet the requirements of Part 4.

'GPS' means global positioning system.

'Heavy Vehicle' means a vehicle having a gross vehicle mass exceeding 4.5 tonnes or Austroads Class 3 or higher classification vehicles.

'HLI pavement' means high load intensity, low intervention pavement.

'Incident Response Management Plan' means the Concession Plan relating to Incident response management required under Part 3.

'Intelligent Transport System' (ITS) means a broad range of communications-based information, control and electronics technologies integrated into the transportation system infrastructure, and in vehicles, to help monitor and manage traffic flow, reduce

congestion, provide alternative routes to travellers, enhance productivity, and save lives, time and money.

'Intervention Level' means the magnitude of a Defect that when reached requires rectification action by the Franchisees and must be rectified within the associated Response Time.

'KPI Demerit Points' means the Demerit Points listed in Table 5-1 of Part 1.

'Local Road' means a road or street controlled by a Local Government.

'Long Term Expenditure Plan' means a Concession Plan for maintenance Activities required under Part 4.

'Managed Motorway' means a Motorway that is being operated so the upstream traffic flow demand is dynamically managed to not exceed downstream traffic flow capacity to prevent traffic flow breakdown.

'Managed Motorway Operation' means dynamically operating the Tollroad, either in part or its entirety, to prevent traffic flow breakdown.

'Managed Motorway Standard' means the standard defined by the TMR Managed Motorway Policy and TMR Standards.

'Managed Motorway Technology' means the all the necessary ITS technology and capability required to enable Managed Motorway Operation.

'MUTCD' means TMR's Manual of Uniform Traffic Control Devices.

'Noise Backlog Program' is a Concession Plan under clause 9 of the RFA and it is defined under clause 4.6 of Part 5.

'Noise Code' means the contemporary version of the TMR *Road Traffic Noise Management: Code of Practice*.

'Non-Standard Vehicle' means a vehicle entitled to be on the Tollroad through a State approval under the *Transport Operations (Road Use Management—Mass, Dimensions and Loading) Regulation 2005* or other State legislation.

'O&M Plans' has the meaning defined in clause 5.5.1 of Part 4.

'Operational Maintenance Plan' (OMP) means the Concession Plan for maintenance Activities required under Part 4.

'Part 1' means Part 1 of the Performance Specification.

'Part 2' means Part 2 of the Performance Specification.

'Part 3' means Part 3 of the Performance Specification.

'Part 4' means Part 4 of the Performance Specification.

'Part 5' means Part 5 of the Performance Specification.

'Pavement Rectification Program' (PRP) means the Concession Plan for rectifying pavement non-conformances listed in Appendix 4-C.2 of Part 4.

'PCE' means passenger car equivalent.

'Permit' means the permit issued by TMR which allows the holder to take a Non-Standard Vehicle along or across part or all of the Tollroad, and in most cases various conditions are applied to this approval.

'Police' means Queensland Police Service.

'Post Tollroad User Complaint Survey' means the instrument that measures a person's level of satisfaction at the point of resolution of a Tollroad User Complaint.

'Priority Group' refers to the three levels of priority into which Defects can be classified, namely safety ('1'), preventative ('2'), and usability ('3').

'Programmed Maintenance' means periodic and preventative works which are anticipated and form part of the Tactical Asset Management Plan and Operational Maintenance Plan.

'PTZ' means pan, tilt, zoom.

'PUP Owner' means any Authority or person that has any power, right, interest or privilege in relation to PUP.

'QAS' means Queensland Ambulance Service

'QFRS' means Queensland Fire and Rescue Service

'QPS' means Queensland Police Service

'Quality Management System' (QMS) has the meaning defined in *AS/NZS ISO 9001 Quality Management Systems – requirements*

'Rate 1 Lighting' means public lighting provided under tariff rate 1 conditions that is supplied, installed, owned and maintained by Energex.

'Rate 2 Lighting' means public lighting provided under tariff rate 2 conditions that is owned and maintained by Energex. Either Energex or an approved contractor may install the lighting.

'Rate 3 Lighting' means public lighting provided under tariff rate 3 conditions that is supplied, installed, owned and maintained by the Franchisees.

'Residual Life' means the period during which Asset Items and Asset Sub-Items and all parts thereof should be expected to perform their intended functions at the intended service levels as ascertainable from the Performance Specification without replacement, refurbishment or significant maintenance

'Response Time' means the time to respond to a hazard or Incident, measured from the time the hazard or Incident is identified by or reported to the Franchisees.

'Restoration Standard' means the standard to which an Asset Group and its component Asset Items and Asset Sub-items must be restored.

'RFA' means the Road Franchise Agreement to which this Performance Specification is exhibited.

'Road Reference System' means the system used by TMR for determining locations within a network when identifying Defects and Activities.

'Routine Maintenance' means maintenance Activities carried out at relatively frequent intervals to maintain the Tollroad Infrastructure within a safe and acceptable condition.

'RTN models' means road traffic noise models.

'SAMI' means strain alleviating membrane interface.

'SEQ' means south east Queensland.

'Significant Non-Compliance' means a non-compliance event that creates significant negative public opinion towards the State.

'SIMS' means the State's incident management system which is an application of the TOSS.

'State-controlled road' has the meaning described in the Transport Infrastructure Act.

'Strategic Asset Management Plan' (SAMP) means the Concession Plan for the long term management of the Tollroad required under Part 4.

'Structures' means the definition provided in the TMR *Bridge Inspection Manual* but also includes environmental structures, retaining walls and overhead structures associated with large traffic management signs and ITS.

'SVO Data' means speed, volume and Vehicle occupancy data which is the measured average vehicle travel speed and traffic flow in each traffic lane over one second intervals (or other intervals agreed by TMR).

'Tactical Asset Management Plan' (TAMP) means the Concession Plan for management of the Tollroad required under Part 4.

'TCC' means Tollroad Control Centre.

'TCP' means traffic control plans.

'Third Party Works' means PUP, Developer Works or AWE approved by TMR to be located within the Leased Area.

'TMR Standards' means all policies, guidelines, guides, technical standards, engineering notes, strategies, manuals, instructions, codes of practice, standard contract provisions and specifications published by TMR.

'Tollroad Operations' means all Activities required to manage Tollroad Traffic and the TOSS in accordance with the requirements of the RFA and the Performance Specification.

'Tollroad Operations Plan' (TOP) means the Concession Plan for the operation of the asset as required under Part 3.

'Tollroad Traffic' means all vehicles and all Road Users using the Tollroad at a place and time.

'Tollroad User Service Improvement Plan' has the meaning given to that term in clause 2.5 of Part 2.

'Tollroad User Service Performance Review' means the process undertaken to determine the level of Tollroad User Service satisfaction.

'Traffic Response Unit' (TRU) means a Vehicle specially equipped in accordance with the Performance Specification to respond to a Planned Event or an Unplanned Event.

'Travel Time Sign' (TTS) means a VMS which has the purpose of displaying estimated travel time information from the site to different points in SEQ.

‘Variable Message Control System’ (VMCS) means a system, being part of the Tollroad Operations System, for the dynamic control of VMSs.

‘Variable Message Sign’ (VMS) means permanent or portable sign where the message displayed can be varied by the road operator from time to time.

‘Variable Speed Limit System’ (VSLS) means a system, being part of the Tollroad Operations System, for the dynamic control of VSLs.

‘Vehicle Detection Device’ (VDD) means a device designed to detect the presence of a vehicle in accordance with TMR’s reference or guideline.

‘Vehicle Speed Limit Sign’ means a permanent or portable sign where the posted speed displayed can be changed, either dynamically or set by a road operator.

‘Weigh-in-motion’ (WIM) means devices that are designed to capture and record truck axle weights and gross Vehicle weights as they drive over a sensor.

‘Workplace Health and Safety Management Plan’ (WHSMP) means a Concession Plan in accordance with this Performance Specification and the WHSA.

‘Workplace Health and Safety Management System’ (WHSMS) means a system for the management of all aspects of the Franchisees’ workplace health and safety obligations under the RFA, including the Performance Specification and the Law.

1.3 Overall Objectives

- (a) The State’s overall objective in providing, maintaining and operating transport infrastructure (including Tollroad Infrastructure) is to service the transport needs of the public and industry in the optimum manner. To achieve this overall objective the State aims to provide transport solutions (including the Tollroad) which best meet all of the following objectives:
- (i) accommodate current and future transport demand;
 - (ii) accommodate all types of transport Vehicles as approved by the State;
 - (iii) accommodate other community needs in transport corridors including PUP, AWE, Developer Works and other infrastructure;
 - (iv) maximise the integration of land use and transport planning;
 - (v) optimise the integration of all transport modes to assist multi-modal passenger and freight trips.
 - (vi) minimise the whole of life cycle cost of constructing, maintaining and operating transport infrastructure and providing transport services;
 - (vii) minimise transport costs on transport system users, such as Vehicle operating costs, road use costs and the cost of travel time to passengers;
 - (viii) maximise transport user convenience, safety, security and travel time reliability;
 - (ix) provide acceptable levels of access for all transport modes, and to all areas;
 - (x) minimise environmental and social impacts;
 - (xi) minimise the risk of failure of any part of the transport system by providing high quality infrastructure, adopting robust designs, and providing for alternative routes/modes;
 - (xii) maximise safety, certainty, efficiency, transparency and fairness to all parties by applying governance processes that:
 - ensure the Franchisees use their best endeavours including taking all reasonable measures and acting in a timely manner to facilitate the objectives of the Performance Specification;

- ensure the State and third parties use their best endeavours including taking all reasonable measures and acting in a timely manner to minimise any adverse impacts on Activities, the Tollroad and Tollroad Traffic; and
 - ensure all works and Activities comply with relevant Law and relevant TMR Standards and requirements;
- (xiii) ensure Tolls are charged correctly and in a timely manner; and
- (xiv) meet the needs of current generations without imposing unreasonable costs or impacts on future generations, including making due allowance for future community infrastructure upgrades/modifications.

1.4 Overall requirements of the Performance Specification

1.4.1 General

- (a) Parts 1 to 5 of this Performance Specification are intended to ensure the Franchisees meet the objectives of the RFA.
- (b) Except as expressly provided in this Performance Specification, the Tollroad and the Leased Area must be managed, maintained and operated to meet or exceed the TMR Standards applied to the Reference Motorways for the Concession Period.
- (c) Unless specified otherwise in the State Concession Documents, the Franchisees will be required to have all systems for the management, operation and maintenance of the Tollroad in accordance with the RFA and Performance Specification (including for management of the KPI Assessment System) in place within 12 months of the Sale Date.
- (d) As the relevant standards outlined in clause 1.4.7 are amended and updated, it is expected that the Franchisees will amend the Activities accordingly. The Franchisees shall be required to adopt new and amended standards within a reasonable time:
- i. having regard to the nature and circumstances of the changes to be implemented; and
 - ii. to ensure compliance with the relevant principles of Best Practices.

However, notwithstanding any other provision of this RFA, it is only expected that the Franchisees will adopt new and amended standards at the time that TMR adopts those standards on the Reference Motorways.

- (e) All Activities shall be in accord with Best Practice.

1.4.2 Allowable non-conformances

- (a) Parts of the Tollroad may not be to the standard required by the Performance Specification at the Commencement Date, and allowance for this has been incorporated in Parts 4 and 5.

1.4.3 Relationship to the GUP Project Deed

- (a) The GUP Project Deed provides for asset management, routine maintenance, periodic maintenance and defects correction for a 10 year period concluding on 15 August 2020 (subject to early termination by the Franchisees) for that portion of the Tollroad the subject of that deed.
- (b) Where the GUP Project Deed is inconsistent with the Performance Specification, the GUP Project Deed shall prevail for the extent of the inconsistency for that portion of the Tollroad the subject of that deed during the maintenance period under the GUP Project Deed, but not for the balance of the Leased Area to

which the Performance Specification shall apply. For the avoidance of doubt, no aspect of the Performance Specification which provides for asset management, routine maintenance, periodic maintenance and defects correction (including any KPI applicable to that part of the Performance Specification), will apply to that portion of the Tollroad the subject of the GUP Project Deed, until after the maintenance period under the GUP Project Deed expires.

- (c) Subject to clause 1.4.3(d), subsequent to the maintenance period under the GUP Project Deed the requirements of the Performance Specification shall prevail for both the part of the Tollroad that is the subject of that deed and the balance of the Leased Area.
- (d) For the two years following termination or cessation of the initial GUP maintenance arrangement, the Franchisees must ensure a smooth transition from the requirements of the GUP Project Deed to the requirements of the Performance Specification (unless the Franchisees agree to a faster transition such that the Performance Specification takes effect at a sooner date in regard to all matters covered by the GUP Project Deed). During this transition period, the Franchisees will not, in respect of that portion of the Tollroad previously the subject of the GUP Project Deed, have breached any aspect of the Performance Specification which provides for asset management, routine maintenance, periodic maintenance and defects correction (including any KPI applicable to that part of the Performance Specification) if their performance is equivalent to or exceeds the performance of the Contractor immediately prior to the expiry or termination of the GUP Project Deed.

1.4.4 Concession Plans

- (a) Table 1-2 lists the Concession Plans referred to in clause 9 of the RFA.
- (b) All Concession Plans must be prepared and updated by the Franchisees as required by the Performance Specification.
- (c) The minimum requirements that the Concession Plans must meet are detailed in the relevant parts of the Performance Specification (shown in Table 1-2).

Table 1-2: Concession Plans required by the RFA and Performance Specification

Defined Plan	Content	Location
Community Engagement Plan	Plan for the engagement of the Road Users, Community and the media when the Franchisees undertake Activities impacting on Road Users or the Community.	Part 5
Environmental Management Plan (Operation)	A plan describing the environmental requirements of the RFA and Performance Specification.	Part 1
Incident Response Management Plan	Plan for the management of Incidents on the Tollroad	Part 3
Long Term Expenditure Plan	Plan detailing expenditure and works required to operate, maintain and renew the asset on a rolling 10 year basis.	Part 4
Noise Backlog Program	A program describing the Activities required to overcome existing road traffic noise non-conformances.	Part 5
O&M Plans	Manuals integrating the operational and maintenance Activities with (as a subset of) the Concession Plans required for the operation of the Tollroad.	Part 4
Operational Maintenance Plan	Plan for the maintenance of the Tollroad in accordance with the requirements of the Performance Specification	Part 4
Quality Management Plan	Plan that describes the Franchisees' activities	RFA

	under the certified Quality System.	
Strategic Asset Management Plan	Long term plan for the management of the asset ensuring that it meets the standards required in the Performance Specification	Part 4
Tactical Asset Management Plan	Short term plan for the management of the asset in accordance with the Performance Specification.	Part 4
Annual Works Program	Plan detailing the operation and maintenance activities for the current year of the TAMP.	Part 4
Forward List of Works	Plan detailing programmed maintenance works for the relevant year.	Part 4
Pavement Rectification Program	A program of works to rectify pavement non-conformances listed in Appendix 4-C.2 of Part 4	Part 4
Tollroad Operations Plan	Procedures for the ongoing operation of the Tollroad and its interaction with the Affected Road Network.	Part 3
Traffic Management Plan	Procedures for the management of traffic on the Tollroad and the Affected Road Network.	Part 3
Workplace Health and Safety Management Plan	Plan and procedures for protection of the health and safety of personnel in accordance with the WHSA.	Part 1

- (d) Plans must be submitted at the time stated in the Performance Specification; or sufficiently prior to the event to which they refer to allow review; or in accordance with clause 9 of the RFA, (whichever occurs first).

1.4.5 State Approvals

Any Approval or lack of Approval by the State does not constitute any basis for a Claim against the State, nor does it relieve the Franchisees of any of their obligations under the State Concession Documents.

1.4.6 Reporting

Annual and Quarterly reporting requirements are defined in the Performance Specification. The State may request that any of these reports be verified by an independent verifier approved by the State before submission. . If under this clause the State requests that an annual or quarterly report be verified by an independent verifier before submission, the State must provide reasonable notice of this request to the Franchisees (having regard to the nature of the report(s) to be submitted) to enable sufficient time for that verification to occur prior the scheduled time for submission of the relevant report(s). Where such a request is made, the report(s) will not be accepted without such independent verification.

1.4.7 Document Hierarchy

Unless expressly stated to the contrary, the following hierarchy applies in descending order for reference requirements, standards and guidelines for the planning, management, maintenance and operation of the Tollroad:

- (i) Any Law;
- (ii) The RFA including the Performance Specification;
- (iii) TMR Standards;
- (iv) Austroads standards and guidelines; and
- (v) Australian standards.

1.4.8 Behaviour

The Franchisees must behave at all times in a manner that meets contemporary Community standards. The Franchisees shall refrain from any behaviour that is considered offensive by the State or the Community.

1.5 Scope of Part 1

Part 1 defines the requirements with respect to:

- (i) Overall management of the Tollroad and the Leased Area including environmental management; and workplace, health and safety management; and
- (ii) The Key Performance Indicator assessment system to be applied to the management, operations and maintenance of the Tollroad and the Leased Area.

1.6 Responding to inquiries or information requests from the State or the Community

- (a) During the Concession Period the Franchisees are likely to receive many inquiries or information requests from the State or the Community in relation to the Tollroad or Activities.
- (b) In regard to written inquiries and information requests from the Community, and unless otherwise directed by the State, the Franchisees shall provide reasonable written responses directly to the Community within 20 Business Days. When providing a response to a Community member, the Franchisees shall also provide a copy of the response, plus a copy of the inquiry/request from the Community member, to the State.
- (c) If for a particular issue the State directs that all inquiries or information requests from the Community are to be handled by the State, then the Franchisees shall refer all inquiries to the State in a manner determined by the State.
- (d) In regard to inquiries and information requests from the State, the State shall set a reasonable timeframe (in writing) within which the Franchisees must provide the response.

2 Environmental Management

2.1 Environmental Management System (EMS)

2.1.1 General

- (a) Within 18 months of the Sale Date, the Franchisees must implement, maintain and comply with a certified Environmental Management System (EMS) for the management of all aspects of its obligations under the RFA and in accordance with the requirements of this Performance Specification.
- (b) The EMS must be developed in accordance with the requirements of *AS/NZS ISO 14001 Environmental management systems – Requirements with guidance for use*.
- (c) The Franchisees must engage the full time services of an environmental manager who:
 - (i) is directly responsible for reporting to the Franchisees' senior management;
 - (ii) has responsibility for ensuring that the requirements of the EMS, and Environmental Management Plan (see below), are implemented and maintained; and
 - (iii) initiates planning processes and acts to ensure the development and maintenance of the EMS.

2.1.2 Environmental management and certification

- (a) The Franchisees must ensure that:
 - (i) the effectiveness, integrity and continued certification of the Franchisees' EMS in achieving conformance with the requirements of the RFA; and
 - (ii) they report to the State on environment and cultural heritage issues in accordance with the requirements of the RFA and clause 2.1.2 (b).
- (b) The Franchisees shall ensure additional reports are issued within 10 Business Days of a request by the State should the frequency of non-conformances exceed the KPI Benchmarks by 25% or, in the opinion of the State acting reasonably, evidence exist of significant departure from the EMP(O), but in any event the interval between regularly scheduled reports shall not exceed three (3) months.

2.1.3 Environmental representatives and relationships

- (a) The State will possess information on environmental management issues of value to the Franchisees and its management of the Tollroad and the Leased Area, and:
 - (i) the State expects an open and transparent relationship with the Franchisees so that its knowledge and experience about environmental issues can be shared for the benefit of both parties;
 - (ii) generally this knowledge will be incorporated into technical processes, manuals and guidelines; and
 - (iii) the State requires the Franchisees to incorporate TMR Standards for all high risk Activities.

2.1.4 Conformance and continuous improvement

- (a) The Franchisees must comply with the requirements of its EMS in relation to control and any action taken in regard to non-conformances and to prevent the recurrence of any non-conformance. This includes:
 - (i) identifying and resolving non conformance;
 - (ii) analysing and planning potential solutions;
 - (iii) undertaking actions;
 - (iv) reviewing for effectiveness; and
 - (v) acting where effectiveness was not achieved.
- (b) Corrective actions implemented under the Franchisees' EMS must comply with the requirements of the RFA, including this Performance Specification.
- (c) The Franchisees must issue all documents relating to environmental non-conformances to the State immediately in accordance with clause 7.4 of the RFA.
- (d) The Franchisees must develop and regularly update the EMS, and associated manuals, procedures and guidelines to minimise the recurrence of any non-conformances.
- (e) If the State advises the Franchisees of any apparent non-conformances of which the State becomes aware, the Franchisees must assess the matter and treat any confirmed non-conformance(s) as per the Franchisees' EMS.
- (f) Reports to the State must include specific and significant non conformances and improvements, and trends.

2.1.5 Monitoring and audits

- (a) The Franchisees must:
 - (i) adhere to the EMS and stated objectives;
 - (ii) ensure their compliance with their EMS and Environmental Management Plan (see below), by establishing and maintaining an auditing program in accordance with *AS/NZS ISO 14001 Environmental management systems – Requirements with guidance for use*;
 - (iii) prepare a risk-based schedule for an internal audit program based on material of serious risk to the State. Sampling and intervals are risk dependent but the State may also prepare a risk-based schedule and may communicate this to the Franchisees usually not less than two months prior to the first of the scheduled audits;
 - (iv) invite the State to be present during such audits; and
 - (v) provide the State with access to electronic and paper-based reports, including non-conformances, remedial actions taken, and any subsequent reports and reviews.
- (b) In addition, the State may conduct sample spot audits, at its own cost, based on risk assessed according to clause 2.1.5(a)(iii) above. The Franchisees must supply all information, documentation, access and assistance necessary for the completion of these spot audits.
- (c) A program of external audits is to be undertaken by an independent auditor or the State if events of significance transpire (e.g. loss of certification, significant

spill of hazardous material, or significant impact on the environment). While the EMS will determine these risks, the risk-based schedule in clause 2.1.5 (a) (iii) above may refine what these risks are.

- (d) The State may arrange an external audit at its own cost unless significant non-conformance is disclosed in the particular subject of the audit whereupon the Franchisees will be required to meet the audit costs and:
 - (i) the Franchisees must supply information, documentation, access and assistance necessary for the completion of these external audits; and
 - (ii) the external auditor is to deliver both electronic and paper-based copies of each audit report to the State within five Business Days of its completion.

2.2 Environmental Management Plan (Operation)

2.2.1 General

- (a) Within 18 months of the Sale Date, the Franchisees shall develop an Environmental Management Plan (Operation) (EMP(O)) which addresses:
 - (i) administrative requirements, including reporting;
 - (ii) environmental management requirements to be implemented during any planning, design and construction and maintenance Activities;
 - (iii) each environmental element to be addressed; and
 - (iv) the requirements of relevant environmental legislative requirements and State documents.
- (b) Environmental elements shall include the management of surface water quality, ground water quality, erosion and sediment control, noise (other than road traffic noise), vibration, air quality, flora and fauna, vegetation, pest and weeds, fire management, Contamination, acid sulphate soils, waste management, chemical spills, hazardous substances, memorials and roadside memorials, European and indigenous heritage.
- (c) The Franchisees shall submit the EMP(O) to the State. The document shall be prepared in accordance with this Performance Specification.
- (d) Any amendments to the EMP(O) shall be submitted to the State for review, generally not more regularly than Quarterly

2.2.2 Administrative requirements

2.2.2.1 Franchisee's environmental licences, permits and approvals

- (a) The Franchisees' EMP(O) shall include a list of all environmental licences, permits and Approvals relevant to the operation and management of the Tollroad. Details shall include:
 - (i) name and type of licence, permit or Approval;
 - (ii) administering authority;
 - (iii) reference numbers; and
 - (iv) commencement and expiry date.
- (b) The Franchisees shall be responsible for obtaining all licences, permits and Approvals that are required, in accordance with relevant legislation.

2.2.2.2 Environmental roles and responsibilities of personnel

- (a) The Franchisees' EMP(O) shall document all specific environmental roles and responsibilities of its personnel.

2.2.2.3 Environmental records

- (a) The Franchisees shall document a process on how environmental records will be managed and maintained. Records shall include:
 - (i) an induction register;
 - (ii) environmental Incidents, non-conformances and Complaints;
 - (iii) inspection reports, checklists, diary entries;
 - (iv) monitoring results;
 - (v) meeting minutes;
 - (vi) formal letters;
 - (vii) cultural heritage monitoring and register requirements;
 - (viii) water measurement and tracking records; and
 - (ix) any other record identified within the EMP(O).
- (b) Where required to undertake environmental monitoring, the Franchisees shall report monitoring results, analysis and any corrective actions to the State on a Quarterly basis. Notwithstanding this, the Franchisees shall immediately notify the State of any Incidents involving material or serious environmental harm.

2.2.2.4 Environmental site induction

- (a) The Franchisees' EMP(O) shall describe the environmental site induction process for all relevant persons working on the Site, including subcontractors.
- (b) The induction shall include:
 - (i) identification of relevant Law;
 - (ii) general environmental duty and duty to notify;
 - (iii) conditions of environmental licences, permits and Approvals;
 - (iv) environmental management strategies contained in the Franchisees' EMP(O);
 - (v) identification of specific site areas, such as environmentally sensitive areas, limits of work and cultural heritage areas;
 - (vi) the process for definition and management of environmental incidents; and
 - (vii) processes for all Activities such as refuelling, waste disposal and litter collection.
- (c) The Franchisees shall maintain a register signed by those inducted. The register shall contain the topics covered, the name of inductees, dates inducted, and the name of the facilitator.
- (d) Inductions must be delivered to site personnel prior to their commencement on any site works.

2.2.3 Management of environmental elements

- (a) The EMP(O) shall document, as a minimum, the management of and/or address the following elements in addition to those identified in legislation and this Performance Specification.

2.2.3.1 Water quality

- (a) The Franchisees shall ensure works undertaken do not result in environmental nuisance or harm to waters adjacent to, or immediately downstream of the Tollroad, including any permanent water bodies.
- (b) Consideration shall be given to:
 - (i) identification of potentially affected water bodies or sensitive receiving areas;
 - (ii) O&M Activities and their potential impact on water quality;
 - (iii) monitoring location(s), triggers and frequency; and
 - (iv) water quality objectives (performance criteria).
- (c) All permanent and temporary water quality treatment measures shall be reviewed by the Franchisees at least every two years to ensure currency with Law and the Performance Specification. This review shall consider the purpose, design, placement and size of these measures.
- (d) In addition to clause 2.2.3.1(c), in the event of maintenance or construction works, the need for temporary or permanent water treatment devices to treat first flush events and the collection of runoff from bridges shall be planned and delivered in accordance with contemporary requirements.
- (e) Water discharged from site or from any water treatment devices must comply with water quality provisions of the State's Environmental Protection (Water) Policy 2009 (as periodically updated), as well as ANZECC and/or locally relevant water quality guidelines.

2.2.3.2 Erosion and sediment control

- (a) The Franchisees shall be responsible for the installation and management of measures for the control of erosion and sediment throughout the Leased Area to ensure any operation or works do not cause environmental nuisance or harm outside those areas.
- (b) Consideration shall be given to:
 - (i) site features, including any known contours and existing drainage paths, where available;
 - (ii) location of sidetracks, temporary roads, borrow pits, hardstands, site office, amenity blocks, stockpile pads, vehicle/machinery maintenance areas, and other areas of disturbance;
 - (iii) opportunities to minimise clearing, ground disturbance and soil exposure;
 - (iv) management of topsoil for re-use;
 - (v) location and construction details of all erosion and sediment control structures, including diversion of clean waters from areas of disturbance;
 - (vi) scheduling of works such as the progressive installation of drainage structures, and permanent and temporary erosion and sediment control measures;

- (vii) progressive stabilisation of disturbed areas; and
- (viii) maintenance program for erosion and sediment control measures.
- (c) Control practices for erosion and sediment control shall be determined by considering:
 - (i) seasonal conditions;
 - (ii) soil types, particularly dispersive, sodic and saline soils;
 - (iii) local hydrology affecting the construction zone;
 - (iv) on-site capture of sediments; and
 - (v) local drainage, including temporary and overland flow paths.
- (d) The Franchisees shall prepare a temporary erosion and sediment control plan, for inclusion within any maintenance plan, if water quality is likely to be affected by maintenance. As part of the plan, documentation shall be provided on the proposed control measures.

2.2.3.3 Cultural heritage

- (a) The Franchisees shall be responsible for the management (including protection and preservation) of indigenous and non-indigenous cultural heritage artefacts, sites and values within the Leased Area and the Other Areas in accordance with clause 7.7 of the RFA.
- (b) Where there is a cultural heritage management agreement the Franchisees must comply with it (refer *Aboriginal Cultural Heritage Act 2003(QLD)*).
- (c) The Franchisees shall arrange for all staff to participate in cultural heritage awareness training, such acceptable to the State.
- (d) The Franchisees' EMP(O) shall provide the following information:
 - (i) cultural heritage officer details
 - (ii) location of known areas of cultural heritage significance
 - (iii) identification of exclusion zone/s, and
 - (iv) notification process.

2.2.3.4 Noise

- (a) The Franchisees must deal with noise as detailed in Part 5 and (b) to (d) below. Where there is any inconsistency between Part 5 and (b) to (d) below, Part 5 shall prevail to the extent of any inconsistency.
- (b) The Franchisees shall, at all times, take measures to assist in minimising noise associated with Activities so as not to cause environmental nuisance or harm.
- (c) Consideration shall be given to the following information in all relevant Activities undertaken by the Franchisees:
 - (i) location of noise-sensitive receptors;
 - (ii) identification of significant noise-generating Activities and locations (e.g. asphalt laying and compacting, and all other maintenance plant and equipment);
 - (iii) methods available to minimise or mitigate noise associated with works, such as:
 - a. alternative work practices;

- b. silencing/dampening;
 - c. servicing or replacement of plant or machinery;
 - d. bunding, enclosures or screening;
 - e. staging of the works; and
 - f. location of noise equipment away from noise-sensitive receptors.
- (iv) the Community Engagement Plans developed in accordance with the Performance Specification; and
 - (v) all relevant legislation, standards, codes, policies and manuals.
- (d) The Franchisees shall be responsible for the management of Complaints regarding noise during maintenance and operations. Where required or as directed by the State, the Franchisees shall undertake noise monitoring in response to Complaints. Unless otherwise specified, noise monitoring shall be undertaken in accordance with the Noise Code.

2.2.3.5 Vibration

- (a) The Franchisees shall ensure that the O&M Activities do not result in vibration causing property damage, environmental nuisance or harm.
- (b) Consideration shall be given to the following information in all relevant documentation:
 - (i) location of vibration-sensitive receptors;
 - (ii) any vibration and air-blasting overpressure generating Activities (e.g. compressors and pumps and other maintenance plant and equipment) and their locations;
 - (iii) air-blast overpressure limits given in the *Environmental Protection Regulation 2008(QLD)*;
 - (iv) ground vibration values in accordance with TMR *Technical Standard MRTS51 Environmental Management*;
 - (v) methods available to minimise or mitigate vibration associated with works; and
 - (vi) vibration monitoring requirements in accord with TMR Standards.
- (c) Prior to commencing any vibration Activities, the Franchisees shall undertake a risk assessment of the potential for damage from vibration to nearby premises, buildings and structures. If necessary from the risk assessment, the Franchisees shall undertake a condition survey of premises, buildings and structures at risk of damage, assessing their current structural and architectural condition and recording all existing cracks and other defects. The Franchisees must support the condition survey with photographs.
- (d) Unless otherwise specified, a structural engineer registered with the Board of Professional Engineers of Queensland shall carry out the condition survey. The survey must be carried out with the consent and in the presence of the owner or owner's representative.
- (e) A copy of the condition survey shall be given to the State within 5 Business Days before the commencement of any works that may cause vibration damage.
- (f) The Franchisees shall be responsible for the management of complaints in response to vibration during maintenance. Where required or as directed by the administering authority, the Franchisees shall undertake vibration monitoring in response to complaints. If not specified in this Performance Specification, such monitoring shall be undertaken in accordance with best practice methods.

2.2.3.6 Air quality

- (a) The Franchisees shall ensure that the O&M Activities do not result in air quality impacts that cause environmental nuisance or harm.
- (b) Consideration shall be given to the following information in all relevant documentation:
 - (i) location of dust or smoke-sensitive places;
 - (ii) Activities likely to reduce air quality and their locations;
 - (iii) methods available to minimise or mitigate dust associated with works, such as:
 - A. avoiding works (e.g. stripping, excavation, etc) during dry and windy conditions;
 - B. fitting equipment with dust collection/suppression devices;
 - C. stabilising/covering all materials stockpiled for longer than one month (excluding pavement materials and screenings) by grassing, erosion blanketing, emulsion spray or other approved method;
 - D. dust suppression, using regular watering (or alternative method);
 - E. covering loads;
 - F. temporary sealing of the site and access roads;
 - G. maintaining clean roadways to and from construction zone/s;
 - H. forbidding the burning of any material; and
 - I. maintaining all Vehicles and plant to keep emissions within the limits set by the Australian Design Rules.
- (c) The Franchisees shall be responsible for the management of Complaints in response to air quality concerns (dust or other particulates) during operation and maintenance. Where required or as directed by the State, the Franchisees shall undertake air quality monitoring in response to Complaints. Unless otherwise specified, air quality monitoring shall be undertaken in accordance with TMR Standards.

2.2.3.7 Acid sulphate soils

- (a) The Franchisees shall be responsible for the management of acid sulphate soils within the Leased Area.
- (b) Acid sulphate soil investigations shall be undertaken at locations where it is considered likely to arise from the Activities, including areas where subsurface disturbance will occur from maintenance Activities.
- (c) The findings of these investigations shall be included in the EMP(O). If acid sulphate soils are located, an acid sulphate soil management plan shall be implemented.

2.2.3.8 Contaminated sites

- (a) Further investigations may be required to determine likely Contamination levels within the Leased Area and the Other Areas. As part of this, the following shall be undertaken:
 - (i) searches of the DERM *Environmental Management and Contaminated Land Registers*;
 - (ii) Stage 1 – Preliminary site investigation to identify potential or actual Contamination;

- (iii) any subsequent investigations required in accordance with the DERM guidelines for the assessment and management of Contamination;
 - (iv) discussions with DERM regarding the management of any Contamination; and
 - (v) implementation of a management plan to identify the measures/ remediation required to treat Contamination in accordance with the DERM guidelines.
- (b) The following information shall be provided by TMR and the Franchisees with all relevant documentation:
- (i) location of known or potential Site Contamination;
 - (ii) known contaminants; and
 - (iii) proposed remediation actions.
- (c) If Site Contamination is identified by the Franchisees while performing the Activities, the Franchisees shall proceed in accordance with clause 7.5 of the RFA.
- (d) The management of Contamination may involve:
- (i) treatment and/or encapsulation;
 - (ii) removal and/or disposal of known Contamination and backfilling; or
 - (iii) other remedies as required by Law or any relevant Authority.
- (e) Documentation of the treatment, transport and/or disposal of Contamination shall be in accordance with Law.

2.2.3.9 Fauna management

- (a) In undertaking the Activities, the Franchisees shall take all due care not to harm native fauna.
- (b) Consideration shall be given to the following information in all relevant documentation:
- (i) identification of significant habitat areas;
 - (ii) identification of fauna known or likely to occur within the area;
 - (iii) identification of significant habitat features such as hollows, or nests;
 - (iv) methods available to minimise impacts, such as:
 - A. preserving areas by prohibiting disturbance or construction Activities;
 - B. preserving habitat logs, rock, other shelters and subsequent re-instatement;
 - C. minimising clearing within the construction zone;
 - D. implementation of two-stage clearing procedures; and
 - E. procedures to treat fauna injured by the construction Activities;
 - (v) use of a State authorised "fauna spotter-catcher" during works;
 - (vi) inclusion of contact details for emergency wildlife care on the project's emergency contact list;

- (vii) detail of procedures implemented to treat fauna injured by construction Activities;
 - (viii) immediate reporting to the State of any fauna injured or dead, which are known as rare, endangered or vulnerable; and
 - (ix) implementation of fauna mitigation measures such as underpasses and exclusion fencing.
- (c) Fauna guide fencing or similar barriers shall be incorporated into the landscape design.
- (d) The authorised “fauna spotter-catcher” must:
- (i) undertake a fauna survey of all habitats on the day of, and prior to, any clearing;
 - (ii) identify trees which contain or are likely to contain fauna;
 - (iii) be present during all clearing operations of areas and trees which have been identified as containing fauna habitat;
 - (iv) ensure trees identified in clause 2.2.3.9(d)(ii) are not cleared until the fauna have left of their own natural accord; and
 - (v) prepare a pre-clearing and post-clearing report to document finds and actions.

2.2.3.10 Vegetation management

- (a) The Franchisees shall be responsible for the management of vegetation within the Leased Area.
- (b) Consideration shall be given to the following information in all relevant documentation:
- (i) confirmation of the presence of significant vegetation, including confirmation regarding the presence of regional ecosystems;
 - (ii) location and dimensions of all areas to be cleared;
 - (iii) opportunities to minimise clearing and avoid clearing regional ecosystems, including documentation of the clearing stages;
 - (iv) selection of appropriate clearing machinery and equipment;
 - (v) protection of vegetation drip-lines and areas of significant vegetation;
 - (vi) location of ancillary Activities (e.g. stockpile sites, camps, parking locations, Vehicle hardstands) within existing disturbed areas;
 - (vii) methods to reuse cleared vegetation on site; and
 - (viii) landscape and urban design opportunities.
- (c) The following measures shall be addressed in the management of hollow-bearing trees.
- (i) hollow-bearing trees shall be retained in situ where they do not interfere with the safe operation and function of the Tollroad ;
 - (ii) should hollow-bearing trees need to be removed, the hollows should be cut out and fixed into retained trees (at least 5m above the ground) in adjoining bushland areas. This work should be undertaken in consultation with the authorised “fauna spotter-catcher”.

- (d) Where vegetation is cleared for construction or other Activities, local native vegetation must be used as part of landscaping and rehabilitation works to restore habitats and amenity values.
- (e) The Franchisees shall comply with the State's requirements for landscape, revegetation and urban design.

2.2.3.11 Pest management

- (a) The Franchisees shall manage all declared pests (animals and plants) within the Leased Area and employ measures to prevent their spread outside of these areas.
- (b) Consideration shall be given to the following:
 - (i) location of pest infestations;
 - (ii) weed treatment schedule, addressing methods of control, chemicals, locations, timing of works;
 - (iii) means of excluding access to areas of pest infestation;
 - (iv) treating infestations prior to the disturbance of the natural surface;
 - (v) conserving weed-free topsoil for reuse in site rehabilitation;
 - (vi) burial or isolation of infested soil material;
 - (vii) location of nearest permanent Vehicle and infrastructure wash-down facilities;
 - (viii) location and design of proposed temporary Vehicle and infrastructure wash-down facilities;
 - (ix) pest control operator qualifications; and
 - (x) development of an approved risk management plan for red imported fire ants in coordination with the Department of Employment, Economic Development and Innovation (Primary Industries).
- (c) The Franchisees shall:
 - (i) use vendor declarations to certify that imported topsoils and mulches are weed free;
 - (ii) certify the construction plant and vehicles used on site are weed free; and
 - (iii) ensure construction plant and vehicles operating in Contamination areas are cleaned prior to movement in other areas.
- (d) Where temporary clean-down bays are used, they shall be:
 - (i) located in areas easily accessible for ongoing maintenance;
 - (ii) located further than 200 metres from a watercourse, drainage line or environmentally sensitive area;
 - (iii) designed to contain weed seeds, sediments, oils and greases; and
 - (iv) designed to prevent Vehicle re-contamination.

2.2.3.12 Waste management

- (a) The Franchisees shall be responsible for the management of wastes generated by the Activities.

- (b) The Franchisees shall adopt a waste management hierarchy of waste avoidance, waste reuse, waste recycling, energy recovery from waste and waste disposal.
- (c) The Site must be free from litter. At all times, the Franchisees shall provide bins with fitted lids at common areas. The bins shall be serviced prior to being filled to capacity.
- (d) Consideration shall be given to the following:
 - (i) type and quantity of waste expected to be generated and its source;
 - (ii) waste management strategies (e.g. avoidance, reuse, recycling, energy recovery, disposal);
 - (iii) Contamination location and receptacle type; and
 - (iv) destination and waste contractor.
- (e) A register of wastes shall be maintained by the Franchisees and include:
 - (i) type and quantity of waste generated;
 - (ii) when and where the waste is recycled, reused or disposed of; and
 - (iii) waste transporters' details (including company name, licensed operator name and licence number).

2.2.3.13 Management of chemicals and fuels

- (a) The Franchisees shall be responsible for the management of all chemicals and fuels within the Leased Areas and Other Areas so as not to cause environmental nuisance or harm.
- (b) Consideration shall be given to the following:
 - (i) type of chemical and fuels;
 - (ii) maximum quantity to be stored at any one time;
 - (iii) storage location (not within 50 metres of any drainage line);
 - (iv) management practices (e.g. bunding);
 - (v) type and location of all spill response equipment;
 - (vi) topographic features of the site including locations of watercourses;
 - (vii) location of fixed-point machinery refuelling areas; and
 - (viii) location of machinery servicing areas.
- (c) In addition, the Franchisees shall ensure refuelling of machinery conforms to the following requirements:
 - (i) no refuelling within 30 metres of a watercourse or drainage line;
 - (ii) fuelling Activities to be supervised at all times; and
 - (iii) hoses to be fitted with a stop valve at the nozzle end.
- (d) The Franchisees shall ensure spill response equipment is available on site for use in emergency. Spill response equipment must be commensurate with the locality, type and quantity of chemicals and fuels being stored on site.
- (e) Machinery shall be maintained to minimise the leakage of oil, fuel, and hydraulic and other fluids. During the servicing of machinery, the Franchisees shall use

measures to capture and contain oils, fuels, hydraulic and other fluids, so as to minimise Contamination of the servicing area.

- (f) The Franchisees shall remediate any Contamination resulting from spills, leaks or servicing areas to the State's satisfaction.

2.3 Environmental references

As a minimum, the following shall apply:

- Department of Main Roads (2008): *Design Environment & Stewardship, Road Traffic Noise Management - Code of Practice*
- Department of Main Roads (2009): *Design Environment & Stewardship, Road Traffic Air Quality Management Manual*
- Department of Main Roads (2004): *Design Environment & Stewardship, Road Project Environmental Processes Manual*
- Department of Main Roads (2000): *Design Environment & Stewardship, Fauna Sensitive Road Design – Volume 1*
- Department of Main Roads (2010): *Design Environment & Stewardship, Fauna Sensitive Road Design – Volume 2*
- Department of Main Roads (2004): *Design Environment & Stewardship, Road Landscape Manual*
- Department of Main Roads (2010): *Design Environment & Stewardship, Road Drainage Manual*
- Department of Main Roads (2009): *Design Environment & Stewardship, Standard Drawings Roads*
- Department of Main Roads (2009): *Road & Delivery Performance, Standard Specifications - Standard Specifications Roads*
- Environmental Protection Agency (2006): *Flinders to Greenbank/Karawatha Conservation Partnership Memorandum of Understanding, Queensland Government.*
- Information associated with the *Flinders to Greenbank-Karawatha Corridor Fauna Crossing Opportunities – Infrastructure Agreement of Intent* (June 2008).

3 Workplace Health, Safety and Rehabilitation

3.1 General Approach

- (a) The State requires the Franchisees and third parties seeking access to the Leased Area for Activities to be certified for workplace health and safety, or be allowed access under a certified arrangement of another party, which may be the Franchisees, in order for the Franchisees to manage the subject assets.
- (b) The Franchisees shall use their best endeavours to facilitate the State or third parties to access the Leased Area for agreed or TMR approved purposes.

3.2 Workplace Health and Safety System

3.2.1 General

- (c) The Franchisees must implement, maintain and comply with a certified WHSMS for the management of all aspects of its obligations under the RFA (including clause 10.12 of the RFA) and in accordance with the requirements of this Performance Specification.
- (d) The WHSMS must be developed in accordance with the requirements of *AS/NZS 4801:2001 Occupational health and safety management systems – Specification with guidance for use*.

3.2.2 Workplace Health and Safety Management and Certification

- (a) The Franchisees must:
 - (i) ensure the effectiveness, integrity and continued third party certification of the Franchisees' WHSMS in achieving conformance with the requirements of the RFA; and
 - (ii) report to the State on workplace health and safety issues in accordance with the requirements of the RFA.

3.2.3 Conformance and Continuous Improvement

- (a) The Franchisees must comply with the requirements of its WHSMS in relation to the control and any action taken in regard to non-conformances and to prevent the recurrence of any non-conformance.
- (b) Corrective actions implemented under the Franchisees' WHSMS must comply with the requirements of the RFA, including this Performance Specification.
- (c) The Franchisees must issue all documents relating to workplace health and safety non-conformances to the State in accordance with TMR's *037 WHSP Reporting Notifiable Injuries and Dangerous Events* requirements.
- (d) The Franchisees must develop and regularly update the WHSMS, and associated manuals, procedures and guidelines to minimise the recurrence of any non-conformances.
- (e) If the State advises the Franchisees of any apparent non-conformances of which the State becomes aware, the Franchisees must assess the matter and treat any confirmed non-conformance(s) as per the Franchisees' WHSMS.
- (f) Reporting to the State is to include specific and significant non-conformances and improvements, and trends.

3.2.4 Monitoring and Audits

- (a) The Franchisees must:
 - (i) provide assurance to the State of continued conformance to WHSMS and stated objectives;
 - (ii) ensure their compliance with their WHSMS by establishing and maintaining an internal auditing program in accordance with *AS/NZS ISO 4801:2001*;
 - (iii) prepare a risk-based schedule for an internal audits program based on material of serious risk to the State. Sampling and intervals are risk dependent. The State may also prepare a risk-based schedule and may communicate this to the Franchisees usually not less than two months prior to the first of the scheduled audits;
 - (iv) invite the State to be present during such audits; and
 - (v) provide the State with access to electronic and paper-based reports, including non-conformances, remedial actions taken, and any subsequent reports and reviews.
- (b) In addition, the State may conduct sample spot audits, at its own cost, based on risk assessed according to (iii) above. The Franchisees must supply all information, documentation, access and assistance necessary for the completion of these spot audits
- (c) A program of external audits is to be undertaken by an independent auditor or the State if events of significance transpire (e.g. loss of life, significant infrastructure failure). While the WHSMS will determine these risks, the risk-based schedule in clause 3.2.4(a)(iii) above may refine what these risks are:
 - (i) these external audits by the State will be at the State's cost unless significant non-conformance is disclosed in the particular subject of the audit, whereupon the Franchisees will be required to meet the audit costs associated with the non-compliance;
 - (ii) the Franchisees must supply information, documentation, access and assistance necessary for the completion of these external audits; and
 - (iii) the external auditor is to deliver both paper-based and electronic copies of each audit report to the State within five Business Days of its completion.

3.3 Workplace Health and Safety Management Plan

- (a) Within 15 months of the Sale Date, the Franchisees shall develop a WHSMP that complies with the requirements of the WHSA. This plan may be reviewed by the State annually.

3.4 References

As a minimum, the following shall apply:

- (i) WHSA
- (ii) *Workplace Health and Safety Regulation 2008 (QLD)*;
- (iii) *Workplace Health and Safety (Codes of Practice) Notice 2005 (QLD)*;
- (iv) *Risk Management Code of Practice 2007*;
- (v) *AS/NZS 4801: 2001 Occupational health and safety management systems – Specification with guidance for use*; and
- (vi) *TMR - 037 WHSP Reporting Notifiable Injuries and Dangerous Events (2009)*.

4 Key Performance Indicator Assessment System

4.1 Introduction

4.1.1 Objective of the KPI Assessment System

- (a) The objective of the KPI Assessment System is to assist in the measurement of the Franchisees' compliance with their obligations under the RFA including Parts 1 to 5, and to encourage a structured approach to self assessment and continuous improvement throughout the Concession Period.

4.1.2 Key Performance Indicators (KPIs)

- (a) The State has developed KPIs to assess the Franchisees' performance for key aspects of the Performance Specification as defined in:
 - (i) Table 5-1, which specifies all of the KPIs; and
 - (ii) clause 6, which specifies how each KPI is measured.

4.1.3 Updating of KPI's

- (a) The State and the Franchisees shall review the KPI's prior to the end of the first full Financial Year and from that time onwards, prior to the commencement of every second Financial Year, unless a longer period is agreed by both parties. Subject to agreement from both parties (unless noted otherwise in the Performance Specification), the KPI requirements may be updated at this time.
- (b) KPI's must be updated during the Concession Period to reflect relevant changes to Law, TMR Standards, Austroads standards or Australian standards.
- (c) Subject to agreement from both parties, the State and Franchisees can change any aspect of any KPI at any time.

4.2 KPI Assessment System – Method of Application

4.2.1 Compensation

- (a) If the Franchisees fail to achieve any KPI Benchmark, the State may apply the relevant Demerit Points calculated in accordance with Table 5-1 and the applicable compensation payable will be the amount calculated by multiplying the total KPI Demerit Points for any Financial Year by \$1,000 (excluding GST) indexed annually at CPI from 1 July 2011.
- (b) Compensation payable to the State will be assessed on the basis of Demerit Points accumulated at the end of each Financial Year. The Demerit Points incurred by the Franchisees shall be determined as follows using the methods specified in clause 6 herein, and:
 - (i) for KPIs reported on a Quarterly basis, the number of Demerit Points incurred in each quarter shall be attributed to that quarter;
 - (ii) for KPIs reported on an annual basis, the number of Demerit Points incurred during that Financial Year, shall be evenly distributed across all four quarters; and
 - (iii) the total number of Demerit Points incurred by the Franchisees per quarter shall be determined by adding the Demerit Points attributed to each quarter in (i) and (ii) above.
- (c) Total payment by the Franchisees shall be capped in respect to Demerit Points to 5,000 Demerit Points per quarter, except in respect to compensation due for KPI R1.1, which shall be excluded from the cap.
- (d) If the total compensation payable exceeds zero, then:

- (i) the Franchisees must notify the State of the compensation payable within 40 Business Days after the end of each Financial Year; and
 - (ii) unless the State directs that the compensation be applied in accordance with clause 11.11(e) of the RFA, the Franchise shall pay the compensation payable within a further 10 Business Days.
- (e) Any period of reporting that is less than a full Financial Year shall attract compensation on a pro-rata basis for the period concerned compared to a full Financial Year.

4.2.2 Reporting, auditing and rectification

- (a) The Franchisees will report to the State in accordance with the requirements of clause 11.11 of the RFA.
- (b) In addition to reporting Demerit Points, the Franchisees must take action to rectify the KPI non-compliance within the period specified in the 'Rectification Period' column of Table 5-1.
- (c) Auditing of the KPI Assessment System shall be in accordance with clause 11.11 of the RFA.

4.3 KPI Assessment System Implementation

4.3.1 Implementation period

- (a) Unless specified otherwise in the State Concession Documents, an implementation period of 18 months from the Sale Date will be allowed during which the Franchisees will not be liable for compensation payable in respect of Demerit Points for any non-compliance during this period. Where an item is not compliant with the standards required at the Sale Date, the implementation period may be extended as provided in the Performance Specification.

4.3.2 Implementation provisions

- (a) The Franchisees shall be required to comply with all KPIs during the Concession Period except for the implementation period as defined in clause 4.3.1.
- (b) During the implementation period referred to in (a), the Franchisees must use their best endeavours to derive and implement the necessary measures to meet and measure the level of performance specified for these KPIs.

4.3.3 Measurement

- (a) The method of measurement to determine how the Franchisees are performing against each KPI is described in clause 6.

5 Key Performance Indicators

- a) Details of Key Performance indicators are shown in Table 5-1.

Table 5-1: Key Performance Indicators

KPI No.	KPI Description	KPI Bench - mark	KPI Units	Demerit Points	Rectification Period	Frequency of Reporting
PART 1						
Quality Assurance						
QA1	Quality System					
QA1.1	Establish and maintain a certified Quality Management System in accordance with AS/NZS ISO 9001	Certified within 18 months of Sale Date and certification confirmed annually thereafter.	Not applicable	Not certified in 18months: 100 Not maintained annually: 100	60 Business Days	Annually
QA1.2	Not used	Not used	Not used	Not used	Not used	Not used
Environmental Management						
EM1	Establish and maintain a certified Environmental Management System including the EMP(O).	Certified within 18 months of the Sale Date and certification confirmed annually thereafter.	Not applicable	Not certified in 18 months: 50 Not maintained annually: 50	60 Business Days	Annually
EM2	Not used	Not used	Not used	Not used	Not used	Not used
EM3	Incident and environmental assessment data reporting on all: <ul style="list-style-type: none"> • environmental emergency Incidents and responses; and • environmental and cultural heritage Incidents, Complaints and responses. 	Within 24hrs for Incidents	Hours	>24 ≤ 48: 5 >48: 10 per incident not reported	48hrs	Quarterly

KPI No.	KPI Description	KPI Bench - mark	KPI Units	Demerit Points	Rectification Period	Frequency of Reporting
Reporting						
R1	Annual Reporting					
R1.1	Annual report demonstrating the extent of compliance with the KPI Assessment System - timeliness of submission	Deadline date	Business Days after the deadline date	10 per Day	20 Business Days	Annually
R2	Reporting General					
R2.1	Timeliness of submission of reports (required by the Performance Specification) other than those reports where the timeliness of submission to the State is measured by another KPI.	Within the Response Times set out in the Performance Specification	%	<100% ≥95%: 5 <95% ≥90%: 10 <90%: 20	5 Business Days	Quarterly
PART 2						
Commercial Operations						
CO1	Tollroad User Service					
CO1.1	Number of Tollroad User Complaints Measurement method: The number of Tollroad User Complaints received by the Franchisees as a percentage of the number of Toll transactions levied. Exemptions: 1. Tolling policy (such as the types of fees and charges) 2. Legitimate infringement notices 3. State announcements 4. Complaints about other toll roads or other Tollroad Service Providers 5. Events outside of the Franchisees' control	<0.01%	%	≥0.01% <0.02%: 60 ≥0.02% <0.03%: 100 ≥0.03%: 160	6 months	Annually
CO1.2	Not used	Not used	Not used	Not used	Not used	Not used
CO1.3	Toll awareness and ease of payment	≥95	%	<95% - ≥94%: 30	6 months	Annually

KPI No.	KPI Description	KPI Bench - mark	KPI Units	Demerit Points	Rectification Period	Frequency of Reporting
	Measurement method: The number of Toll transactions levied that do not incur a Casual User Invoice Fee or an Administration Charge (both as defined in the Gazette Notice), expressed as a percentage of total Toll transactions for the period..			<94% - ≥93%: 50 <93%: 80		
CO1.4	Level of Tollroad User satisfaction Measurement method (industry benchmark): Tollroad Users will be considered satisfied if the aggregate result of the Tollroad User Service Performance Review equals or exceeds the average result achieved by other Australian Tollroad Service Providers.	Average of industry benchmark	%	Variance from benchmark: ≥0 - 4.99%: 0 ≥5% - 7.49%: 200 ≥7.5% - 9.99%: 400 ≥10%: 600	6 months	6 months
CO2	Toll Management					
CO2.1	The Franchisees' independent auditor report demonstrating compliance in: a) Accuracy of Toll or User Administration Charges b) Timeliness of charging Toll transactions c) Accessibility for Toll payments d) Accuracy of information	Refer to clause 6.2.2	-	Refer to clause 6.2.2	1 month	Annually
CO2.2	Significant Non-Compliance reporting: The Franchisees must notify the State within 1 Business Day and issue a report to the State within 3 Business Days of becoming aware of a Significant Non-Compliance.	0	Event	Ramp up period for first 12 months from Commencement Date Second year 5 points shall apply for each Non-Compliance event not complying with the requirements. The points shall increase to 25 points for each Non-Compliance event not complying with the requirements for each subsequent year thereafter.	1 month	Per Event
PART 3						

KPI No.	KPI Description	KPI Bench - mark	KPI Units	Demerit Points	Rectification Period	Frequency of Reporting
Road Operations						
RO1	Tollroad ITS Operations and Systems					
RO1.1	Availability of data detection and traffic control devices – percentage of time each device is available and operating	Refer to clause 6.3.1	-	Refer to clause 6.3.1	1 month	Quarterly
RO1.2	Communication availability between ITS devices and Traffic Operations Software System	Refer to clause 6.3.1	-	Refer to clause 6.3.1	3 Business Days	Quarterly
RO2	Tollroad Operations Plan					
RO2.1	Develop and review Tollroad Operations Plan in accordance with timelines in clause 3 of Part 3.	0 Business Days	Business Days	After the deadline: 1 per Business Day	3 months	Annually
RO2.2	Compliance with the Tollroad Operations Plan - number of non-conformances determined from audit	0 non-conformances	number	Per non-conformance: 5	3 months	Quarterly
RO3	Event Management					
RO3.1	Management of Unplanned Events in terms of Response Times requirements achieved and number of non-conformances with relevant TMPs for each of: (i) detection and loggings; (ii) responses initiated; and (iii) response arrivals at the scene.	90% compliance with Response Times	%	< 90% ≥ 85%: 15 < 85% : 35	20 Business Days	Quarterly
	Management of Unplanned Events in terms of the number of non-conformances with relevant TMPs.	0 TMP non-compliance	number	Category 1 incident : = 10 Category 2 incident : = 5 Category 3 incident 3: = 2	20 Business Days	Quarterly
RO3.2	Management of Planned Events in terms of the non-conformances with the TMP or the agreement with the event organizer. When a non-conformance results in a:		number	For each non-conformance in excess of the KPI Benchmark:	1 Day	Quarterly
	Category 1 Incident causing congestion on the Affected Road Network	2 non-conformances per year		20		

KPI No.	KPI Description	KPI Bench - mark	KPI Units	Demerit Points	Rectification Period	Frequency of Reporting
	Category 2 Incident causing congestion on the Tollroad only	2 non-conformances per year		10		
	Category 3 Incident causing little or no congestion on the Tollroad	24 non-conformances per year		5		
RO4	Safety Performance					
RO4.1	Crash rates (the road safety performance of the Tollroad during any Financial Year must always perform the same or better than the floating five year road safety performance benchmark for the Tollroad)	Floating five year road safety performance benchmark	%	≤+5%: 0 >+5% - ≤+10%: 150 >+10%: 300 Demerit Points shall only apply from the first reporting period (July 2016 – June 2017)	1 year	Annually
PART 4						
Asset Management						
AM1	Asset Performance					
AM1.1	Prepare and maintain asset management plans as required in Part 4: a) SAMP b) TAMP c) OMP d) Long Term Expenditure Plan e) Forward List of Works	Due dates are as defined in Part 4.	Business Days	For each plan: 1 per every Business Day after the deadline date	30 Business Days	Annually

KPI No.	KPI Description	KPI Bench - mark	KPI Units	Demerit Points	Rectification Period	Frequency of Reporting
	f) Annual Works Program g) O&M Plan					
AM1.2	Tollroad infrastructure condition and performance.	Condition and performance as defined in Part 4.	Refer to clause 6.4.1	Refer to clause 6.4.1	Refer to clause 6.4.1	Annually
AM1.3	Maintaining minimum remaining life of key Tollroad Assets.	As defined in clause 6.4.1	As defined in clause 6.4.1	As defined in clause 6.4.1	12 months	Annually
AM2	Maintenance					
AM2.1	Routine Maintenance performed in a timely manner and to the standard required by Part 4.	≥95% within the Response Times set out in Part 4	%	<95% - ≥92%: 100 <92% - ≥90%: 300 <90%: 600	1 month	Quarterly

PART 5

Road Traffic Noise Management

RTN1	Develop and maintain road traffic noise models for the entire Tollroad.	All Tollroad modelled by 31 December 2011, and updates as required by Part 5.	Months after the deadline	≤ 3mths: 25 >3mths ≤ 6mths: 50 >6mths ≤ 9mths: 75 >9mths: 100	6 months	Annually
RTN2	Achieve Noise Code requirements and rectification of non-compliant sections	Road traffic noise levels along Tollroad comply with the requirements of the Noise Code	metres	1 per five metre length of motorway not compliant with the Noise Code	6 months	Annually

Community Engagement

KPI No.	KPI Description	KPI Bench - mark	KPI Units	Demerit Points	Rectification Period	Frequency of Reporting
CE1	Preparation of Community Engagement Plans in accordance with clause 3 of Part 5.	100% compliance	Each plan	25 per plan not in accordance with the requirements specified in Part 5.	3 months	Annually
CE2	Compliance with Community Engagement Plan/s	100% conformance	number	10 per non-conformance	6 months	Annually

6 KPI Measurement Details

6.1 Part 1 Management

6.1.1 Quality Assurance

QA1.1: Establish and maintain an accredited Quality Management System (QMS)

Purpose

To ensure that the Franchisees develop and implement a certified QMS (in accordance with AS/NZS ISO 9001), and maintains their third party certification.

Method of Assessment

The KPI will be assessed on the timeliness of preparing the QMS and in achieving its certification. Further assessment of the timeliness of annual reviews required by the system to confirm continued certification will be used for performance after the first year. In the case of the initial preparation, the performance will be based on certification of the system within 18 months of the Sale Date (the **QMS Initial Certified Date**).

For subsequent years, the performance will be judged against the timeliness of completion of the annual audit of the system required to confirm continued certification by the anniversary date of the QMS Initial Certified Date.

Measurement

For the preparation and certification periods, the deadline date will be met or not. That is, if the deadline is achieved, no Demerit Points will accrue, and if the deadline is not achieved, then all of the Demerit Points will accrue.

For the annual audit requirement, either certification is maintained or it is not. If the certification is not maintained, then all the Demerit Points will accrue.

Assessment

For the preparation and certification Demerit Points will be incurred as follows:

System certified within 18 months of the Sale Date: 100

Certification confirmed after each 12 month anniversary date: 100

QA1.2: Not used

6.1.2 Environmental Management

EM1: Environmental Management System (EMS) – develop, implement, and have certified

Purpose

To ensure the Franchisees develop, implement and certify an appropriate EMS including the EMP(O); and update it annually to ensure ongoing third party certification.

Method of Assessment

The KPI will be assessed by the timeliness of the submission of an acceptable system to the State. An acceptable system will be one complying with the requirements of the Performance Specification. The benchmark is that the EMS will be prepared and third party certified within 18 months of the Sale Date (the

EMS Initial Certified Date). For subsequent years, performance will be judged against the timeliness of maintaining third party certification at the annual anniversary of the EMS Initial Certified Date.

Measurement

Certification of the EMS will either be on time or late i.e. if the certification occurs after the 18 month anniversary of the Sale Date, then the Demerit Points will apply. For subsequent years, the EMS will either still be third party certified, or not. If certification is not maintained, then all the Demerit Points will accrue.

Assessment

50 Demerit Points will be applied for late certification of the initial EMS.

50 Demerit Points will be applied for late certification of the EMS in subsequent years.

EM2: Not used

EM3: Environmental Reporting

Purpose

The purpose of this KPI is to ensure that the Franchisees report on all:

- environmental emergency Incidents and responses; and
- environmental and cultural heritage incidents, Complaints and responses in an accurate and timely manner.

Method of Assessment

The KPI will be assessed by the time it takes to submit the required report after an Incident occurs. The assessment will be for each and every Incident and Demerit Points will be applicable for each and every Incident. The benchmark is that reports will be submitted within 24 hours of the Franchisees becoming aware of the Incident occurring.

Measurement

Measurement will be for each and every Incident and will be from the time that the Franchisees became aware that the Incident occurred, until the time the report is received by the State.

Assessment

Demerit Points will be incurred as follows (based on the number of hours after the Incident occurred):

≤24 hrs:	0
>24hrs ≤ 48hrs:	5
>48hrs:	10

6.1.3 Reporting

6.1.3.1 R1: Annual reporting

R1.1: Timeliness of the annual report on KPI compliance & Demerit Points

Purpose

The purpose of this KPI is to ensure that the Franchisees submit to the State in a timely manner, the annual report on the KPI Data for the relevant Financial Year, which:

- accurately reflects the Franchisees' level of compliance with all KPIs, including an assessment of all resulting Demerit Points (if any); and
- complies with the requirements of clause 11.11 of the RFA and clauses 4, 5 and 6 of Part 1.

Method of Assessment

Conformance will be demonstrated when the Franchisees deliver the annual report to the State within 30 Business Days after each Financial Year.

Measurement

The timeliness will be measured from the date expected (ie 30 Business Days after each Financial Year) until the date the annual report is received by the State.

Assessment

Ten (10) Demerit Points will be incurred for every Business Day late the Franchisees deliver the annual report to the State.

6.1.3.2 R2 Reporting – General

R2.1: Timeliness of requested reports (other than reports where timeliness of submission is measured by another KPI)

Purpose

The purpose of this KPI is to ensure that the Franchisees submit reports in a timely manner to the State as required by the Performance Specification.

Method of Assessment

The performance of the Franchisees will be assessed by the degree to which they meet the required deadlines (for submission to the State) for the various reports in terms of the percentage of acceptable reports that are submitted on time. The benchmark performance will be 100% of acceptable reports submitted within the timelines as defined in the Performance Specification. An acceptable report will be one that complies with the requirements of the Performance Specification.

Measurement

A report will be considered to be on time if it is submitted to the State by the required date, and it complies with the relevant requirements of the Performance Specification. The number of reports submitted by the relevant deadline will be compared to the total number of reports required and the percentage determined.

Assessment

Demerit Points will be incurred according to the percentage of reports (required to be submitted in each Financial Year in accordance with the Performance Specification) that are not submitted on time:

<100% - ≥95%:	5
<95% - ≥90%:	10
<90%:	20

6.2 Part 2 Commercial Operations

6.2.1 CO1: Tollroad User Service

The Franchisees must provide Tollroad User Services which meet or exceed the benchmark established by the KPI's when interacting with Tollroad Users.

CO1.1: Number of Tollroad User Complaints

Purpose

To ensure that Tollroad User Service is at a sufficiently high level that Tollroad User Complaints are minimised.

Method of Assessment

The number of Product Users and Non-Product Users that make a Complaint compared to the number of Toll transactions levied, expressed as a percentage, will be compared with the benchmark performance criterion.

Tollroad User Complaints of the following nature will be excluded from the assessment:

1. Tollroad User Complaints relating to Tolling policy (such as the types of fees and charges).
2. Infringement notices issued by an Authority.
3. Tollroad User Complaints relating to State announcements.
4. Tollroad User Complaints relating to other toll roads or other Tollroad Service Providers.
5. Events outside the Franchisees' control.

Measurement

- Number of Tollroad User Complaints; and
- Number of Toll transactions levied on the Tollroad.

Table 5-1 provides the details of the demerit/reward system.

CO1.2: Not used

CO1.3: Tollroad awareness and ease of payment

Purpose

To ensure the Franchisees uses best endeavours to make Tollroad Users aware they are travelling on the Tollroad and provide easy payment options that limit the issue of late payment penalties.

Method of Assessment

The number of Toll transactions levied that do not incur a Casual User Invoice Fee or an Administration Charge (both as defined in the Gazette Notice), expressed as a percentage of total Toll transactions for the period and compared with the benchmark performance criterion. However, where Casual User Invoice Fees or Administration Charges (both as defined in the Gazette Notice), are incurred by Tollroad Users travelling on an account that has been suspended in accordance with its terms and conditions, this will be excluded from Demerit Point calculations.

The State acknowledges that the Franchisees are naturally incentivised to ensure Road Users are aware they are using the Tollroad and of the available options to pay the Toll associated with that use. However, a transition period is warranted to allow the Franchisees to comply with the performance requirements outlined in Table 5-1.

Accordingly, provided that the Franchisees are diligently pursuing actions that will improve the Franchisees performance in relation to the requirements specified in Table 5-1, the performance requirement will be waived for a period of two years following the Sale Date. However, the requirement to report performance against this requirement will not be waived during this period.

Further, at the end of the initial two year waiver period and for the following three years, should the Franchisees continuously demonstrate a level of performance that exceeds the minimum performance requirement contained in Table 5-1 then, subject to the proviso outlined below, this performance requirement will not form part of the Demerit Point calculation. However, the Franchisees must continually report performance against this requirement during this period.

If, at any time after the performance requirement has been waived, the Franchisees reported performance in any two consecutive reporting periods falls below the performance requirement, the waiver period will permanently cease and the Franchisees performance against this requirement will become subject to the Demerit Point calculations for the remainder of the Concession Period.

Measurement

- Number of Toll transactions levied that do not incur a Casual User Invoice Fee or an Administration Charge (both as defined in the Gazette Notice)
- Number of Toll transactions levied on the Tollroad

Table 5-1 provides the details of the demerit/reward system.

CO1.4: Tollroad User Service Performance Review

Purpose

To ensure the Franchisees provide an acceptable level of Tollroad User Service.

Method of Assessment

The Franchisees must commission an independent reviewer to develop a survey instrument that evaluates the Franchisees' performance from the Tollroad User's perspective when completing a number of typical Product User, Non-Product User and Interoperable User transactions.

Typical transactions must reflect the top ten reasons road users have contacted the Franchisees over the previous Financial Year. The review must:

1. be undertaken at 6 monthly intervals;

2. be undertaken by an independent reviewer;
3. measure the Franchisees' performance from the Tollroad User's perspective (for example, by the independent reviewer performing the role of a "mystery shopper" by making contact with the Franchisees, and assessing the Franchisees' performance through the survey instrument developed by the independent reviewer); and
4. evaluate the following key Tollroad User Service attributes:
 - a. Timeliness of response.
 - b. Reasonableness of response.
 - c. Level of product knowledge.
 - d. Understanding of the Tollroad User's requirements.
 - e. Ability to resolve problems.
 - f. Ease of contact.
 - g. Professional demeanour and competence.

Current transaction examples include:

- **Scenario 1 (S1):** Update a Toll account by adding or deleting an extra vehicle
- **Scenario 2 (S2):** Seek advice from a Tollroad User Service representative regarding the most suitable Toll product for occasional use. Ask "Are Toll products Interoperable?"; Ask "How does Interoperability work?"
- **Scenario 3 (S3):** As a frequent interstate driver who hires a rental car from the Airport, ring the Toll operator and ask "what's the best method to pay for Tolls?"
- **Scenario 4 (S4):** Drive on a Tollroad without making any arrangements to pay and call the service centre within 72 hrs seeking advice on paying the Toll without the use of a credit card.

Table 6-1: Example of a Tollroad User Service Performance Review Instrument

Questions	S1	S2	S3	S4
Did it take long to speak to a representative?	y/n	y/n	y/n	y/n
Did it take long to update your details?	y/n			
Were you happy with the level of service provided?	y/n	y/n	y/n	y/n
Was the representative helpful?	y/n	y/n	y/n	y/n
Are the driver information signs helpful when using the roads (such as, advance Toll warning, traffic and driver information)				y/n
Did the representative appear interested in your call?	y/n	y/n	y/n	
Did you feel that your enquiry was dealt with effectively?	y/n	y/n	y/n	y/n
Did you feel that the representative was knowledgeable about the different types of Toll products and services offered?		y/n	y/n	y/n
Was the representative able to resolve your enquiry?	y/n	y/n	y/n	y/n
Average score				

The Franchisees must directly compare their performance against the performance of other Australian toll roads (**industry benchmark**).

The Franchisees must ensure that the independent reviewer develops the industry benchmark in accordance with clause 2.5.3 of Part 2.

Sample size:

- Franchisees performance: 200 respondents undertaken at 6 monthly intervals
- Benchmark: 100 respondents undertaken at 6 monthly intervals, and in each case as near as practicable in time, but before the Franchisees' performance sample is undertaken.

Measurement

The Franchisees' performance must meet or exceed average Australian toll road industry standards and implement the recommendation and improvement processes identified in the Tollroad User Service Improvement Plan.

Table 5-1 provides the details of the demerit system.

6.2.2 CO2: Toll Management

CO2.1: Toll Management

To ensure efficient and effective Toll Management for all Product Users and Non-Product Users and the supply of accurate and timely data to Tollroad Service Providers to facilitate efficient and effective Toll Management for Interoperable Users.

Method of Assessment

The Franchisees must produce a Toll Management report in accordance with clause 4 to verify compliance with the following performance measures:

- a. **Accuracy of Toll or User Administration Charges:** Product Users and Non-Product Users are not overcharged, or charged when they should not have been and the Franchisees have supplied accurate data to Tollroad Service Providers or, where an instance of overcharging of Product Users and Non Product Users has occurred, the Franchisees have rectified the overcharging or incorrect charge within the rectification period set out in the table below (including the refund of any additional fees and charges that may have been applied as a result of the incorrect Toll or User Administration Charge/s).

Time when error is identified	Rectification Period
0-90 days from date of the Toll transaction	5 Business Days
>90 days from the date of the Toll transaction	20 Business Days

The rectification period shown above will commence from the date on which the customer notifies the Franchisees of the overcharging or incorrect charge, or when the Franchisees otherwise identify the overcharging or an incorrect charge.

However, if the error has arisen as a result of the fraud, error or omission of a:

- Product User, Non-Product User or Interoperable User;
- TMR; or
- an authorised provider of interstate vehicle registration information;

then these errors will be excluded from the Demerit Point calculation.

- b. **Timeliness of charging Toll transactions:** The appropriate Toll charge is allocated to the Vehicle licence plate, registered account or provided to Tollroad Service Providers within 5 Business Days of travelling on the Tollroad.

c. **Accessibility for Toll payments:** The supply of readily accessible, efficient and accurate Toll payment services are available. At least one of the following Toll payment methods must be available at all times:

- real time human serviceability (current methods include telephone assistance); and
- payment methods through other means (current methods include internet facilitated services such as BPAY, Electronic Funds Transfer and automated telephone services).

Real time human serviceability must be available at least 12 hours each calendar day.

d. **Accuracy of information:** 100% accuracy of published information contained on the Franchisees' websites or displayed in customer services centres or retail outlets, and which is communicated to Product Users, Non Product Users and Interoperable Users in terms of the:

- applicable Toll fees and charges for each Nominated Tolling Product and Trip;
- rights and responsibilities of Tollroad Users; and
- Toll payment options.

This clause **d)** shall not apply to typographic, grammatical or formatting errors.

Measurement

The results of the annual Toll Management performance measures must be verified by a Toll Management Auditor in accordance with clause 12.11 of the RFA.

The Toll Management Auditor's primary role will be to determine if:

- the Franchisees have reasonably met the performance requirements; and
- there are any discrepancies in the Franchisees' Toll Management report (including Significant Non-Compliance reports) provided to the State within the Financial Year.

For **a)** (Accuracy of Toll or User Administration Charges) and **b)** (Timeliness of charging Toll transactions), Demerit Points will be calculated by assessing the number of instances during the relevant reporting period where the requirements of **a)** or **b)** were not achieved by the Franchisees, expressed as a percentage of the total number of Toll transactions for the period. Demerit Points will be calculated as follows:

- >0.01% - ≤0.02%: 50 points
- >0.02% - ≤0.03%: 100 points
- >0.03%: 150 points

For **c)** (Accessibility for Toll payments), Demerit Points will be calculated by assessing the total duration during the relevant reporting period where the requirements of **c)** were not achieved by the Franchisees (ie the cumulative duration of all non compliance events). For each complete 12 hour period where the requirements of **c)** were not achieved, 50 Demerit Points shall be assigned (eg if the total duration of non compliance was 28 hours, then 50 Demerit Points x 2 complete 12 hour non compliance periods = 100 Demerit Points would apply).

For **d)** (Accuracy of information) Demerit Points will be calculated by assessing the number of instances where the requirements of **d)** were not achieved by the Franchisees during the relevant reporting period. Where the rectification of a non-conformance is not achieved by the Franchisees within the rectification period specified in Table 6-2, 50 Demerit Points shall be assigned. An additional 50 Demerit Points shall be assigned for each complete 24 hour period following the rectification period where the requirements of **d)** are not achieved. For example, if an error on the Franchisees' websites is not corrected after 12 hours, 50 Demerit points shall be assigned. If this error remains for a total period of 50 hours before the relevant rectification action occurs, a further 100 Demerit Points shall be assigned. The total Demerit Points assigned for that error will be 150.

For the purposes of calculating Demerit Points, if the same non-compliance exists in a number of the communication channels specified in Table 6-2, this will be treated as a single instance of non-compliance for each complete 24 hour period (following the conclusion of the rectification period) during which the relevant rectification action specified in Table 6-2 is not completed.

Table 6-2

Communication Channel	Rectification Action	Rectification Period
Franchisees' websites (non hard coded information)	Removal of inaccurate information	12 hours
Franchisees' websites (hard coded information e.g. online toll calculator)	Issue of a notice to the external service provider to rectify the issue. A copy of the notice is to be provided to the State	12 hours
Customer Service Centres (operated by the Franchisees)	Removal of inaccurate information	12 hours
Retail Outlets (not operated by the Franchisees)	Issue of a notice to the third party retailer to require it to remove the inaccurate information. A copy of the notice is to be provided to the State	5 Business Days

The Rectification Periods contained in Table 6-2 commence from the time at which the Franchisees became aware, or ought to reasonably have become aware, of the non-compliance with this KPI.

Table 5-1 provides the details of the demerit/reward system.

CO2.2: Significant Non-Compliance reporting

Purpose

To ensure the Franchisees provide the State with a timely, accurate and meaningful report in the event of a Significant Non-Compliance.

Method of Assessment

The annual audit review issued from the Franchisees' independent auditor must verify that the Franchisees have reported all Significant Non-Compliance within the required timeframe.

Measurement

The number of Significant Non-Compliance events not

1. notified to the State within one Business Day; and
2. reported to the State within three Business Days.

The State may become aware of the Franchisees' failure to report a Significant Non-Compliance including:

- Franchisees submitting a late report;
- the Franchisees' independent auditor;
- media; and
- other.

Table 5-1 provides the details of the demerit/reward system.

6.3 Part 3 Road Operations

6.3.1 RO1: Tollroad ITS Operations and Systems

RO1.1: Availability of Tollroad ITS and traffic devices

Purpose

The purpose of this KPI is to ensure that the data detection and traffic control devices installed to collect data and provide Tollroad Traffic control are available and operating correctly.

Method of Assessment

The method of assessment is based on every installed device operating correctly and available to provide or receive information by being in communication with its data station, field cabinet and/or master controller during the relevant reporting period.

Data detection devices include:

- VDD (loops or studs);
- vehicle classification devices (loops or studs);
- weather data stations;
- environmental stations; and
- web cameras.

Traffic control devices include:

- CCTV;
- VMS;
- Variable Speed Limit Signs;
- Lane Use Management Signs; and
- Ramp signals.

Note that TMR will provide the Franchisees with access to WIM and ANPR data collected by the State.

Measurement

Measurement will be provided by the TOSS, and when the TOSS is not available such other reporting system as nominated by the Franchisees from time to time and approved by the State, which will record the time when the device is not working or not available for communication during the relevant reporting period.

Assessment

The percentage of the time that each device is out of service for the relevant reporting period will be measured, and Demerit Points allocated for each and every non-conformance in excess of the relevant TMR Standard.

The benchmark will be the availability of ITS devices as per the relevant TMR Standards. Demerit Points will apply as follows:

≥ TMR Standard for ITS and device availability:	0
>0% - ≤2.5% below relevant TMR Standard:	1
>2.5% - ≤5% below relevant TMR Standard:	2
>5% - ≤10% below relevant TMR Standard:	4
>10% below relevant TMR Standard:	5

The total Demerit Points will be the sum of the Demerit Points for each device.

Note that the following will be excluded from the Demerit Point calculation:

- any period during which the TOSS or the TMR communications network is unavailable to collect device availability information; and
- any period during which the ITS device is unavailable due to circumstances beyond the reasonable control of the Franchisees and their Associates.

RO1.2: Communication availability between ITS devices and the TOSS
Purpose

The purpose of this KPI is to ensure that the Tollroad's communication infrastructure is operational so that data can be exchanged between all the ITS devices and the TOSS in real time.

Method of Assessment

The method of assessment is based on the percentage of time that the Tollroad Control Systems (excluding the TOSS) is unable to send electronic data to, or receive electronic data from, the TOSS located at the nominated sites (which are the BMTMC and the H A Low Centre at the Commencement Date) during the relevant reporting period.

Measurement

Measurement will be provided by the TOSS, and when the TOSS is not available such other reporting system as nominated by the Franchisees from time to time and approved by the State, which will record the time when it can transmit and receive data from all Tollroad ITS, field cabinets or data stations during the relevant reporting period.

Note that the method of measurement means any unavailability of communication caused by a scheduled or unscheduled outage of the TOSS is excluded from assessment.

Assessment

The percentage of the time that electronic communication between the TOSS and Tollroad ITS is unavailable for the relevant period will be measured by the TOSS, and when the TOSS is not available such other reporting system as nominated by the Franchisees from time to time and approved by the State, and will be compared to the guaranteed ITS availability standard delivered by the Franchisees' ITS communications network provider.

The benchmark will be the guaranteed ITS availability standard delivered by the Franchisees' ITS communications network provider, and will take into account the level of Managed Motorway Technology that has been rolled out on the various parts of the Tollroad. Demerit Points will be allocated for non-conformance, and will be assessed as follows:

≥ Franchisees' guaranteed ITS availability standard:	0
>0% - ≤5% Franchisees' guaranteed ITS availability standard:	50
>5% - ≤10% Franchisees' guaranteed ITS availability standard:	100
>10% Franchisees' guaranteed ITS availability standard:	250

Note that the following will be excluded from the Demerit Point Calculation:

- any period during which the TOSS or the TMR communications network is unavailable to communicate with the Franchisees' ITS devices and systems; and
- any period during which the ITS device is unavailable due to circumstances beyond the reasonable control of the Franchisees and their Associates.

6.3.2 RO2: Tollroad Operations Plan

RO2.1: Develop and Review Tollroad Operations Plan for the Tollroad

Purpose

The purpose of this KPI is to ensure that the Franchisees prepare and update a TOP as required by clause 3 of Part 3.

Method of Assessment

The Franchisees are required to prepare and update the TOP in accordance with clause 3 of Part 3.

The assessment will be based on the date the TOP is submitted to TMR in accordance with the requirements specified in clause 3 of Part 3.

Measurement

Demerit Points will be assessed using the difference, measured in Business Days, between the date when a TOP (or any update of the TOP) that complies with the requirements specified in Part 3 is submitted to the State, and the required submission date as per clause 3 of Part 3.

Assessment

Demerit Points will be allocated according to how many Business Days late the TOP is submitted to TMR.

One demerit point being incurred for every Business Day late.

RO2.2: Compliance with the Tollroad Operations Plan

Purpose

The purpose of this KPI is to ensure that the Franchisees implement and or comply with the TOP in accordance with Part 3.

Method of Assessment

The performance will be assessed during the relevant period by the number of non-conformances identified during the relevant Financial Year. The non-conformances will be identified by comparison with the requirements of the TOP.

Measurement

Non-conformances will be identified by comparing actual recorded Tollroad management and traffic operations against the requirements of TOP during the relevant period.

Assessment

Five Demerit Points will be incurred for every non-conformance.

6.3.3 Event Management

RO3.1: Unplanned Event Management

Purpose

The purpose of this KPI is to ensure that the Franchisees respond to Unplanned Events:

- in a timely and effective manner; and
- in accordance with a finalised TMP.

The Franchisees must ensure that:

- (i) an Unplanned Event is detected and logged;
- (ii) a response is initiated; and
- (iii) a response arrives at the scene,

within the specified times for Unplanned Events as defined in Part 3 and the relevant TMP for the Unplanned Event is substantially complied with.

Method of Assessment – Part 1

This first part of the KPI shall be assessed during the relevant period by determining the percentage of all:

- (i) detections and loggings;
 - (ii) responses initiated; and
 - (iii) response arrivals at the scene,
- that comply with the benchmark values defined in Part 3.

Method of Assessment – Part 2

The second part of the KPI shall be assessed by determining how many of the Unplanned Events were managed substantially in accordance with the relevant TMP. However, where an event of non-compliance with the appropriate TMP occurs as a result of a direction given to the Franchisees by any Authority or emergency services personnel, or by any actions of an Authority or emergency services personnel, this non-compliance will be excluded from the Demerit Point calculation.

Measurement – Part 1

Unplanned Event performance data can be sourced from the TOSS. The event commences from the time a data station detects a significant and sudden loss of speed that is not due to recurrent congestion, or from

the time notification/alarm is received in the TCC or otherwise notified, and ends when the requirement (whether detection and logging, response initiation or response arrival) is met. If the TOSS application, currently SIMS, does not contain the requisite data, the requirement is not met.

During the reporting period, for each of the three separate Response Time requirements (i.e. detections and loggings, responses initiated, and response arrivals at the scene), the (SIMS) recorded time shall be compared with the benchmark value, and the number of times the benchmark value is not exceeded in the reporting period shall be expressed as a percentage of all the Unplanned Events for each separate Response Time during the reporting period.

Measurement – Part 2

The compliance with the appropriate TMP is also to be measured.

Assessment – Part 1

Demerit Points for each of the three Response Time requirements (i.e. detections and loggings, responses initiated and response arrivals at the scene), shall be determined by the number of events for each Response Time requirement (expressed as a percentage of the total number of events for the Response Time requirement) which fall within the benchmark time as follows:

Demerit Points	% Achieved
0	≥ 90%
15	< 90% - ≥ 85%
35	< 85%

Assessment – Part 2

Demerit points for compliance with the relevant TMP shall be incurred if an appropriate TMP for the Unplanned Event:

- (i) did not exist;
- (ii) was not deployed; or
- (iii) was not substantially complied with (ie less than 85 percent of Activities complied with) when deployed,

for category 1, category 2 or category 3 Incidents (as defined in Part 3) in accordance with the following:

- Incident 1: 10;
- Incident 2: 5;
- Incident 3: 2

RO3.2: Planned Event Management

Purpose

The purpose of this KPI is to ensure that all Planned Events are managed as agreed with the event organizer and in accordance with the TOP or finalized TMP (where relevant).

Method of Assessment

When a KPI Benchmark is exceeded during a reporting period, Demerit Points shall be applied for each non-conformance in excess of the relevant KPI Benchmark. However, where an event of non-compliance with the TOP or the appropriate TMP occurs as a result of a direction given to the Franchisees by any Authority or emergency services personnel, or by any actions of an Authority or emergency services personnel, this non-compliance will be excluded from the Demerit Point calculation.

The relevant KPI Benchmark and Demerit Points incurred will depend upon the consequences of the non-conformance (i.e. whether it results in a Category 1, Category 2 or Category 3 Incident).

Measurement

The Franchisees shall establish systems to detect all non-conformances including TOSS monitoring, observations by the Franchisees, and complaints from event organizers, Affected Road Operators, Road Users or the Community.

Assessment

A non-conformance shall be recorded for a Planned Event if:

- a finalized TMP did not exist or was not deployed; or
- the event was not managed by the Franchisees as agreed with the event organizer; or
- reduced safety or unplanned amenity or congestion impacts occur directly as a result of the Franchisees failing to manage the Planned Event in accordance with the TMP, or traffic is diverted on to part of the Affected Road Network without approval of TMR or the Affected Road Operators.

Demerit Points shall be incurred for each Non-Conformance in excess of the relevant KPI Benchmark as follows:

Non-conformance	KPI Benchmark	Demerit Points
Category 1 Incident (congestion on the Affected Road Network)	2 non-conformances per year	20
Category 2 Incident (congestion on the Tollroad only)	2 non-conformances per year	10
Category 3 Incident (little or no congestion on the Tollroad)	24 non-conformances per year	5

6.3.4 RO4: Safety Performance

RO4.1: Crash Rates

Purpose

The purpose of this KPI is to ensure that the Franchisees adopt practices that enhance the safe operation of the Tollroad. The Franchisees must demonstrate that the Tollroad is being managed to achieve maximum performance with respect to safety by minimising the number and impacts of crashes.

Method of Assessment

The method of assessment is defined in clause 11.6 of Part 3. However, where the Franchisees' can demonstrate that the cause of a road safety incident was completely outside of the Franchisees' control, these road safety incidents will be excluded from the Demerit Point calculation.

Measurement

The road safety performance (**RSP**) of the Tollroad for the Financial Year is defined in clause 11.6(c) of Part 3.

The floating five year road safety performance benchmark (**FFYRSPB**) for the Tollroad for the Financial Year is defined in clause 11.6(d) of Part 3.

Assessment

The first assessment in relation to this KPI will occur in respect of the Financial Year 2016/2017. The Demerit Points will be determined from the variation of the RSP from the corresponding FFYRSPB, as a percentage. A difference of less than 5% will incur no Demerit Points. The points to be incurred are as follows:

≤+5%:	0
>+5% - ≤+10%:	150
>+10%:	300

6.4 Part 4 Asset Management

6.4.1 AM1 Asset Performance

AM1.1: Prepare and maintain asset management plans as required by the Performance Specification

Purpose

The purpose of this KPI is to ensure that the Franchisees undertake asset management planning and prepare and keep current plans relevant to the management of assets and maintenance.

Method of Assessment

The performance of the Franchisees will be assessed according to the quality of the plan and the timeliness of the preparation and compliance of the plans and their future revisions. The date on which a plan complies with the requirements contained in the Concession Documents will be taken as the date of completion of the plan. The time taken to achieve compliance including time taken to update the plan is therefore included in the time provided for preparation of the plan.

The plans assessed within the KPI include:

- a. SAMP;
- b. TAMP;
- c. OMP;
- d. Long Term Expenditure Plan;
- e. Annual Works Program;
- f. Forward List of Works; and
- g. O&M Plan

The same standards will be applied to annual updates of the plans.

Measurement

Demerit Points shall be based on the difference between the date the relevant plan is due, and the date a fully compliant plan is completed. For each plan, the deadline date will be met or not i.e. if the deadline is achieved, no Demerit points will be incurred. If the deadline is not achieved, the Demerit Points will start to accrue.

Assessment

For each plan, one (1) Demerit Point will be incurred for each and every Business Day after the deadline date until the plan is received.

AM1.2: Tollroad Infrastructure condition and performance

Purpose

The purpose of this KPI is to ensure that Tollroad Infrastructure is in good condition at all times, and that if it performs below the thresholds defined in Part 4, it will be repaired in accordance with an approved rectification plan and within the rectification period as detailed in the tables below.

Method of Assessment

The condition and performance of Tollroad Infrastructure shall be assessed against the condition and performance requirements described in Part 4.

Measurement

The actual condition and performance of each section of Tollroad Infrastructure shall be measured against the performance requirements listed in Part 4.

Assessment

Demerit Points will be applied for each non-conformance in each category for each unit (or section) of the Tollroad not rectified within the rectification periods as detailed in the tables below:

Category	Unit	Rectification Period*	Demerit Points
Pavement roughness	100 metres per traffic lane	12 months	1
Pavement rutting	100 metres per traffic lane	12 months	1
Pavement cracking extent	100 metres per traffic lane	12 months	1
Pavement longitudinal cracking	100 metres per traffic lane	12 months	1
Pavement ravelling	100 metres per traffic lane	12 months	1
Pavement macrotexture (>80km/h)	100 metres per traffic lane	12 months	1
Pavement macrotexture (≤80km/h)	100 metres per traffic lane	12 months	1
Pavement skid resistance (Mainline Carriageways)	100 metres per traffic lane	As specified in Skid Resistance Management Plan	1
Pavement skid resistance (other than Mainline Carriageways)	100 metres per traffic lane	As specified in Skid Resistance Management Plan	1
Earthworks	500 metres of Tollroad	12 months	1
Vegetation	500 metres of Tollroad	12 months	1
Delineation and signposting	500 metres of Tollroad	12 months	1
Carriageway lighting	500 metres of Tollroad	12 months	1
Paths	500 metres of Tollroad	12 months	1
Drainage	500 metres of Tollroad	12 months	1

Note: Pavement units shall be calculated such that Structures are excluded where the road pavement does not extend over the Structure (that is, where the Structure provides the required strength to support traffic loadings, and the structure or a thin asphalt layer over the Structure provides the running surface).. Other pavement categories may also be excluded by mutual agreement between the Franchisees and the State.

The Skid Resistance Management Plan (**SRMP**) referred to in the above table is the Skid Resistance Management Plan developed by the Franchisees in accordance with clause 6.4.1. Failure by the Franchisees to complete the rectification work in accordance with the SRMP will result in Demerit Points.

*If the Franchisees can demonstrate to the reasonable satisfaction of the State that a non-conformance has occurred as a result of circumstances beyond the reasonable control of the Franchisees, and provided the Franchisees are taking all reasonable steps to rectify the non-conformance in accordance with Best Practices, the State will not unreasonably withhold its consent to an extension of the Rectification Period shown above.

Structures

Category	Unit	Rectification Period	Demerit Points - Exceeding condition state 2	Demerit Points - Exceeding condition state 3
Sir Leo Hielscher bridges	Per Structure	As specified in Structure Management Plan	5,000	20,000
All other Structures	Per Structure	As specified in Structure Management Plan	1,000	5,000

The Demerit Points assigned to each category for each unit along the entire Tollroad shall be summed to determine the total number of Demerit Points for this KPI.

The Structure Management Plan referred to in the above table is the Structure Management Plan (**SMP**) developed by the Franchisee in accordance with clause 4.3 of Part 4. Failure by the Franchisees to complete the rectification work in accordance with the repair and replacement strategy detailed in the SMP will result in Demerit Points.

AM1.3: Remaining life of key Tollroad assets

Purpose

The purpose of this KPI is to ensure that the remaining life of key Tollroad assets, as defined below, remains at an appropriate level at all times during the Concession Period.

Method of Assessment

The remaining life of Tollroad assets will be determined by:

- in the case of Carriageway surfacings and traffic signs, calculating the age of the asset from asset databases; or
- in the case of pavements, calculating the remaining life in accordance with Part 4.

Measurement

Measurement of the appropriate parameters will be undertaken as part of the condition monitoring processes, or by examining asset databases.

Assessment

Assessment is to be undertaken as described in the table shown below.

Item	Benchmark	Demerit Points
Remaining life of the pavement across the entire Tollroad, calculated in accordance with	Average pavement life across the entire Tollroad must be greater than	5,000

Part 4.	15 years	
Age of the top 45 millimetres of the pavement across the entire Tollroad where open graded asphalt is the surfacing, as determined from asset records.	Average age of open graded asphalt pavement surfacings across the entire Tollroad must be less than 60% of the maximum age.	1,000
Age of top 45 millimetres of the pavement across the entire Tollroad where dense graded asphalt is the surfacing, as determined from asset records.	Average age of dense graded asphalt pavement surfacings across the entire Tollroad must be less than 60% of the maximum age	500
Age of any traffic sign (excluding the support structure)	Average age of all traffic signs across the entire Tollroad (excluding support structures) must not exceed 60% of the maximum age	50

In the above table, maximum age has the following meaning:

- (a) for pavement surfacing, the maximum age is equal to the relevant LPPC contained in Table 6-2 of the Performance Specification Part 4; and
- (b) for signs, the maximum age is as specified in clause 6.6.6 (b) of the Performance Specification Part 4.

Where an age based benchmark referred to in the above table triggers a need to replace an asset in order to meet the benchmark, and through inspection or assessment by or on behalf of the Franchisees (in accordance with principles to be agreed between the Franchisees and the State) the asset is found not to be at the end of its useful life, the State will not unreasonably withhold approval sought by the Franchisees to defer replacement of the asset and to not charge demerit points provided that the Franchisees provide the State with reasonable evidence to support the Franchisees' decision to defer replacement of the asset.

The total Demerit Points for this KPI will be the sum of the Demerit Points for all of the individual elements.

6.4.2 AM2: Maintenance

AM2.1: Routine Maintenance – perform routine tasks as defined in the Performance Specification

Purpose

The purpose of this KPI is to ensure that the Franchisees perform Routine Maintenance tasks in a timely manner as defined in Part 4.

Method of Assessment

This KPI will be assessed by determining the degree to which the Franchisees achieve the standards and Response Times defined in Part 4. The benchmark for assessment is greater than 98% compliance with the Performance Specification (although the target should be 100% compliance), and Demerit Points will be accrued according to how well the Franchisees meet this goal.

Measurement

Each Activity undertaken shall be recorded in accordance with Part 4 and the percentage of Activities completed to the required standard within the required Response Time shall be determined.

Assessment

The Demerit Points will be determined by comparing the actual performance achieved against the benchmark value of 100% as follows:

- <95 ≥ 92: 100
- <92 ≥ 90: 300
- < 90: 600

6.5 Part 5 Corridor Management

6.5.1 Road Traffic Noise Management

RTN1: Develop and maintain road traffic noise models (RTN models)

Purpose

The purpose of this KPI is to ensure that the Franchisees develop and update RTN models for all sections of the Tollroad as per the timelines specified in clause 4.3 of Part 5.

Method of Assessment

The KPI will be assessed on the basis of the delivery of the model outputs by the required deadline. The initial model outputs will be required by 31 December 2011. Updates will be required in accordance with clause 4.3 of Part 5.

Measurement

The measurement will be in months after the specified deadline.

Assessment

Demerit Points will be incurred as follows:

≤ 3mths:	25
>3mths ≤ 6mths:	50
>6mths ≤ 9mths:	75
>9mths:	100

RTN2: Achieve Noise Code Requirements and rectification of non-compliant sections of Tollroad

Purpose

To ensure the Franchisees implement all necessary road traffic noise mitigation measures to make the Tollroad compliant with the Noise Code in accordance with clause 4 of Part 5.

Method of Assessment

Using the outputs of the RTN models, and in accordance with clause 4 of Part 5, the Franchisees must determine those sections along each side of the Tollroad that require noise mitigation works during each Financial Year.

The Franchisees are to provide the necessary noise mitigation works at the time required as determined from the above process, but modified as per clause 4.6 of Part 5 in relation to noise backlog sections.

Measurement

For sections of the Tollroad that become non-compliant, the length of affected Tollroad will be taken as the sum of the length of the sections on each side of Tollroad where the allowable noise levels are exceeded as defined in the Noise Code.

The total length (in metres) of non-complaint sections along both sides of the Tollroad in the relevant Financial Year will be used for the calculation of Demerit Points.

Assessment

One (1) Demerit Point will be incurred for each five lineal metres along each side of the Tollroad requiring treatment that remains untreated during the relevant Financial Year. For example, if one kilometre of Tollroad requires noise mitigation works to mitigate excessive road traffic noise on both sides of the Tollroad, the length of the non-compliance would be 2000 metres and the number of Demerit Points would be 400.

6.5.2 Community Engagement

CE1: Preparation of appropriate Community Engagement Plans

Purpose

To ensure that the Franchisees develop appropriate Community Engagement Plans.

Method of Assessment

Compare the number of Community Engagement Plans produced during each Financial Year that comply with the requirements of the relevant sections of Part 5, to the number of Community Engagement Plans required during each Financial Year.

Measurement

The number of required Community Engagement Plans that do not comply with the requirements of clause 3 of Part 5 will be measured.

Assessment

25 Demerit Points will be incurred for every instance that;

- a Community Engagement Plan does not comply with the requirements of Part 5; or
- a Community Engagement Plan is not prepared for a project or Activity when it should have been prepared (as determined by the requirements specified in Part 5).

CE2: Compliance with Community Engagement Plans

Purpose

To ensure that the Franchisees implement the Community Engagement Plans effectively.

Method of Assessment

The method of assessment will be by reviewing the implementation of each Community Engagement Plan, and determining the number of non-conformances as determined by comparing the implementation of the plan with the requirements of clause 3 of Part 5.

Measurement

The number of non-conformances will be recorded.

Assessment

Ten (10) Demerit Points will be incurred for each non-conformance.

Gateway Motorway Facility & Logan Motorway Facility

Performance Specification Part 2

Commercial Operations

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1 Introduction

1.1 Objective of Part 2 of the Performance Specification

The objective of this Part is to ensure that the Franchisees establish processes for delivering timely, accurate and quality Tollroad User Service and Toll Management that is proactive to the needs and expectations of the Tollroad User.

1.2 Commercial Operations Key Performance Indicators (KPIs)

The Franchisees must use best endeavours to meet the required target levels for the Commercial Operations KPIs.

The Commercial Operations KPIs comprise of:

1. Tollroad User Service:
 - a. Tollroad User Complaint management;
 - b. Toll awareness and ease of payment; and
 - c. Tollroad User Service Performance Review.
2. Toll Management:
 - a. Accuracy of Toll or User Administration Charges;
 - b. Timeframes for charging Toll transactions;
 - c. Accessibility for Toll payments;
 - d. Accuracy of information; and
 - e. Significant Non-compliance reporting.

The management aspects and KPIs relating to this Part are contained in Part 1. The definitions are contained in Part 1 and the RFA.

1.3 Review, reassessment and continuous improvement

The Franchisees must continually review all aspects of the commercial operations including engagement, education, marketing and communications, Tollroad User Service benchmarks and service obligations and identify trends and systemic issues to use in continual business improvement processes.

2 Tollroad User Service

2.1 Introduction

The Franchisees must provide Tollroad User Services, which meet or exceed the benchmarks established by the KPIs when interacting with Tollroad Users.

The Tollroad User Service KPIs comprise of the following performance measures:

- a. Tollroad User Complaint management;
- b. Toll awareness and ease of payment; and
- c. Tollroad User Service Performance Review.

An assessment of the Tollroad User Service performance measures must be verified by a Tollroad User Service Auditor in accordance with the RFA.

2.2 Tollroad User Payment Options

2.2.1 Reasonable expectations

The Franchisees must provide Toll payment options that are efficient and effective, and must ensure these Toll payment options meet the reasonable expectations of Product Users and Non-Product Users in relation to their ability to satisfy a Toll payment obligation, particularly in regards to:

- a. new technological advances in automated payments consistent with those used by other Tollroad Service Providers; and
- b. operation and maintenance of the business systems to achieve Best Practice for Tolling payment systems.

2.2.2 Not used

2.3 Clarification / Tollroad User Complaint management

The Franchisees must provide a high level of Tollroad User Service to minimise Clarifications and Tollroad User Complaints. In the event of a Clarification or Tollroad User Complaint, the Franchisees must manage the process with the clarifier / complainant in an accountable, transparent, timely, courteous and reasonable way.

The Franchisees must provide adequate, easy to use Contact Channels to enable a person to seek Clarification or lodge a Tollroad User Complaint at no cost or fees aside from any reasonable personal costs such as internet, postage or local calls.

The Franchisees must contact a clarifier / complainant within 2 Business Days of receiving a Clarification or Tollroad User Complaint from them and use best endeavours to provide an appropriate resolution within a reasonable timeframe.

2.3.1 Performance measure

The Franchisees must measure their performance in Tollroad User Complaint management through the following KPIs:

- a. number of Tollroad User Complaints; and
- b. Not used.

2.3.1.1 Exclusions

The following exclusions shall apply in calculating the performance measures in clauses 2.3.1.2 and 2.3.1.3:

- a. Tollroad User Complaints relating to Tolling policy (such as the types of fees and charges);
- b. infringement notices issued by an Authority;
- c. Tollroad User Complaints relating to State announcements;
- d. Tollroad User Complaints relating to other toll roads or other Tollroad Service Providers; and
- e. events outside of the Franchisees' control.

2.3.1.2 Number of Tollroad User Complaints

The Franchisees must act in a manner that minimises Tollroad User Complaints.

2.3.1.3 Not used

2.4 Toll awareness and ease of payment

The Franchisees must ensure Road Users are aware they are travelling on the Tollroad and provide easy payment options for Product Users and Non-Product Users.

The Franchisees must:

- a. effectively communicate Toll payment options and provide sufficient accessibility to enable current Product Users and Non-Product Users to satisfy their Toll payment obligation; and

- b. provide suitable Toll payment options that are efficient and effective,

to facilitate Toll payments within the prescribed business rules that limit the issue of late payment penalties.

The Franchisees must ensure Nominated Tolling Products and Contact Channels are well promoted to educate Road Users of the requirements for travelling over the Tollroad and updated to meet the reasonable expectations of Product Users and Non-Product Users, having regard to:

- a. new technological advances in payment options consistent with those available from other Tollroad Service Providers; and

- b. operation and maintenance of the business systems to achieve Best Practice for Tolling Systems.

The State acknowledges that the Franchisees are naturally incentivised to ensure Road Users are aware they are using the Tollroad and of the available options to pay the Toll associated with that use. However, a transition period is warranted to allow the Franchisees to comply with the performance requirements outlined in Part 1.

Accordingly, provided that the Franchisees are diligently pursuing actions that will improve the Franchisees performance in relation to the requirements specified in Part 1, the performance requirement will be waived for a period of two years following the Sale Date. However, the requirement to report performance against this requirement will not be waived during this period.

Further, at the end of the initial two year waiver period and for the following three years, should the Franchisees continuously demonstrate a level of performance that exceeds the minimum performance requirement contained in Part 1 then, subject to the proviso outlined below, this performance requirement will not form part of the Demerit Point calculation. However, the Franchisees must continually report performance against this requirement during this period.

If, at any time after the performance requirement has been waived, the Franchisees reported performance in any two consecutive reporting periods falls below the performance requirement, the waiver period will permanently cease and the Franchisees performance against this requirement will become subject to the Demerit Point calculations for the remainder of the Concession Period.

2.4.1 Performance measure

The Franchisees must measure the number of Toll transactions levied that do not incur a Casual User Invoice Fee or an Administration Charge (both as defined in the Gazette Notice).

2.5 Tollroad User Service Performance Review

The Franchisees must undertake a Tollroad User Service Performance Review of their Tollroad User Service. The Franchisees must commission an independent

reviewer to develop a survey instrument that evaluates the Franchisees' performance from the Tollroad User's perspective when completing a number of typical Product User and Non-Product User transactions. The Tollroad User Service Performance Review must:

- a. be undertaken at 6 monthly intervals;
- b. be conducted through an independent reviewer; and
- c. measure the Franchisees' performance from the perspective of a Tollroad User (for example, by the independent reviewer performing the role of a "mystery shopper" by making contact with the Franchisees, and assessing the Franchisees' performance through the survey instrument developed by the independent reviewer).

The independent reviewer must provide a report to the State at the conclusion of each reporting period that:

- a. aggregates the Franchisees score against the industry benchmark to facilitate ease of comparison, as described in Clause 2.5.3;
- b. analyses the data, trends and patterns in the level of Tollroad User Service being provided by the Franchisees; and
- c. identifies improvement processes and recommendations to improve the level of Tollroad User Service being provided by the Franchisees, and timeframes within which the Franchisees must implement those improvement processes and recommendations (**Tollroad User Service Improvement Plan**).

2.5.1 Key Tollroad User Service attributes

The review must evaluate the following key Tollroad User Service attributes:

- a. timeliness of response;
- b. reasonableness of response;
- c. level of product knowledge;
- d. understanding of the Tollroad User's requirements;
- e. ability to resolve problems;
- f. ease of contact; and
- g. professional demeanour and competence.

2.5.2 Methodology

As part of the Tollroad User Service Performance Review, the independent reviewer must complete a number of typical Product User and Non-Product User commercial transactions that reflect the top ten reasons Product Users and Non-Product Users have contacted the Franchisees over the previous 12 months. Current transactions include:

Scenario 1 (S1): Update a Toll account by adding or deleting an extra vehicle.

Scenario 2 (S2): Seek advice from a Tollroad User Service representative regarding the most suitable Toll product for occasional use. Ask "Are Toll products Interoperable?" Ask "How does Interoperability work?"

Scenario 3 (S3): As a frequent interstate driver who hires a rental car from the Airport ring the Tollroad operator and ask "What's the best method to pay for Tolls?"

Scenario 4 (S4): Drive on a Tollroad without making any arrangements to pay and call the service centre within 72 hrs seeking advice on paying the Toll without the use of a credit card.

Table 2: Example of a Tollroad User Service Performance Review Instrument

Questions	S1	S2	S3	S4
-----------	----	----	----	----

Did it take long to speak to a representative?	y/n	y/n	y/n	y/n
Did it take long to update your details?	y/n			
Were you happy with the level of service provided?	y/n	y/n	y/n	y/n
Was the representative helpful?	y/n	y/n	y/n	y/n
Are the driver information signs helpful when using the roads (such as, advance Toll warning, traffic and driver information)?				y/n
Did the representative appear interested in your call?	y/n	y/n	y/n	
Did you feel that your enquiry was dealt with effectively?	y/n	y/n	y/n	y/n
Did you feel that the representative was knowledgeable about the different types of Toll products and services offered?		y/n	y/n	y/n
Was the representative able to resolve your enquiry?	y/n	y/n	y/n	y/n
Average score				

The Franchisees must ensure that the results from the Tollroad User Service Performance Review demonstrate that respondents surveyed are satisfied with the quality of Tollroad User Service encountered when undertaking the set transactions.

In conducting the Tollroad User Service Performance Review the Franchisees must ensure a sample size of no less than 200 respondents and the sample is to be undertaken at 6 monthly intervals.

2.5.3 Industry benchmarks

The Franchisees' performance must meet or exceed average Australian toll road industry standards. In order to measure their performance relative to the industry standards, the Franchisees must compare their performance against the performance of other Australian toll roads.

The industry benchmark must be of a general nature that is reflective of Tollroad User satisfaction measured across the Australian tolling industry. The transactions undertaken to establish an industry benchmark must be comparable in nature to the types of transactions undertaken to measure the Franchisees' performance.

The Franchisees must ensure their performance is measured against the industry benchmark for other Australian toll roads by commissioning the independent reviewer described in Clause 2.5.2 to undertake a review. In conducting the review of other Australian toll roads the Franchisees must ensure:

- a. their performance is measured against at least 2 other Australian toll roads by performing the role of a "mystery shopper" by making contact with those tollroad operators and completing the survey instrument;
- b. a sample size of no less than 100 respondents;
- c. the survey questions are comparable to the survey questions developed for the Tollroad User Service Performance Review; and
- d. the sample is taken as near as practicable in time, but before the Franchisees' performance sample is undertaken.

3 Toll Management

The Franchisees must provide Toll Management outcomes that meet or exceed those of other Tollroad Service Providers. The Franchisees must:

- a. ensure efficient and effective Toll Management for all Product Users and Non-Product Users; and

- b. supply accurate and timely data to Tollroad Service Providers to facilitate efficient and effective Toll Management for Interoperable Users.

The Toll Management KPIs comprise of the following performance measures:

- a. Accuracy of Toll or User Administration Charges;
- b. Timeliness of charging Toll transactions;
- c. Accessibility for Toll payments;
- d. Accuracy of information; and
- e. Significant Non-compliance reporting.

The results of the annual Toll Management performance measures must be verified by a Toll Management Auditor in accordance with clause 12.11 the RFA.

3.1 Accuracy of Toll or User Administration Charges

The Franchisees must:

- a. ensure that persons are not overcharged or charged when they should not have been; and
- b. supply accurate data to Tollroad Service Providers.

In the event a person is overcharged or charged when they should not have been, the Franchisees must, after becoming aware, rectify the error within 3 Business Days including the refund of any additional fees and charges that may have been applied as a result of the incorrect Toll or User Administration Charge/s.

However, if the error has arisen as a result of the fraud, error or omission of a:

- Product User, Non-Product User or Interoperable User;
- TMR; or
- an authorised provider of interstate vehicle registration information;

then these errors will be excluded from the Demerit Point calculation.

3.2 Timeliness of charging Toll transactions

The Franchisees must ensure that the appropriate Toll charge is:

- a. allocated to the vehicle licence plate or registered account; or
 - b. provided to Tollroad Service Providers,
- within 7 days of travelling on the Tollroad.

3.3 Accessibility for Toll payments

The Franchisees must provide readily accessible, efficient and accurate Toll payment services that facilitate Toll payments. Such facilities must include at least one of the following:

- a. real time human services (current methods include telephone assistance); and
- b. payment methods through other means (current methods include internet facilitated services such as BPAY, Electronic Funds Transfer and automated telephone services).

Real time human services must be available at least 12 hours each day.

3.4 Accuracy of information

The Franchisees must ensure 100% accuracy of their published information (other than errors of a typographic, grammatical or formatting nature) contained on the Franchisees' websites or displayed in customer services centres or retail outlets, and

which is communicated to Product Users, Non Product Users and Interoperable Users in terms of the:

- a. applicable Toll fees and charges for each Nominated Tolling Product and Trip;
- b. rights and responsibilities of Tollroad Users; and
- c. Toll payment options.

In order to effectively communicate the above information, the Franchisees must use simple, concise and plain language that is easily understood by a wide and diverse demographic group consistent to the standard used by other Tollroad Service Providers.

3.5 Significant Non-compliance reporting

The Franchisees must, after becoming aware of a Significant Non-Compliance event:

- a. notify the State within 1 Business Day;
- b. issue a report to the State within 3 Business Days;
- c. investigate the event; and
- d. undertake rectification measures to prevent a recurrence.

4 Reporting

The Franchisees must provide the State with the following reports:

1. Tollroad User Service
 - a. **Annual performance:** The Franchisees must provide the State with an annual Tollroad User Service report within 45 Business Days after the end of each Financial Year. The report must provide a detailed analysis of actual performance against key indicators highlighting any recurring deficiencies and trends of concern.
 - b. **Tollroad User Complaints management:** The Franchisees must provide the State with a Tollroad User Complaints management report within 20 Business Days after each Quarter. The report must:
 - i. detail Tollroad User Complaints received within the previous 3 month period;
 - ii. identify key risks to both the Franchisees and the State;
 - iii. outline actions taken and any unresolved Tollroad User Complaints, including those Complaints referred to the Tolling Ombudsman; and
 - iv. include the key outcomes from the Tollroad User Post Complaint Survey.
 - c. **Tollroad User Service Performance Review:** within 20 Business Days after the end of June and December in each year, the Franchisees must provide the State with:
 - i. a report prepared by the independent reviewer which satisfies the requirements of clause 2.5 of this Performance Specification Part 2; and
 - ii. a detailed strategy to implement and address all activities required by the Tollroad User Services Improvement Plan.
2. Toll Management
 - a. **Annual performance:** The Franchisees must provide the State with an annual Toll Management report within 45 Business Days after the end of each Financial Year. The report must provide a detailed analysis of actual performance against key indicators highlighting any recurring deficiencies and trends of concern.

Gateway Motorway Facility & Logan Motorway Facility

Performance Specification Part 3

Road Operations

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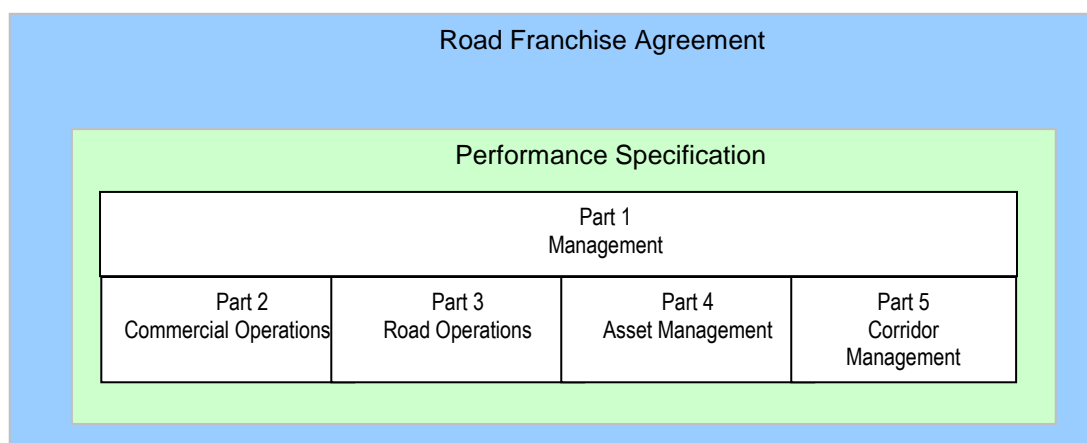
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Introduction

1.1 Structure of the Performance Specification

This Part 3 is part of the RFA as shown in Figure 1.1 below.

Figure 1.1: Road Franchise Agreement and the Performance Specification



The component parts of the Performance Specification and a summary of their scope is shown in Table 0. below.

Table 0.1: Performance Specification Component Parts and their Scope

Part	Title	Scope
1	Management	Performance Management including Environmental Management, Workplace, Health and Safety and Key Performance Indicator Management
2	Commercial Operations	Performance Management of Tollroad User Service and Toll Management
3	Road Operations	Performance Management of Tollroad Road Operations
4	Asset Management	Performance Management of the Tollroad Infrastructure, Assets and Maintenance
5	Corridor Management	Performance Management of the Leased Area and Access to it

The management aspects and KPIs relating to this Part 3 are contained in Part 1. The definitions are contained in Part 1 and the RFA.

1.2 Definitions

In this Performance Specification, unless the context indicates a contrary intention, a word or phrase given a defined meaning in the RFA, and any other part of speech or grammatical form of that word or phrase shall have a corresponding meaning. A word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender.

1.3 Objectives of Part 3

The objectives of this Part 3 are to:

- (a) maximise the safety of the Tollroad, and minimise safety impacts created by Tollroad Operations on the SEQ Road Network;

- (b) maximise passenger and freight throughput on the Tollroad, subject to Tollroad Operations not creating congestion or excessive delays on the Affected Road Network;
- (c) minimise Road User costs, delays, disruptions and variability of travel times for passengers and freight using the Tollroad and the Affected Road Network, and in particular, avoid excessive delays to any Road User on the Tollroad and Affected Road Network;
- (d) facilitate the delivery of Planned Events;
- (e) minimise safety and transport efficiency impacts of Incidents on the Tollroad and the Affected Road Network by pro-actively planning for Planned Events and Unplanned Events;
- (f) minimise time to clear Incidents on the Tollroad;
- (g) maximise the safe, efficient and convenient use of the Tollroad by Non-Standard Vehicles approved by the State to use the Tollroad;
- (h) facilitate real time, two way information exchange with TMR (and other Affected Road Operators) in terms of traffic information and traffic management;
- (i) keep the Authorities, Road Users, and Affected Road Operators fully informed of current Tollroad Traffic operating conditions;
- (j) facilitate the implementation of State transport policies;
- (k) facilitate the construction, operation and maintenance of both Non-Tollroad Infrastructure within the Leased Area and other infrastructure near the Leased Area;
- (l) accommodate the needs of all transport modes using the Tollroad including vehicles, pedestrians and cyclists;
- (m) assist compliance by Tollroad Traffic with Laws; and
- (n) work in partnership with Affected Road Operators to maximize safety, transport efficiency, travel time reliability and traffic management across the whole Affected Road Network.

2 Tollroad Operations

2.1 Franchisees' responsibilities

In accordance with the requirements of this Part 3, the Franchisees must:

- (a) using TOSS as the primary software system, install, maintain, operate and upgrade Tollroad Control Systems (including all Tollroad ITS) to provide the reliability, performance, compatibility and interoperability required by the RFA and this Part 3;
- (b) develop and continuously update the TOP, and manage all Tollroad Traffic at all times in accordance with the TOP (subject to the exclusions described in clause 2.2 below);
- (c) continuously monitor the Leased Area to maximize safety and minimize non-compliance with Law;
- (d) implement and operate Managed Motorway Technology to maximize the safety and transport efficiency of the Tollroad;
- (e) use their best endeavours to establish traffic operations, ITS and Incident response protocols with all Affected Road Operators to maximize the

coordinated and efficient management of all traffic and Incidents on the Tollroad and Affected Road Network;

- (f) use their best endeavours to provide continuous electronic, two way, real time information exchange in regard to Tollroad Operations (including traffic conditions, weather conditions, traffic flow data, traveller information, Planned Events, Unplanned Events, and Incident response prioritization and utilization) between the Franchisees and all Affected Road Operators;
- (g) use their best endeavours to work closely and in partnership with all Affected Road Operators to maximize the safety, transport efficiency and travel time reliability of the Tollroad and Affected Road Network;
- (h) facilitate the approval and movement of Non-Standard Vehicles along and across the Tollroad;
- (i) facilitate the planning and management of Planned Events;
- (j) pre-plan to manage all foreseeable Unplanned Events;
- (k) provide continuous Incident response capability to deal with Incidents and traffic accidents that can occur on the Tollroad;
- (l) assist emergency services Authorities including the Police with their management and investigation of all relevant Incidents and issues;
- (m) continuously monitor and report on the performance of the Tollroad and its effects on the Affected Road Network, and continuously look for ways to improve the safety, transport efficiency and travel time reliability of the Tollroad without creating adverse safety, transport efficiency or travel time reliability impacts on the Affected Road Network in excess of that approved by TMR; and
- (n) ensure action by the Franchisees' staff or contractors does not bring the State into disrepute.

2.2 Extent of the Franchisees' traffic management responsibilities

The Franchisees are responsible for managing all traffic on the Mainline Carriageways of the Tollroad and on all Entry Ramps and Exit Ramps, except that the Franchisees are not responsible for any vehicles queuing back on to the Tollroad's Mainline Carriageways from an Exit Ramp where this is caused by SEQ Traffic Signals or a Ramp Signal or other traffic control device or constraint located outside of the Leased Area. However the Franchisees must notify TMR of this issue (if not already known by TMR) and must operate the Mainline Carriageways to maximize safety as much as practicable.

The Franchisees are not responsible for managing traffic using Common Road Infrastructure or the Affected Road Network. However the Franchisees are responsible for managing the adverse impacts of Tollroad Operations on the traffic flows using Common Road Infrastructure and the Affected Road Network.

2.3 Mandatory traffic management requirements

The Franchisees must comply at all times with TMR Standards, including the current issue of the MUTCD, and the Traffic and Road Use Management Manual, and the following requirements:

- (a) Ramp Signal operation on Entry Ramps can not create vehicle queues on to the SEQ Road Network, except to the extent and duration approved by TMR. In general, TMR will approve vehicle queuing onto the SEQ Road Network where acceptable levels of road safety are maintained, individual Road Users are not excessively delayed, and there is a net transport efficiency benefit to the Community and Road Users at both a local level and regional level.

- (b) Access priority to/from the Tollroad cannot be given to any particular vehicle or passenger or vehicle type or person numbers in vehicles, unless approved or directed to do so by TMR.
- (c) Unless approved or directed otherwise by TMR, the Franchisees must maintain existing levels of road access between the Tollroad and all communities/precincts located near the Tollroad.
- (d) No part of the Tollroad can be partially or fully closed to traffic except in accordance with the RFA, a TMP or as approved by TMR.
- (e) Carriageway lane widths, configurations or traffic access arrangements can not be amended except in accordance with a TMP or as approved by TMR.
- (f) The Tollroad is a Motorway and any additional vehicular access between any adjacent land and the Mainline Carriageways (or Entry Ramps or Exit Ramps) is not permitted without the written approval of TMR.

2.4 Managing risks with poor weather conditions & over-height & overloaded vehicles

The Franchisees must, to the extent it considers necessary to manage its risks, or to comply with Law or TMR Standards:

- (a) install weather stations along the length of the Tollroad which are capable of detecting, in real time, hazardous conditions including fog, high winds, heavy rain/hail and alerting the Franchisees;
- (b) install a number of WIM detectors in conjunction with ANPR to detect illegal overloading (which is different from Non-Standard Vehicles approved by the State in accordance with clause 10), and provide this data to the State to assist with enforcement activities; and
- (c) install over-height detectors, barriers or other treatments in accordance with TMR-designated vertical clearance requirements for the Tollroad, located in advance of areas where over-height vehicles may impact with Tollroad Infrastructure.

All such infrastructure is to be maintained by the Franchisees, with all faults rectified within 7 days, unless otherwise specified in Part 4.

2.5 Facilitating Road User compliance with Law

The Franchisees will reasonably assist the State to conduct Road User compliance and enforcement activity, including developing and deploying TMPs for these Activities.

2.6 Establishing an operating protocol between TMR and the Franchisees for managing events on the other party's network

The Franchisees and TMR must work together to prepare, within 18 months of the Sale Date, an operating protocol stating the procedures and arrangements for the management (including using the TOSS) of events occurring on one party's network which affect the other party's network. If agreement is not reached within 18 months of the Sale Date, all outstanding issues can be settled via the Dispute mechanism in the RFA. This operating protocol must be used by the Franchisees and TMR during the remainder of the Concession Period (except for any variations agreed by both parties).

This operating protocol may form part of the Traffic Management MOU, as required under the RFA.

3 Tollroad Operations Plan

3.1 Introduction

The Franchisees must derive and implement a TOP which describes how the Tollroad will be operated to best meet the relevant requirements of the RFA and the Performance Specification, and especially:

- the objectives and requirements contained in clause 3.4 of the RFA; clause 1.3 of Part 1; and clause 1.3 above; and
- the requirements of clause 2 above.

The Franchisees must develop the TOP and submit it to TMR for review within 18 months of the Sale Date. The Franchisees must use their best endeavours to finalize and implement the TOP as quickly as possible.

Prior to the TOP being implemented the Franchisees must operate the Tollroad in the same manner as it was operated immediately prior to the Sale Date, subject to any changes required by TMR as a result of changing traffic demands, or changes to traffic operations or road infrastructure changes on any part of the road network.

Once a TOP is implemented, the Tollroad must be operated in accordance with the TOP (and any amendments to the TOP) at all times.

Except in emergency cases or situations where TMR advises that it doesn't need to review the TOP, any amendments to the TOP must be submitted to TMR for review prior to implementation. The TOP must be amended (to the extent necessary) in at least the following situations:

- (a) A situation arises that is not fully catered for or poorly serviced by the TOP.
- (b) The Tollroad is not meeting the performance requirements defined in the RFA and the Performance Specification, or the Franchisees or TMR observe unsatisfactory safety, transport efficiency or travel time reliability outcomes on the Tollroad or Affected Road Network.
- (c) A change is made to Tollroad Infrastructure, Tollroad Control Systems, road infrastructure on the Affected Road Network, or traffic operations on the Affected Road Network, such that traffic operations on the Tollroad are significantly affected.

Unless agreed otherwise by TMR and the Franchisees, a major review of the TOP must be undertaken at least every two years after the TOP is first established to ensure the Tollroad and the Affected Road Network are operating in the optimum way.

The TOP must be:

- in an easy-to-understand format, with the maximum use of diagrams and flowcharts;
- kept in electronic format with all TMPs (including Diversion TMPs) attached to it; and
- available for viewing by TMR, or any other party approved by TMR.

Notwithstanding the above, TMR can direct the Franchisees to modify the TOP in any way should TMR consider that an urgent change is needed to remedy/avoid an existing or potential safety issue, and in these cases TMR will accept responsibility for any decisions taken.

3.2 Minimum requirements of any TOP

The TOP must address or include at least the following issues:

- (a) Define roles and responsibilities and standard operating procedures for all activities, and particularly for those procedures used by the TCC.

- (b) Compliance with TMR Standards, and the objectives and requirements defined in clause 3.1 above.
- (c) All aspects of the TOP must be fully integrated with TMR's traffic operations for the SEQ Road Network, including the configuration of CRSS and LUMS, such that optimum traffic flow throughput is achieved for the Affected Road Network and the Tollroad.
- (d) A traffic operations plan for normal operation of the Tollroad. This must include Managed Motorway Operation using TOSS (where applicable) and State transport policy requirements where relevant.
- (e) Where Managed Motorway Operation applies, it must also describe how CRSS, LUMS, VMS and VSL are configured such that they comply with (c) above and the other requirements of this Part 3.
- (f) System requirements, agreements, and protocols established with Affected Road Operators and emergency services Authorities, particularly in relation to:
 - regular and urgent communications including with emergency services Authorities, the media and Road Users;
 - the use of the Franchisees' ITS by Affected Road Operators and vice versa;
 - the provision of real time Tollroad Traffic data, travel information, road conditions and relevant road operations data to Affected Road Operators and vice versa; and
 - Incident detection, Incident response prioritization, Incident response capability sharing, and associated traffic management across the Tollroad and the Affected Road Network.
- (g) Planned Events as follows:
 - A comprehensive list of the known and likely Planned Events.
 - For known Planned Events, a copy of all relevant procedures, conditions, agreements, protocols and TMPs (where possible).
 - For likely Planned Events, details of the process used to establish procedures, conditions, protocols, agreements and TMPs.
 - Any TMPs may include Diversion TMPs where appropriate.
- (h) Unplanned Events as follows:
 - A comprehensive list of the foreseeable Unplanned Events (for example: truck hits overbridge; truck spills hazardous goods; traffic accident blocks Mainline Carriageway; TOSS fails).
 - Comprehensive prevention strategies (for example: install over-height detectors and warning lights and over-height barriers before overpass structures).
 - Comprehensive Incident or event detection strategies including traffic flow monitoring, CCTV monitoring, regular Tollroad inspections, and receiving notifications from Road Users, the media or the Community.
 - Comprehensive management strategies (for example: Incident detection system, Incident response capability; TMPs; pre-determined safe locations for disabled vehicles; assistance to emergency services Authorities including the Police).
 - A mandatory mitigation strategy includes the creation of TMPs (including Diversion TMPs) such that Tollroad Traffic can be diverted around any section of the Tollroad including around any section of Common Road Infrastructure. This is to cover a broad range of

situations on the Tollroad where an infrastructure component fails, or a traffic accident, environmental spill or other Incident occurs on any part of the Tollroad or Common Road Infrastructure, and the Tollroad operator must have a TMP ready to implement such that all traffic including Tollroad Traffic is diverted away from the Incident.

- (i) Processes and procedures for facilitating the use of the Tollroad by Non-Standard Vehicles approved by the State. This includes draft conditions, agreements, protocols and TMPs (where possible).
- (j) Processes and procedures for facilitating the use of the Leased Area by Other Asset Owners to install, operate and maintain Non-Tollroad Infrastructure.
- (k) Demonstrate how the Franchisees will comply with all other relevant requirements of Part 1 and Part 3 including traffic management and performance measurement and improvement.
- (l) Include all TMPs and TCPs.

4 Traffic Management Plans

4.1 Introduction

The high transport demands on, and the complex nature of, the SEQ Road Network, requires that any changes to the traffic management regime of the Tollroad or the Affected Road Network must be carefully considered prior to implementation to avoid the potential for major safety or transport efficiency impacts occurring.

Hence, unless approved otherwise by TMR, or an emergency situation applies, any changes to the traffic management regime needs to be:

- carefully considered, and be based on a thorough technical assessment of all the likely benefits and impacts; and
- implemented via a detailed TMP.

4.2 Deriving and implementing TMPs

Prior to implementing any Traffic Operations changes on any part of the Tollroad, the Franchisees must:

- (a) prepare a TMP which describes the circumstances, mechanisms, processes, systems, actions, roles, responsibilities and communications with Road Users and affected parties to ensure acceptable traffic operations on the Tollroad and Affected Road Network when the traffic flow capacity of the Tollroad or Affected Road Network is reduced;
- (b) submit the TMP to TMR for review (if requested to do so by TMR, and this will usually only apply where the TMP has an impact on the Affected Road Network, or there is potential for significant safety, congestion or amenity issues to arise); and
- (c) implement the TMP and undertake all Traffic Operations in accordance with the TMP.

Where a TMP includes a Diversion TMP, the Franchisees must use their best endeavours to secure the agreement of the relevant Affected Road Operator/s who manage that part of the SEQ Road Network affected by the proposed Diversion TMP. The Affected Road Operators are:

- (d) TMR where part of a State-controlled road is used;
- (e) the relevant Local Government where a diversion route uses part of a Local Road; and
- (f) BAC where a diversion route uses part of a road managed by it.

If the Franchisees are unable to reach agreement with one of the parties about a TMP, TMR may approve the TMP for the diversion (where it can legally do so).

Each TMP must include a TCP containing the following minimum requirements (as relevant):

- (g) Drawings of the existing and proposed traffic flows, routes and lane widths.
- (h) A detailed Tollroad Traffic assessment to ensure sufficient traffic flow capacity is provided.
- (i) Adequate provision for Non-Standard Vehicles approved by the State as detailed in clause 10, such as ensuring traffic lanes are kept wide enough for over-sized vehicles.
- (j) A series of drawings identifying the location of traffic control devices and other road furniture and how these will be shifted and reinstated if required.
- (k) The proposed operation of Ramp Signals, LUMS, VMS and VSL including any temporary location/deployment, system configurations, control parameters, settings and wording of messages.
- (l) The proposed resources of personnel and equipment to be deployed before, during and after the event.
- (m) A communications component, including any actions arising from a Community Engagement Plan.
- (n) Urgent notification to TMR for certain events specified by TMR.
- (o) Provisions for emergency vehicle access to Incidents, such as lane closures to provide a lane from the upstream Entry Ramp to the Incident where an emergency lane is not available (if required).
- (p) A Diversion TMP (if required).

Once a TMP is finalised, it becomes part of the TOP and must be electronically attached to it.

If any Unplanned Event or Planned Event does not have a TMP, or was not adequately managed previously in accordance with a TMP, a new or revised TMP must be prepared and finalised prior to the next Planned Event of a similar type occurring, or as soon as possible after the last Unplanned Event of the same or similar type.

5 Incident management requirements

The Franchisees must comply with requirements of this clause for managing Incidents on the Tollroad.

5.1 Incident management system

The Franchisees must use the relevant application of TOSS, which at the Commencement Date is the State's Incident Management System (**SIMS**), to monitor, record and respond to all events. All event management must be undertaken in accordance with TMR's Traffic Incident Management Services Guideline and TMR's Traffic and Road Use Management manual.

The Franchisees must use at least the following indicators to detect Incidents:

- Traffic flow monitoring.
- CCTV monitoring.
- Regular inspections of the Tollroad.
- Notifications from the State or third parties including via roadside help telephones, other telephone/mobile calls, and the internet (including 131940

notifications which TMR or BMTMC will re-direct to the Franchisees for action).

5.2 Traffic Response Units

The Franchisees must have continuous and immediate access to sufficient TRUs to achieve the Response Times in accordance with the Performance Specification for all events occurring anywhere on the Tollroad. Each TRU must:

- (a) have at least the same capabilities as the TRUs used by TMR on the Reference Motorways;
- (b) be adequate to achieve its intended function for each type of event envisaged in the Performance Specification; and
- (c) be capable of:
 - providing all "on road" services including effective Tollroad Traffic management and solutions for traffic Incidents, disruptions to traffic flow, spillages and other emergencies;
 - safely carrying at least the minimum equipment required by TMR Standards;
 - operating safely in high speed Motorway environments;
 - being able to transport motorists from unsafe road situations to a safe location; and
 - removing stationary and abandoned vehicles weighing less than 2.5 tonnes to predetermined safe locations.

5.3 Not used

5.4 Trained personnel

The Franchisees field staff or contractors (as relevant) must be adequately trained and certified for dealing with Incidents on the Tollroad or Leased Area including traffic control and all other skills required for each type of Incident that normally occurs on the Tollroad and envisaged in the Performance Specification. This training and certification must be in accordance with TMR Standards including TMR's code of conduct for Incident management.

5.5 Working cooperatively with Affected Road Operators

The Franchisees must use their best endeavours to negotiate effective working arrangements with the BMTMC and other Affected Road Operators to establish arrangements for:

- (a) sharing Incident notification information;
- (b) sharing Incident response resources to minimize Incident Response Times and costs; and
- (c) jointly managing the SEQ Road Network and Tollroad to minimize the safety and transport efficiency impacts of Incidents.

These agreements should include Incident notification protocols, Incident response prioritization protocols, and charge out rates and stand by rates for Incident response units.

5.6 Incident Response Management Plan

Within 18 months of the Sale Date, the Franchisees must develop and submit to TMR an Incident Response Management Plan that complies with requirements of this clause for managing Incidents on the Tollroad. This plan must take into account the level of ITS that has been introduced onto the various parts of the Tollroad and is available to assist with the management of Incidents. The plan must address how:

- (a) the Franchisees will detect, record and action Incidents and measure Incident Response Times and Tollroad re-opening times;
- (b) and when the Franchisees will advise Affected Road Operators (including TMR and the BMTMC) and emergency services Authorities (where relevant) of each Incident;
- (c) the Franchisees and Affected Road Operators will prioritize Incidents on the Tollroad and across the SEQ Road Network as per the agreements described in clause 5.5 above;
- (d) the Franchisees will share Incident response resources with Affected Road Operators to minimize, as far as possible, Response Times and costs as per the agreements described in clause 5.5 above;
- (e) the Franchisees' field staff or contractors will operate and work with the Police and other emergency services staff to manage Incidents;
- (f) the Franchisees will ensure the site of the Incident is appropriately repaired to enable Tollroad Traffic to use the affected section (if any) of the Tollroad as soon as possible; and
- (g) the Franchisees will cooperate with Affected Road Operators to minimize the impacts of Incidents on traffic flows on the SEQ Road Network and Tollroad as described in clause 5.5 above.

The Franchisees must update the Incident Response Management Plan at least every two years during the Concession Period.

6 Planned Events and Unplanned Events

6.1 Introduction

Various events including Planned Events and Unplanned Events will impact on the Tollroad during the Concession Period.

The Franchisees must pro-actively and reactively plan and manage these events such that:

- (a) Planned Events are facilitated as much as practicable, with the Franchisees using their best endeavours to assist each event organizer, to plan and implement the event as smoothly and as efficiently as possible, whilst not compromising Tollroad safety or Tollroad structural integrity, and not unnecessarily affecting the transport efficiency of the Tollroad or the carrying out of Activities by the Franchisees; and
- (b) Unplanned Events are foreseen as much as possible, with various pro-active and reactive mitigation strategies being implemented, including the preparation of TMPs to manage or divert Tollroad Traffic around any event, and the provision of adequate Incident response capability on a continuous basis to maximize Road User and Community safety, and restore Tollroad (and Affected Road Network) safety and transport efficiency as quickly as possible.

6.2 General requirements

The Franchisees must comply with the following for Unplanned Events and Planned Events:

- (a) Have and use the Incident management requirements described in clause 5.
- (b) Ensure as much as possible that all Unplanned Events and Planned Events are undertaken in accordance with a TMP.
- (c) Ensure that a response to an event is initiated within the specified times for that type of event as defined in the Performance Specification.

- (d) Work with appropriate Authorities and lead where appropriate to contain, clean up, and treat debris or hazardous material in accordance with Law.
- (e) Ensure that Tollroad Traffic flow is restored, subject to safety and emergency services requirements, in the shortest possible time to ensure that any congestion or safety impacts of the event are minimised.
- (f) Continuously provide an Incident response capability to respond promptly to any Incident at any time including:
 - roadside assist services to enable Road Users to continue on their journey or remove Road Users from an unsafe situation;
 - disabled vehicle and debris removal from all Tollroad Carriageways;
 - repairs to the Tollroad to open it to Tollroad Traffic; and
 - reasonable assistance to emergency services personnel.
- (g) TMPs relevant to Incident management must be regularly reviewed and improved based on the operating performance achieved and operating experience accumulated.
- (h) The Franchisees annual report described in clause 11.9 must:
 - describe the Franchisees' management of all events;
 - identify areas of good performance;
 - identify areas where improvements can be made; and
 - detail what strategies the Franchisees will implement during the next Financial Year to improve their event management.
- (i) A Register of all Planned Events and Unplanned Events (including known future Planned Events) is to be developed and maintained.

6.3 Planned Events

Planned Events which can affect safety and transport efficiency of the Tollroad include:

- (a) events initiated by the Franchisees to undertake Activities;
- (b) events initiated by the Franchisees or the State to undertake Modifications or Upgrades to the Tollroad;
- (c) events initiated by the State or a third party to construct Non-Tollroad Infrastructure within the Leased Area, or construct other infrastructure near the Leased Area;
- (d) events initiated by the State or a third party to facilitate the movement of a Non-Standard Vehicle along or across the Tollroad;
- (e) Special Events; and
- (f) large sporting, entertainment, social or political events which can place major transport demands on the Tollroad.

Where the Franchisees become aware of an upcoming Planned Event, the Franchisees must:

- (g) pro-actively liaise with the event organizer;
- (h) pro-actively develop communications protocols with the event organizer;
- (i) pro-actively develop a TMP for the event in consultation with the event organizer and seek TMR's review of the TMP (if requested to do so by TMR) if the TMP has not been previously reviewed by TMR;

- (j) where required by and in accordance with Part 5, negotiate an Access Agreement or Interface Agreement with the event organizer, and undertake works at the event organizer's cost to facilitate Third Party Works or Activities (if any) for the event; and
- (k) cooperate with the event organizer to facilitate delivery of the event such that the event runs as smoothly and efficiently as possible.

6.4 Managing major Planned Events

When requested by TMR, the Franchisees must use their best endeavours to provide reasonable assistance to help cater for the transport requirements of major events such as social, sporting, entertainment or political events which attract large crowds, or events which place extreme transport demands on the Tollroad such as at the start and end of the Easter and Christmas public holiday periods. Examples of the expected assistance include:

- (a) deferring non-critical maintenance work that requires traffic lane closures that could affect access to/from the event;
- (b) providing priority for public transport vehicles at relevant Entry Ramps; and
- (c) using Managed Motorway Operation, if available, to vary access priority on relevant Entry Ramps to maximize access to /from the event where appropriate.

6.5 Unplanned Events

Franchisees must prepare strategies and procedures (including TMPs) to:

- (a) minimize the occurrence of Unplanned Events; and
- (b) minimize the impact of any Unplanned Event if and when it occurs.

The extent of these strategies and procedures must at least equal the strategies and procedures prepared by TMR for implementation on the Reference Motorways.

The Franchisees must cater for at least the following Unplanned Events:

- (c) An event which closes any Mainline Carriageway or any Entry Ramp or any Exit Ramp.
- (d) An event which damages part of Tollroad Infrastructure or Non-Tollroad Infrastructure or emergency repairs of the same.
- (e) Failure of TOSS or any part of the Tollroad Control Systems.
- (f) Debris, person or animal on any part of the Tollroad.
- (g) Unexpected changes in traffic demand.
- (h) Safety, unlawful activity or health issues on a walking or cycling path located within the Leased Area.
- (i) Smoke, fire or spill of a hazardous material on part of the Leased Area.
- (j) Unauthorized closure of any part of the Tollroad.

The Franchisees mitigation strategies and procedures must include those described in clauses 3.2, 5 and 6, and also strategies and procedures for providing appropriate information to Road Users and Affected Road Operators.

6.6 Performance requirements for Unplanned Events

The Franchisees must detect and log all Unplanned Events expeditiously, and within 5 minutes for any section of the Tollroad equipped with Base Level Managed Motorway Technology (as defined in clause 7.2). The Franchisees must comply with the following Response Times and requirements (based on the Response Times being measured from when the Franchisees become aware of any event) during the Concession Period for the entire Tollroad:

- (a) Answer all roadside/emergency telephone calls within 20 seconds.
- (b) Log and record all calls received for emergency services Authorities, and provide a copy of such log and record to the State upon request.
- (c) For hazards on or overhanging any active Tollroad traffic lane (including vehicle crashes, flooding, road obstruction including by stopped vehicles, debris and chemical spills), dispatch one or more TRUs within 2 minutes, and the TRU/s must be at the scene within 15 minutes of being dispatched.
- (d) For hazards (including stopped vehicles) outside of (c) above but still partly/fully on the Carriageway or in an emergency stopping bay, dispatch one or more TRUs within 5 minutes, and the TRU/s must be at the scene within 30 minutes of being dispatched.
- (e) For off Carriageway issues (e.g. removal of illegally parked, stationary, broken down or abandoned vehicles), dispatch one or more TRU/s within 10 minutes, and the TRU/s must be at the scene within 30 minutes of being dispatched.
- (f) For fires within the road reserve, dispatch one or more TRUs within 2 minutes and the TRU/s must be at the scene within 15 minutes of being dispatched.
- (g) For a pedestrian/cyclist accident on bike paths where personal safety could be an issue, dispatch one or more TRUs within 2 minutes and the TRUs must be at the scene within 15 minutes of being dispatched.
- (h) For events involving the Police or unlawful activity, the Franchisees must cooperate with Authorities to:
 - (i) transfer records (including CCTV footage) of events subject to Law and any protocols TMR has with the Franchisees;
 - (ii) notify suspected non-compliance including for Heavy Vehicle overloading, speeding, and stolen vehicles; and
 - (iii) assist whenever requested in managing an event involving the Police.
- (i) For failure and faults in the TOSS, power and communications, identify and respond in accordance with TMR Standards

At each KPI review date (as described in Part 1), the response times outlined in (a) to (g) above may be amended by the State, without the agreement of the Franchisees, provided that the proposed new response times are being achieved by TMR on the Reference Motorways. The Franchisees will be provided with a period of 6 months from the introduction of the new requirements to achieve compliance.

6.7 Prepare TMPs for the whole Tollroad to cater for Unplanned Events

The Franchisees must prepare TMPs which provide for any part of the Tollroad (or Common Road Infrastructure) becoming unavailable to carry traffic for whatever reason. This means that TMPs (including Diversion TMPs) need to be established to divert Tollroad Traffic around all sections of the Tollroad and all Common Road Infrastructure.

6.8 Compliance with traffic instructions

The Franchisees must comply with any traffic direction or instruction given by TMR or any Authority qualified to issue such a direction or instruction, in respect of any traffic control proposal or traffic control measures.

TMR or any Authority (as described above) may at any time instruct the Franchisees to re-open any traffic lane or shoulder to Tollroad Traffic without delay, whether or not the closure is by prior agreement, and the Franchisees must immediately comply with such instructions provided it is safe to do so.

7 Managed Motorway Operation

7.1 Introduction

Flow breakdown is the condition where free flowing traffic experiences a significant and sudden reduction of speed with a sustained loss of traffic throughput.

Managed Motorway Operation is the practice of dynamically controlling vehicle access to a Motorway, and Motorway traffic operations, to prevent flow breakdown, with the consequent economic and safety benefits being passed on to industry and the Community through improved safety, reduced vehicle operating costs, travel time savings and improved travel time reliability.

7.2 Managed Motorway Technology

Managed Motorway Technology is currently split up into four levels of technology as follows:

- (a) **Logan Motorway Facility Base Level:** Electronic communications (not necessarily wired communications links), power, VDD coverage on Mainline Carriageways, CCTV and VMS to meet basic motorway management data requirements on the Logan Motorway Facility (ie density of detection devices to satisfy minimum requirements and not necessarily to TMR Standards)
- (b) **Base Level:** Full electronic communications, electricity, VDD coverage on Mainline Carriageways, CCTV and VMS coverage.
- (c) **Level 2:** Base Level plus VSL, CRSS and ramp VDD capability.
- (d) **Level 3:** Level 2 plus lane use management capability.

Whenever Managed Motorway Technology is installed on the Tollroad, the installation must:

- (e) comply with Managed Motorway Standards;
- (f) be implemented in accordance with Best Practice in the Australian context, to ensure that the performance objectives of Part 1 and Part 3 are achieved;
- (g) be implemented so it can be operated by both TMR and the Franchisees; and
- (h) be operated by TOSS, and be configured by TMR to the extent defined in clause 9.1 below.

Until an upgrade of the Logan Motorway Facility occurs, the Franchisees' will not be required to implement a standard of Managed Motorways Technology on the Logan Motorway Facility that is greater than that described in clause 7.2(a).

7.3 Managed Motorway Technology implementation

The RFA contains mechanisms for Modification of the Tollroad. Notwithstanding this mechanism, the Franchisees will always remain responsible for installing, maintaining, operating and upgrading ITS for Managed Motorway Technology including CCTV, VSL, VMS, Ramp Signals, VDD, LUMS and associated ducts, pits, cables, control devices and power sources).

Whilst the Franchisees may install additional Managed Motorway Technology at any time (including where required by clause 7.4 below), this will not compel the State to initiate or fund a Modification or Upgrade to provide any supporting works (ie sign gantries and Entry Ramp works).

7.4 Traffic flow triggers for the Franchisees to implement Managed Motorway Technology

Unless approved otherwise by TMR or excluded by clause 7.2, the Franchisees must install and operate Level 2 or Level 3 Managed Motorway Technology (as defined in clause 7.2) on all sections of Tollroad within 12 months after:

- (a) traffic flow travel speeds on any section of Tollroad Mainline Carriageway are less than 60 km/h for at least a continuous 30 minute period, at least four times in any calendar month; or
- (b) the Tollroad Traffic demand on any section of Tollroad Mainline Carriageway exceeds 1800 PCE/hour/lane during weekday peak traffic flow periods, and the actual traffic flow achieved is less than 1800 PCE/hour/lane for at least a continuous 30 minute period, at least four times in any calendar month:

where for (a) and (b) above, the calculation:

- is to be undertaken at every data station (or VDD) along the Tollroad;
- excludes public holidays and weekends;
- excludes the impact of Planned Events or Unplanned Events;
- is to be reported Quarterly; and
- is to use speed and volume calculations which are averaged over a rolling 15 minute period using 1 minute data sets.

Installation and operation of the above Managed Motorway Technology must proceed even if a Modification or Upgrade doesn't occur to fund any sign gantries or additional queuing storage required on Tollroad Entry Ramps provided:

- all necessary ITS can be erected outside the traffic lanes of the Mainline Carriageways (rather than over the traffic lanes using sign gantries); and
- CRSS can adequately manage queuing issues on Entry Ramps even if no additional queuing storage is provided.

8 Tollroad Control Centre

8.1 Introduction

A TCC is a critical link in ensuring the safe and efficient movement of Tollroad Traffic, and enables the Franchisees to respond immediately, appropriately and adequately to any Incident. The Franchisees must fully resource TCC systems, procedures and personnel, and use their best endeavours to collaborate with Affected Road Operators to assist the safe and efficient movement of Road Users on the Tollroad and Affected Road Network.

8.2 TCC functions

The Franchisees must carry out all TCC functions necessary to comply with the requirements of the RFA and Performance Specification on a continuous basis during the Concession Period. The Franchisees must comply with at least the following minimum requirements in this regard:

- (a) Monitor the safety, security and performance of the Tollroad (including surveillance of the Leased Area via CCTV) and promptly implement pro-active and reactive strategies to mitigate the adverse impacts of Incidents.
- (b) Be continuously available to communicate with the Community, Road Users, Affected Road Operators, the media (where relevant), and emergency

services Authorities via all forms of communication including telephone, VMS, and internet in relation to Activities.

- (c) Effectively manage Planned Events and Unplanned Events including:
- (i) leading or supporting deployment of TMPs/TCPs and Incident response capability (as relevant) in partnership with the relevant Affected Road Operators, including providing CCTV and VMS access to the relevant Affected Road Operator in accordance with agreed protocols and procedures;
 - (ii) providing up to date Incident advice to Road Users, Affected Road Operators and the media and arranging assistance or contacting emergency services Authorities or other appropriate Authorities or third parties;
 - (iii) activating systems and devices for electronic messaging and Tollroad Traffic control of Incidents or events; and
 - (iv) initiating, assisting and managing (where appropriate) emergency and Incident response with the Police and other emergency services Authorities,
- (d) Inform TMR immediately, in a format specified by TMR, of any fatal and serious injury crash, emergency situation or Disaster or any major Incident, and fully cooperate with the State, as required or agreed between the Franchisees and the Authorities.
- (e) Prepare, deploy and update standard operating procedures, to comply with the requirements of TMR Standards and the Performance Specification, including for Incident detection, verification and response, including providing Road User information during and after the event, clearance of the Incident from the Tollroad, and debriefs. These standard operating procedures must include:
- recording electronically, all: reported faults with the Tollroad; hazards; and Incidents; and forwarding details to the responsible Authority for action, even if a fault is located on Non-Tollroad Infrastructure;
 - all procedures and training manuals for all TCC Activities, which are to be reviewed at least every two years;
 - appropriate training of TCC staff on all TOSS applications in accordance with TMR Standards (where available) including training manuals and guidelines supplied by TMR for the TOSS; and
 - full training in accordance with TMR's Traffic Incident Management Services Guideline before an operator is allowed to work in the TCC.

Where the requisite level of Managed Motorway Technology exists (and the TOSS supports it), the Franchisees must equip the TCC to:

- (f) provide for display in real time, a route map with the status of the Tollroad Carriageways in terms of SVO Data and suitably colour coded so that the sections performing poorly are immediately highlighted for the attention and action by the TCC operator, and the operator must also have the ability to zoom in to view more detailed display data (for example, lane by lane SVO Data) and automatically select the CCTVs associated with any poorly performing Tollroad section(s) to assess what is occurring; and
- (g) provide adequate geographic user information within the TOSS capability to enable TCC operators to quickly locate intersections, streets, and suburbs and:
- the systems must display both street maps and aerial photographs;

- the systems must display routes for Non-Standard Vehicles such as over-sized or over-loaded vehicles; and
- when available in a TOSS application, all roadside help telephones must be mapped to the map-based graphical user interface so that the appropriate CCTV is automatically identified/activated when a roadside help telephone is used.

The Franchisees must use their best endeavours to ensure:

- relationships are established between TCC operators and the staff of other Affected Road Operators to share experience and expertise in operations;
- meetings are held at least Quarterly with TMR and other Affected Road Operators to resolve issues, review and standardise procedures (where possible), share recent experiences and debrief on major events; and
- a collaborative culture with other Affected Road Operators is established with a view to continuous improvement of procedures and methods.

The Franchisees must use their best endeavours to ensure that all TCC functions:

- are undertaken in a professional manner and meet the expectations of TMR, Road Users, the Community and emergency services Authorities including the Police; and
- appear to Road Users to be seamless in operation with those services offered by TMR and other Affected Road Operators.

8.3 Communication of real time Tollroad Traffic information

Using TOSS, the Franchisees must use their best endeavours to exchange Tollroad Traffic data including traffic operations data, traffic flow data, road condition data and travel time data, in real time, with TMR and other Affected Road Operators to enable appropriate traffic management by all Affected Road Operators and the Franchisees and to keep Affected Road Operators, Road Users, the media and the Community fully informed of Tollroad Operations.

The Franchisees must, in the native format utilised by the TOSS:

- (a) provide accurate and timely time traveller information, CCTV images and operating condition reports on the Tollroad through the TOSS to TMR, and:
 - (i) exchange this information in real time with TMR, other Affected Road Operators and other Authorities where the Franchisees have an Interface Agreement, noting that TMR has agreements with third parties for this data;
 - (ii) analyse the information and provide suitable information for Tollroad Users to enable them to make informed travel decisions;
 - (iii) publish appropriate Planned Event information on the Franchisees website;
 - (iv) receive, respond to and manage all requests relating to the Tollroad from the TMR 131940 service;
 - (v) provide and manage the real time supply of accurate information to TMR's 131940 website, voice response and call centre, including for Planned Events and Unplanned Events and ensure that appropriate "close out" information is provided once an event is resolved so that Road Users are encouraged to use the Tollroad;
 - (vi) generally direct media enquiries about traffic operating conditions on the Tollroad to TMR, or carefully manage these in consultation with TMR; and

- (vii) transmit information to vehicles using the Tollroad where the in-vehicle system will accept the input; and
- (b) control the supply of CCTV images in accordance with Law, the RFA and Performance Specification.

8.4 Provision of traveller information systems

Subject to the exceptions outlined in clause 7.2, the Franchisees must design, install and deploy VMS and travel time information signage, and the associated communication hardware, and communicate dynamically in real time, all traffic condition information, travel time information, and road safety information to Tollroad Users to be consistent with the deployment of VMS infrastructure and information by TMR on the Reference Motorways.

The Franchisees must deploy VMS messages to Tollroad Users in accordance with TMR Standards, and must not use Tollroad VMS to relay other information such as advertising its services or for third party advertising, unless approved by TMR in accordance with TMR Standards.

The Franchisees must install VMS and travel time signage at key decision points, such as the approach to sites where there is flow breakdown potential, and at locations where drivers may choose to take alternative routes. The VMS must be installed in accordance with TMR Standards.

9 Tollroad Control Systems

9.1 Franchisees to use TOSS

The Franchisees must:

- use the TOSS as the system to drive its Traffic Operations; and
- update their Tollroad Control Systems (excluding TOSS) as required during the Concession Period so that they remain compatible with the TOSS.

TMR will provide the TOSS at no cost to the Franchisees apart from annual licensing and maintenance fees. TMR shall ensure that the pricing for licensing for implementation, access to, and maintenance of the TOSS is calculated on the same terms as the pricing TMR receives.

The TOSS will have redundant capability in that TMR will host it in two separate centres nominated by TMR, currently the BMTMC and H A Lowe traffic control centre. The Franchisees must connect to the two centres nominated by TMR.

The TOSS will be an integrated applications environment (through a single instance of the TOSS) with TMR traffic operations, for the Franchisees to use only for the purpose of Tollroad traffic operations.

The Franchisees will be responsible for connecting the TOSS to all necessary Tollroad infrastructure and systems, and will be responsible for configuring the TOSS for the Tollroad, subject to TMR undertaking the initial configuring of all CRSS, LUMS and VSL with TMR charging its reasonable costs for this to the Franchisees. TMR shall consult with the Franchisees regarding the initial configuration of the TOSS and any subsequent amendments or adjustments, prior to commencing any work.

In relation to connecting to TMR's ITS communications network, the Franchisees shall connect their ITS communications network to at least two locations. These connection points need not be the BMTMC or H. A. Low Centre, however the connection points must be selected to ensure that the TMR ITS communications network has sufficient spare capacity to adequately accommodate the additional data flow requirements. The connection points shall be agreed by TMR and the Franchisees.

The following protocols shall apply to TMR's and the Franchisees' use of the TOSS:

- (a) TMR must not use the TOSS for operation or control of traffic control devices on the Tollroad other than as agreed with the Franchisees or in accordance with the RFA, the Performance Specification and agreed protocols.
- (b) The Franchisees must use the TOSS for operation of the Tollroad in accordance with the RFA and the Performance Specification.
- (c) The Franchisees must not use the TOSS for operation or control of SEQ Traffic Signals, or traffic control devices on the SEQ Road Network, without the agreement of the relevant Affected Road Operator, and only for the purpose and to the extent that is required by the Performance Specification, or as subsequently agreed by the Franchisees and TMR.
- (d) In the event of a TOSS failure, both parties will work together to resolve the issue. For the period the TOSS is unavailable, all Tollroad ITS components must revert to their default settings such that safety and operational efficiency on the Tollroad and the Affected Road Network is maximized under the circumstances. TMR is not liable for any loss of revenue or any other liability that may arise from the unavailability of the TOSS.
- (e) In the event of a TOSS failure, or a failure of the communications network downstream of the connection points to the Franchisees network (ie the TMR communications network), and for the period of the failure, the Franchisees will not be subject to any performance requirements that rely on or require the TOSS to be available to allow the Franchisees to comply with the requirement. The Franchisees may also exclude this downtime period from any KPI calculations that rely on the TOSS or TMR communications network being available.
- (f) TMR will specify the protocol for arranging scheduled downtimes of the TOSS for maintenance, and recovery times for unscheduled downtime, based on its agreement with the TOSS supplier from time to time. This will generally reflect the same arrangements TMR uses on the Reference Motorways.
- (g) The Franchisees must use their best endeavours to establish protocols for how the Franchisees use the ITS devices of Affected Road Operators and vice versa.
- (h) Both parties must grant at least read-only access to the other party's systems to enable information exchange in real time for a seamless and integrated service to Affected Road Operators, the media and Road Users.

9.2 Future upgrades of the TOSS

It is expected that during the Concession Period, TMR will gradually improve the capabilities of the TOSS (including relevant algorithms in the TOSS). However the Franchisees may also seek to develop additional functionality for the TOSS subject to:

- (a) extensive trials being carried out along the lines detailed below;
- (b) compliance with TMR Standards;
- (c) TMR agreeing to include the improvement into the TOSS;
- (d) the proposed changes not reducing the functionality of any other application of the TOSS; and
- (e) TMR being able to incorporate it into the TOSS for its use and use by other road operators approved by TMR.

The trials referred to in (a) above would typically involve:

- (f) analysing real time data from the Tollroad for peak periods for the three peak months, including periods of capacity reduction during Planned Events and Unplanned Events, and demonstrating, using models as appropriate, that operation of the Tollroad traffic control devices under the revised arrangements would have resulted in increased traffic flows;
- (g) providing the improvement to TMR at no cost so TMR can undertake 3 month trials; and
- (h) producing a detailed report demonstrating improved Tollroad performance.

9.3 Data stations and communication

Data stations (including VDD) installed by the Franchisees must comply with TMR Standards and must be able to:

- (a) collect SVO Data to enable traffic management algorithms to be effective;
- (b) function and measure accurately during all weather and light conditions applicable to the SEQ environment;
- (c) accurately measure individual vehicles under congested conditions (that is, when vehicles are closely spaced at headways as low as 5 metres during flow breakdown or in slow moving queues such as ramp queues);
- (d) undertake speed measurements in km/h with an accuracy of +/- 3% for speeds between 0 and 150 km/h (or as approved otherwise by TMR);
- (e) undertake vehicle counts with accuracy of +/- 1%;
- (f) measure vehicle length in metres with an accuracy of +/- 5%;
- (g) measure vehicle occupancy per traffic lane with an accuracy of +/- 5%; and
- (h) provide a daily audit of detection devices.

Where irregularities exist in the data, the detection devices must be recalibrated, rectified or replaced in accordance with the requirements of Part 4.

9.4 Data station locations for Managed Motorway Operation

The Franchisees must, where Managed Motorway Operation is implemented, install VDD at least in the following locations (plus other locations required by TMR Standards):

Entry Ramps:

- (a) Downstream of the end of the ramp merge.
- (b) Just upstream of the ramp nose, with separate detectors for the ramp and for each traffic lane on the Mainline Carriageway.
- (c) At two or more locations along the Entry Ramp to measure vehicle queue lengths.

Exit Ramps:

- (d) Just downstream of the exit ramp nose, with separate detectors for the ramp and for each traffic lane on the Mainline Carriageway.

- (e) At two or more locations along the Exit Ramp to measure vehicle queue lengths.

Mainline Carriageways:

- (f) At potential bottleneck locations, such as: just downstream of lane drops; on steep or long upgrades; on tight curves; and on narrowing road shoulders or narrow bridges.
- (g) At spacings not exceeding 500 metres along all traffic lanes on the Mainline Carriageways of the Tollroad.

9.5 CCTV capability for Managed Motorway Operation

Subject to the exceptions outlined in clause 7.2, the Franchisees must comply with TMR Standards for the installation and operation of CCTV including:

- (a) full colour and PTZ capability on all cameras;
- (b) have text inserted to identify the camera, location and the current time and date;
- (c) be capable of providing TMR with real time access in accordance with agreed protocols; and
- (d) have all faults rectified in accordance with the requirements of Part 4.

Subject to the exceptions outlined in clause 7.2, on all sections of the Tollroad where Managed Motorway Technology is implemented, CCTV coverage must comply with the following minimum requirements:

- (e) One CCTV camera every 1000 metres along the Tollroad.
- (f) Coverage of the full length of every Entry Ramp, Exit Ramp and lane drop (including the full length of merge/diverge areas).
- (g) Coverage of every section of the Leased Area where there is a history of unlawful activity, safety, or traffic flow breakdown (unless works have been completed which rectify the relevant cause).

9.6 Traffic control device configuration and management

Traffic control devices includes all ITS devices such Ramp Signals, LUMS, VSL and VMS, and all traffic signs and line markings. Where the Tollroad operates under Managed Motorway Operation, the Franchisees must:

- (a) ensure all traffic control devices comply with TMR Standards, and all ITS devices must be and remain fully compatible and fully interoperable with the TOSS;
- (b) ensure sufficient traffic control devices are installed to enable Tollroad Traffic management in accordance with the Performance Specification;
- (c) install all traffic control devices in accordance with the MUTCD and other relevant TMR Standards;
- (d) confirm the performance of the ITS traffic control devices through independent analysis and testing, including its interoperability with the TOSS, with the results submitted to TMR before the devices are installed on the Tollroad; and
- (e) maintain the ITS traffic control device and communication to the TOSS to ensure Managed Motorway Operation.

ITS traffic control devices must be configured to ensure the optimum performance of Managed Motorway Operation with respect to their location.

Configuration of ITS traffic control devices must be performed by personnel with adequate expertise and accreditation to TMR standards.

TMR reserves the right to undertake any configuration of any component or application of the TOSS or ITS device under any of the following circumstances:

- (f) The Franchisees' configuration does not comply with TMR Standards or is affecting the operational integrity of the TOSS or the configuration is causing the ITS device to be not effective or not reliable.
- (g) Franchisees request TMR to undertake a particular configuration, and TMR agrees to this request.
- (h) TMR reasonably identifies, using the performance of the Reference Motorways as a basis for comparison, that a particular configuration is causing significant safety or transport efficiency impacts on Tollroad Traffic or on traffic operations on any part of the Affected Road Network.

Where TMR undertakes the above-described configuration work:

- TMR must consult with the Franchisees regarding the proposed work prior to its commencement;
- the Franchisees must pay TMR the reasonable cost of undertaking this work; and
- TMR will be responsible for that configuration to the extent of any changes made by TMR.

9.7 Traffic control devices communications

ITS traffic control devices, their supporting communication and technology and its interoperability with the relevant application of the TOSS, must function:

- (a) to ensure safe operation during the Concession Period;
- (b) to meet MUTCD requirements, TMR Standards and the manufacturers' specifications;
- (c) to allow the full functionality of the relevant application of the TOSS to be achieved;
- (d) so that during failure, it operates in a way that does not endanger Road Users or impede traffic flow and provides a real time report of failure to the TOSS;
- (e) to provide online real time access of its operating mode including time stamping of data to within 100 milliseconds of Greenwich Mean Time (GMT) (for Law or policing requirements); and
- (f) where the traffic control device fails, it must be serviced, rectified or replaced as required by TMR Standards or within the period nominated in Part 4, whichever occurs first.

9.8 Each road operator constructing ITS infrastructure on other road operators' land

Subject to the consent of the Franchisees, which may not be unreasonably withheld, TMR can install, inspect, operate and maintain TMR-owned ITS infrastructure, at TMR's cost, within the Leased Area and on the Tollroad. TMR will remain responsible for the installation, maintenance and operation of this ITS infrastructure.

Subject to the approval of TMR, the Franchisees may install, inspect, operate and maintain ITS Infrastructure (excluding SEQ Traffic Signals unless otherwise approved by TMR) for Tollroad Operations purposes within:

- the State-controlled road network;
- the Local Road network provided the relevant Local Government agrees; and
- roads controlled by BAC if BAC agrees.

Notwithstanding the above, the Franchisees must provide and maintain at no cost to the State, for the entire length of the Gateway Motorway Facility:

- ducting (with an internal diameter of at least 70 millimetres) with connection points where State-controlled roads intersect with the Tollroad; and
- 48 fibre-optic lines within the above ducting, for TMR purposes.

For clarity, in the event of failure of the fibre optic cable identified above, the Franchisees are not responsible for the replacement of this infrastructure provided that the Franchisees have reasonably complied with the maintenance obligation.

9.9 Interaction between the Franchisees and Affected Road Operators

- (a) Any operational control between the parties (using the TOSS) must be in accordance with agreed protocols and system access controls.
- (b) The Franchisees must use their best endeavours to establish similar arrangements with the other Affected Road Operators.
- (c) The protocols and system access controls referred to in (a) and (b) include the following:
 - (i) Each party must allow the other party, electronic, real time, read-only access to the relevant parts of its road operations data, necessary for each party to operate their respective part of the road network to the optimum levels of safety and efficiency.
 - (ii) Each party must give the other party appropriate access to its traffic control devices to assist in operating its part of the road network.
 - (iii) Each party must provide the other party with electronic, real time information on road operations issues, Planned Events, Unplanned Events and Incident management.

This should provide the real time ability for the following activities to be carried out by the Franchisees, TMR and other Affected Road Operators (using the TOSS where possible) to respond to their operational needs, when and where an Incident occurs on any part of the Tollroad or Affected Road Network:

- (d) Implement a pre-determined and pre-agreed TMP for all relevant traffic control devices across the SEQ Road Network and Tollroad automatically, with oversight and confirmation by the relevant road operator as determined by these protocols.
- (e) Deliver event-specific pre-agreed messages to Road Users on the Tollroad and Affected Road Network via VMS and TMR's 131940 traffic and travel information website and phone service.
- (f) Transfer traffic data automatically in real time to enable the Franchisees, relevant Authorities and all Affected Road Operators to provide Road Users with accurate travel time and road condition information.

Where the Franchisees wish to have another system to have read-only access to the TOSS, the Franchisees must seek the approval of TMR (which will not be

unreasonably withheld), and must develop, install, maintain and update an efficient interface at no cost to the State. This interface must not adversely impact the full functionality of all TOSS applications on the Tollroad during the Concession Period, including the ability to achieve electronic, real time and two-way communication for data as specified in this Part 3.

The Franchisees must ensure that during the Concession Period, all Tollroad ITS is linked to the TOSS, fully interoperable with the TOSS, and provides the TOSS with full functionality for all applications.

9.10 Pre-existing agreements for maintenance of ITS

Unless agreed otherwise by both parties, all pre-existing agreements or access arrangements, including for maintenance, for fibre-optic cables, ducts and field cabinets must be complied with.

10 Road Freight Management

10.1 Introduction

A key function of the Tollroad is to service the road freight industry, especially since the Tollroad provides the principal road access corridor for the Port of Brisbane and the Brisbane Airport, both of which are crucial to the SEQ economy. The Tollroad is already an approved B-double route, a higher mass limit route, a route for dangerous goods and a Priority One freight route as per TMR guidelines. In addition to servicing a broad range of vehicles which have an automatic right to use the Tollroad, the State regularly approves a large number of Non-Standard Vehicles to also use the Tollroad, with the type of usage often being controlled via conditions in the Approval issued by the State.

The State retains the right to approve, conditionally approve or refuse any applications for Non-Standard Vehicles to use the Tollroad, or to change the road freight status of the Tollroad to accommodate a broader range of vehicles (for example, permit B-triples to use it). The Franchisees must:

- allow all vehicles to use the Tollroad in accordance with any Approvals or guidelines issued by the State; and
- facilitate the safe, efficient and convenient passage of these vehicles along and across the Tollroad.

10.2 Existing and future Non-Standard Vehicles access to the Tollroad

The Tollroad currently carries a large number of Non-Standard Vehicles which may:

- be wider, longer or higher;
- have heavier or different axle configurations;
- be of a different design or different configuration; or
- have different tyre types, sizes, air pressures or profiles;

than standard vehicles.

These Non-Standard Vehicles often include:

- Heavy Vehicles with special axle configurations and platforms to carry very heavy or very large loads;
- special purpose vehicles such as super B-doubles, heavy mobile cranes, defence vehicles; or

- innovative vehicles specifically designed to suit a particular freight carrying task such as vehicles designed in accordance with performance-based standards.

The State (usually via TMR and the Police) approves these vehicles to use the Tollroad and other roads in Queensland via a range of processes. These processes include:

- vehicle-specific permits (for example, a heavy crane may be issued a permit to use a particular route); and
- route-specific approvals for a particular category of vehicle (for example, B-double routes via guidelines issued by the State);

Over time it is anticipated that:

- the number and type of Non-Standard Vehicle trips on the Tollroad (currently several thousand per year) will increase to service the increasing road freight demands; and
- the State will change the road freight status of the Tollroad to cater for a broader range of vehicles (for example, B-triple trucks and vehicles designed in accordance with performance-based standards).

10.3 Franchisees to provide input into Non-Standard Vehicle applications processed by TMR

The Franchisees must refer all Non-Standard Vehicle applications to use part or all of the Tollroad to TMR for processing.

Where requested to do so by TMR, the Franchisees must provide the following advice to TMR for TMR's consideration in relation Non-Standard Vehicle permit applications to use part or all of the Tollroad:

- (a) Draft conditions, including preferred route and times of operation.
- (b) Temporary changes, if any, required to the Tollroad to allow the vehicle to proceed. This could include temporary removal of signs or street lighting to allow over-sized vehicles to pass.
- (c) An estimate of any costs the Franchisees wish to recoup (in accordance with clause 10.5 below), which must be a genuine estimate of the costs that the Franchisees will incur for the reasonable non-administrative Activities necessary to protect the Tollroad and the Leased Area.
- (d) If requested by TMR, a draft TMP and a draft Access Agreement.

The Franchisees must provide a written response to TMR within 10 Business Days (or alternative reasonable timeframe specified by TMR for urgent/special cases) of TMR's request, to fulfil response timeframes that TMR has agreed with industry.

TMR will refuse, approve or conditionally approve each Non-Standard Vehicle application to use part or all of the Tollroad, and provide a copy of the reply to the Franchisees. Where an Approval or conditional Approval is issued, this document will be called a 'Permit'.

The above process applies to Non-Standard Vehicle applications processed by TMR. The Franchisees must use their best endeavours to establish similar processing arrangements with the Police who can also approve Non-Standard Vehicles to use part or all of the Tollroad.

10.4 Situations when an Access Agreement applies

Where a Permit (as defined in clause 10.3) allows the subject vehicle to pass along/across the Tollroad with minimal impact on Traffic Operations and without requiring the direct involvement of the Franchisees (for example, escort vehicles required only, width of vehicle is contained within a traffic lane, reasonable travelling

speeds expected, and travel to occur outside of peak traffic flow periods), the Permit holder will not be required to obtain an Access Agreement from the Franchisees.

Where a Permit requires the Permit holder to implement a TMP or lane closures or infrastructure changes to the Tollroad, the Permit holder must obtain an Access Agreement from the Franchisees. The Access Agreement must comply with Part 5 except as modified by this clause 10.

10.5 Circumstances where the Franchisees can charge costs on the Permit holder

The Franchisees will be responsible for all their costs associated with deriving, negotiating and establishing any Access Agreement.

The Franchisees will also be responsible the cost of inspections of the relevant works or activities where it can be reasonably monitored by its normal systems and Activities (for example, CCTV coverage or its regular inspections of the Tollroad).

Where the Permit reasonably requires the Franchisees to undertake works or Activities directly as a result of the Non-Standard Vehicle passing along/across part or all the Tollroad (for example, road crews implementing traffic control on the Tollroad or temporarily removing streetlights/signs), then the Franchisees can charge reasonable direct and unavoidable costs (where legally possible) for these works or Activities. These charges must reflect prices for similar activities undertaken by the road construction industry in SEQ at the time.

10.6 No claim against the State for additional infrastructure wear

Notwithstanding clause 10.5 above, the Franchisees shall not be entitled to claim compensation (from the State or any Permit holder) for increased Tollroad maintenance (if any) due to Non-Standard Vehicles or new vehicle classes using the Tollroad, provided that the State has approved or would have approved the same Non-Standard Vehicles or new vehicle classes to use relevant sections of the Reference Motorways.

Use of the Tollroad by Non-Standard Vehicles and new vehicle classes approved by the State does not reduce the Franchisees obligations to maintain and operate the Tollroad in accordance with the requirements of the RFA and Performance Specification.

11 Data Collection, Analysis and Reporting

11.1 Introduction

The Tollroad data collection, analysis and reporting systems are crucial for the assessment and improvement of Tollroad Operations.

The Franchisees' attention is drawn to the requirements of the RFA regarding quality systems and the general requirement for continuous improvement.

Whilst this clause 11 includes various performance levels, should a future TMR Standard require a different performance level, then the TMR Standards will apply provided these same TMR Standards are applied by TMR to the Reference Motorways.

11.2 Data policy, retention and provision to Authorities

Unless approved otherwise by TMR, or required for longer periods by the RFA, all Tollroad Operations data collected by the Franchisees must be retained for at least two years, except for CCTV data which must be stored for at least 21 days. CCTV data must be stored at the same resolution as TMR stores its CCTV data for the Reference Motorways.

The Franchisees must:

- (a) provide TMR with online access to all TOSS status information and vehicle detection, classification and speed data for Tollroad ITS; and
- (b) provide CCTV and ANPR data and information to TMR and the Police when requested, and in a format specified by TMR or the Police, all in accordance with Law, the RFA and Performance Specification,

11.3 Operations data collection and analysis

Where Level 2 or Level 3 Managed Motorway Technology (as defined in clause 7.2) exists on the Tollroad, and the TOSS supports it, the Franchisees must (or the Franchisees must ensure that the system can):

- (a) collect and analyse performance data including SVO Data for every lane at all times and report this daily to TMR (unless requested to do this less frequently by TMR); and
- (b) undertake daily checking of all data collection systems to ensure that the data collection systems are functioning and collecting data that is both reliable and accurate, and this check must sum and present in graphical form the volumes at each data station (including VDDs) and confirm that the sum of the Exit Ramps and Entry Ramps and Mainline Carriageway volumes can be reconciled to within 2% variation (or other tolerance permitted by TMR) along the entire Tollroad using an automated daily assessment, and where irregularity exists in the data, the detection devices must be recalibrated, rectified or replaced (if necessary) within 48 hours.

11.4 Data and surveys

Where the Franchisees collect any of the following data, it must provide it at no cost to TMR in the native format utilised by the TOSS, when requested by TMR, following reasonable notice:

- (a) Tollroad Traffic counts by Austroads vehicle type, lane, time of day, day or week and date, at Tollroad permanent count sites.
- (b) Heavy vehicle counts by Austroads vehicle type and mass, lane, time of day, day of week and date at all Tollroad WIM or VCD sites.
- (c) Data from WIM sites or other sources.
- (d) Origin – destination data.
- (e) Seat belt wearing data.
- (f) Person occupancy in Vehicles and Vehicle occupancy/lane data.
- (g) Travel time and travel speed data.

The Franchisees must allow reasonable access to the Tollroad and Leased Area by TMR to set up and conduct surveys at TMR's cost, noting that this may require TMR to set up facilities for survey station setup, implementation and decommissioning,

11.5 Tollroad capacity analysis

The Franchisees' annual report described in clause 11.9 must include a Tollroad capacity analysis for each Financial Year, the purpose of which is to analyse:

- the traffic flow capacity of each element of the Tollroad is;
- the portion of the Tollroad that was utilized during peak traffic flow periods during the relevant Financial Year;

- when Level 2 or Level 3 Managed Motorway Technology (as defined in clause 7.2) will be needed to maximize traffic flow capacity on each section;
- when an Upgrade or Modification ideally would be needed to service the expected traffic demands; and
- the general type of Upgrade required on each interchange and on each section between interchanges.

11.6 Incident management and road safety management

The Franchisees' annual report described in clause 11.9 must provide an extensive assessment of Incident management (including traffic accidents) on the Tollroad for the Financial Year, in accordance with this clause 11.6, with the purpose of measuring Incident response and road safety performance, and identifying trends and improvement strategies.

- (a) The Franchisees must analyse their Incident response and Incident management performance during each Financial Year by the following method:
 - (i) Compare actual Response Times achieved against the Response Times required, for all categories of responses listed in clause 6.6.
 - (ii) When calculating (a) above, also determine the total time from when the Franchisees became aware of an Incident to when the Tollroad was fully re-opened to traffic.
 - (iii) Display (a) and (b) above in graphical form, showing the various and total Response Times for each kilometre of the Tollroad, to identify those sections of the Tollroad where response performance is poorest.
 - (iv) Using (a), (b) and (c) above, derive, document and implement strategies to continually improve Incident Response Times and Tollroad re-opening times for all sections of the Tollroad.

- (b) To assess road safety trends on the Tollroad for each Financial Year, the Franchisees must undertake at least the following assessments in accordance with TMR Standards:
 - (i) Using traffic accident data recorded by TMR's accident database (or other traffic accident database agreed by both parties), calculate the total number of crashes and the crashes per kilometre for the entire Tollroad, for each of the three categories of traffic accidents (that is, "Category 1 incidents", "Category 2 incidents" and "Category 3 incidents", as described in the TMR Standards).
 - (ii) Calculate crash rates per 100 million vehicle kilometres travelled, for each kilometre of the Tollroad, for the three categories of traffic accidents and for all traffic accidents.
 - (iii) Plot (i) and (ii) above against chainages along the entire Tollroad in one kilometre segments.
 - (iv) Those Tollroad sections with concentrations of crashes or having a crash rate per kilometre of Tollroad in the highest 15 percentile, must be analysed in detail by the Franchisees to identify causes and mitigation strategies. In undertaking this analysis, and for the purposes of informing the relevant KPI calculation, the Franchisees may separately identify and report on those crashes which it can demonstrate were completely outside of the Franchisees' ability to control.

- (c) The road safety performance of the Tollroad for any Financial Year, is determined via the following method:
 - (i) “Category 1 incidents” are allocated 10 points, “Category 2 incidents” are allocated 3 points, and “Category 3 incidents” are allocated 1 point.
 - (ii) The annual crash rating is determined by multiplying the number of crashes in each category for the entire Tollroad during any Financial Year, by the points specified in (i) above, and then adding the resulting three numbers.
 - (iii) The road safety performance of the Tollroad is then determined by dividing the annual crash rating defined in (ii) above, by the total number of vehicle kilometres travelling on the Tollroad during the same Financial Year.
- (d) The floating five year road safety performance benchmark for the Tollroad for any Financial Year is determined by calculating the average of the road safety performance of the Tollroad during the preceding five Financial Years. No Demerit Points will be incurred prior to the first reporting period being the Financial Year 2016/2017. The source of the data used to calculate the average of the road safety performance of the Tollroad will be crash data recorded by the Franchisees. The Franchisees will report crash data recorded quarterly.
- (e) The Franchisees must:
 - (i) ensure the road safety performance of the Tollroad in any Financial Year (as defined in (c) above) is better than the corresponding floating five year road safety performance benchmark for the Tollroad (as defined in (d) above);
 - (ii) using appropriate Tollroad inspections, data analysis, road safety assessments and mitigation strategies, demonstrate that they are pro-actively managing road safety on the Tollroad; and
 - (iii) use their best endeavours in terms of Tollroad maintenance and Tollroad Traffic Operations to maximize road safety on the Tollroad.

11.7 Austroads Tollroad Traffic flow performance

The Franchisees annual report described in clause 11.9, must report against the contemporary Austroads performance measures as described in Austroads report AP-R305/07 National Performance Indicators for Network Operations, where performance is measured based on a comparison over time rather than an isolated annual performance figure.

The Franchisees must annually benchmark reported Tollroad performance information, including the Austroads performance indicators, against other Motorways and tollroads in other Australian states, with a view to identifying ways to improve operational performance, especially during peak periods.

The Franchisees must report to TMR on the following parameters in accordance with the above requirements:

- (a) Traveller efficiency - travel speed

Monitor the impact of congestion on the level of service to Road Users in terms of travel speed.

- (b) Traveller efficiency - variation from posted speed

Identify the proportion and the length of the Tollroad operating at speeds significantly lower than the posted speed limits.

- (c) Reliability - travel speed

Determine the reliability of the Tollroad to Road Users and Affected Road Operators in terms of speeds along the length of the Tollroad.

- (d) Productivity - speed and flow

Determine the productivity of the Tollroad measured in terms of the product of speed and flow and ability to avoid flow breakdowns by benchmarking against reference values of speed and flow.

11.8 Managed Motorway Operation flow performance

The Franchisees' annual report described in clause 11.9, must, on sections of the Tollroad where:

- Managed Motorway Technology is operating; and
- a deterioration in Tollroad Traffic flow performance since the previous Financial Year is identified by the assessments required by clause 11.7,

determine daily and report Quarterly (or daily when requested by TMR) on at least the following:

- (a) Determine flow breakdown occurrence for each Mainline Carriageway detection station (or VDD), and with direction specified, by determining the number, location and the duration of flow breakdown events, where flow breakdown is defined as occurring when Tollroad Traffic flow speed falls below 60 km/h. Flow breakdown events must be analysed daily (in one minute intervals) in three speed based categories being: heavy (40 to 59.9 km/h); major (20 to 39.9 km/h); and severe (0 to 19.9 km/h).
- (b) Determine hourly and daily traffic flows for every data station (or VDD) on all Mainline Carriageway sections and Entry Ramps and Exit Ramps of the Tollroad.
- (c) Determine maximum throughput using standard PCEs/lane/hr, where the 85th percentile peak flow measured over a 15 minute period (measured over 12 months) is deemed to represent the maximum throughput of the Tollroad. The measurement is to be based on the peak 15 minute flow each day using one minute rolling data taken during the period defined as duration of peak (that is, one maximum throughput value is to be calculated each day and reported annually based on a full Financial Year). This calculation will provide a continuous benchmark (for each data station (or VDD) location) of the maximum throughput of the Tollroad.
- (d) Report and analyse for each Tollroad Mainline Carriageway section, 24 hour SVO Data for each day and prepare separate contour plots for each Mainline Carriageway.
- (e) For (d) above, produce a single SVO Data line graph for each data station (or VDD) for each 24 hour period.
- (f) Determine for every Tollroad section the speed (km/h) and vehicle occupancy (%) per lane for which maximum throughput (flow) occurs.
- (g) Determine the duration of weekday daily peak periods based on when occupancy is greater than or equal to 75% of the occupancy for which maximum flow occurs.

- (h) Determine the duration of weekend daily peak periods, based on when occupancy is greater than or equal to 75% of the occupancy for which maximum flow occurs.
- (i) Determine AADT vehicle classification counts based on the Austroads vehicle length bins.
- (j) Determine Unplanned Event and Planned Event data categorised by type and reported based on lane(s) affected, cause and effect (e.g. Incident started in lane 3 and also affected lane 4) with longitudinal chainages reported to an accuracy of 50 metres.
- (k) Monitor and report on various miscellaneous road operations data collected including environmental, road weather, WIM, origin-destination and over-height detector data, and demonstrate that the Franchisees are undertaking appropriate measures to improve the operation of the Tollroad with respect to the data collected. This must include at least the following:
 - (i) Improved management of the Tollroad in response to hazardous weather.
 - (ii) Appropriate management of over-weight vehicles including providing data about vehicle weights and vehicle recognition for overload monitoring and enforcement.
 - (iii) Improving compliance and enforcement.
 - (iv) Appropriate management of over-height vehicles.
 - (v) Appropriate management of vehicle “strikes” to improve safety.
 - (vi) Minimising environmental impacts from vehicle spills.

11.9 Reporting Tollroad performance

The Franchisees must prepare and submit to the State within 40 Business Days after each Financial Year an annual tollroad performance report. TMR will review this report and any errors or deficiencies identified by TMR must be promptly addressed by the Franchisees.

This annual report will include data, analysis, conclusions and recommendations for improved performance in relation to the following issues:

- (a) Tollroad capacity analysis as per clause 11.5.
- (b) Incident response analysis as per clause 11.6.
- (c) Road safety analysis as per clause 11.6.
- (d) Austroads Tollroad Traffic flow performance as per clause 11.7.
- (e) Managed Motorway Operation flow performance as per clause 11.8.
- (f) Planned Event and Unplanned Event management as per clause 6.2.

Gateway Motorway Facility & Logan Motorway Facility

Performance Specification Part 4

Asset Management

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1 Introduction

1.1 Structure of the Performance Specification

This Part 4 of the Performance Specification is part of the RFA as shown in Figure 1.1 below.

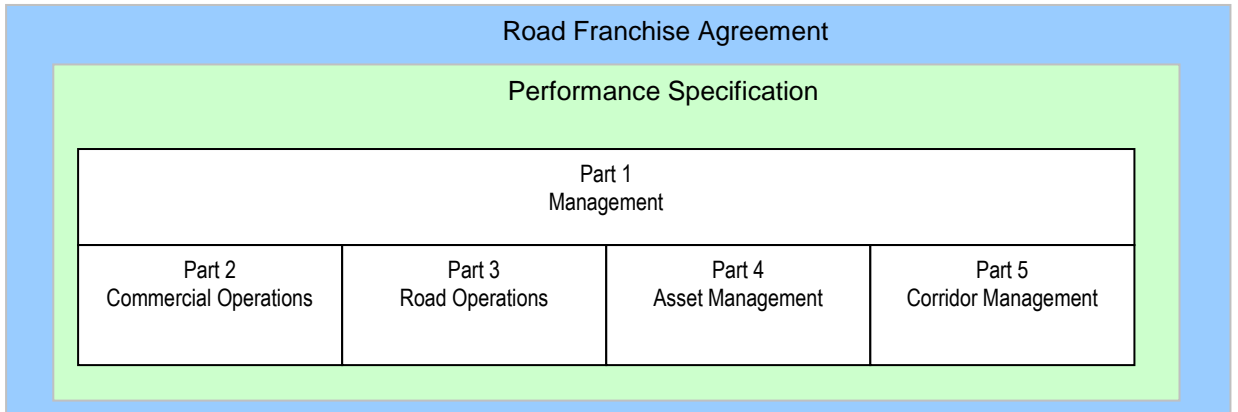


Figure 1.1: Road Franchise Agreement and the Performance Specification

The component parts of the Performance Specification and a summary of their scope is shown in Table 1-1 below.

Table 1-1: Performance Specification Component Parts and their Scope

Part	Title	Scope
1	Management	Performance Management including Environmental Management, Workplace Health and Safety Management and Key Performance Indicator Management
2	Commercial Operations	Performance Management of Tollroad User Service and Toll Management
3	Road Operations	Performance Management of the Tollroad Road Operations
4	Asset Management	Performance Management of the Tollroad Infrastructure, Assets and Maintenance.
5	Corridor Management	Performance Management of the Tollroad Corridor and Access to it

The management aspects and KPIs relating to this Part 4 are contained in Part 1. The definitions are contained in Part 1 and the RFA.

1.2 Objectives of this Part

The intention of this Part 4 is to ensure sustainable performance (both service delivery and condition) of the assets, managed to provide specified levels of service and achieve the performance criteria which are intended to meet the needs and expectations of Road Users and stakeholders. The Tollroad is to be managed with a view and understanding of the whole of life cycle cost of the road assets, and not solely the cheapest or lowest cost treatment or option, but the one that will provide the best option over the life of the asset.

Asset management, as defined in this Part 4, must be undertaken in a manner which best meets:

- (a) the strategic objectives defined in clause 3.4 of the RFA;
- (b) The overall objectives of the Performance Specification defined in clause 1.3 of Part 1; and
- (c) the following objectives specific to maintaining the Tollroad as defined below:
 - (i) Maintain the Tollroad in good condition at all times.
 - (ii) Ensure the Tollroad provides the required levels of service to Road Users.
 - (iii) Minimize Road User vehicle operating costs and travel time costs.
 - (iv) Maximize safety for Road Users and construction workers when O&M Activities are being undertaken.
 - (v) Use enhanced risk management practices to minimise the risk of failure of any component of the Tollroad.
 - (vi) Undertake asset maintenance Activities in a manner which minimizes adverse impacts and maximizes positive impacts on the environment.
 - (vii) Minimize the whole of life cycle cost of providing and maintaining Tollroad assets.
 - (viii) Use asset management processes and practices which maximize accountability and transparency.

1.3 Overview

1.3.1 Asset management approach

The Tollroad is to be managed with an asset management approach and system. That is, the Franchisees must ensure that the Tollroad Infrastructure provides the defined levels of service, by managing engineering, financial, economic and other practices to achieve this outcome. It is inherent that this process is employed to manage the Tollroad in the most cost-effective manner to meet the Franchisees obligations, noting that this is not necessarily the lowest cost option at an individual asset or treatment level. In the delivery of this goal, asset management processes and systems must be utilised with the understanding that these practices will change over the Concession Period as technology, legal, environmental and other constraints change.

1.3.2 Strategy

Part 4 defines the requirements as functional condition-based needs and operational requirements that are associated with maintaining a road network.

The Franchisees shall undertake a stewardship role of the Tollroad assets and an asset management and maintenance delivery role responsible for the successful achievement of all requirements defined in Part 4 including all maintenance planning at a strategic, tactical and operational level.

1.3.3 Franchisees' asset management responsibilities

As described in this Part 4, the Franchisees must:

- a. develop and use an Asset Management System to monitor assessment management of the Tollroad;
- b. carry out regular inspections and condition assessments to monitor the condition of the Tollroad;
- c. develop various plans and programs to fully plan, manage and deliver maintenance of the Tollroad;
- d. ensure the specified performance levels (including response times to remedy Defects) and minimum remaining life for assets are achieved at all times;

- e. ensure all rehabilitation works and new works comply with the specified design and construction requirements; and
- f. regularly report to the State on all relevant asset management issues to keep the State informed and to demonstrate compliance with this Part 4.

2 Planning and programming

2.1 Framework

In the context and process of managing all of the Tollroad Infrastructure, the Franchisees shall create and maintain documentation at the strategic, tactical and operational levels as detailed in Table 2-1 and below.

Table 2-1: Linkage of objectives, planning and operations

Objectives and level of planning	Corresponding documentation and process	Horizon and intent
Policy and Strategic	Strategic Asset Management Plan	40 years Reviewed and updated every 5 years
Tactical	Tactical Asset Management Plan including rolling 10 year works program	10 years Reviewed and updated annually
Operational	Operational Maintenance Plan including Forward List of Works	1 year Reviewed and updated annually
	Annual Works Program – derived from the Tactical Asset Management Plan	1 year Reviewed and updated annually

2.1.1 Timelines for development and implementation of various plans and programs

During the Concession Period, the various plans and programs described in clause 2 must be developed and implemented in accordance with the following:

- (a) Strategic Asset Management Plan must be developed and implementation commenced by 1 July 2012, with subsequent reviews and updates completed by 1 July of every fifth Financial Year,
- (b) Tactical Asset Management Plan (including rolling 10 year works program) must be developed and implementation commenced by 1 July 2012, with subsequent reviews and updates to be completed by 1 July of each Financial Year.
- (c) Operational Maintenance Plan (including the Forward List of Works) must be developed and implementation commenced by 1 July 2012, with subsequent reviews and updates to be completed by 1 July of each Financial Year.
- (d) Annual Works Program must be developed and implementation commenced by 1 July 2012, with subsequent reviews and updates to be completed by 1 July of each Financial Year.

All the above plans and programs are to be submitted to TMR for review at least 20 Business Days prior to when the plans and programs must be implemented.

Prior to the implementation of the above plans and programs, the Franchisees must maintain the Tollroad in the same manner as it was maintained prior to the Sale Date.

2.1.2 Strategic Asset Management Plan

The Franchisees shall develop and maintain a Strategic Asset Management Plan (SAMP) for a minimum period that is the greater of:

- a) the remainder of the Concession Period; or
- b) 20 years,

and a maximum period of 40 years. The SAMP is to set out high level requirements, owner expectations, reporting requirements including provisions for new assets/asset enhancement and details of how other plans fit within the overall framework with an update published at least every 5 years.

2.1.3 Tactical Asset Management Plan

The Franchisees shall develop and maintain a 10 year TAMP irrespective of the remaining duration of the Concession Period. The TAMP includes a forward, rolling 10 year work program which is updated annually to incorporate forward projections of works required and the forecast impact of these works on the network, the latter being aimed at affording TMR the opportunity of assessing how the asset is expected to perform in the future.

The TAMP shall be developed and maintained by the Franchisees to address, as a minimum, the components detailed in Table 2-2.

The initial maintenance standards supplied in Appendix 4-E shall be reviewed and updated by the Franchisees to account for changes in industry practice, and the TAMP shall meet or exceed the requirements of the initial maintenance standards.

Table 2-2: Tactical Asset Management Plan minimum requirements

Component	Sub component	Franchisees requirements (reference)
Strategy	Objectives Purpose Obligations Framework	Part 4
Levels of service	Customer expectations Legislative requirements Current levels of service Future levels of service	RFA, Part 1 and Part 4
Future demand	Traffic demand forecast Technology changes Road network changes Demand management plan	RFA, Part 1 and Part 4

Component	Sub component		Franchisees requirements (reference)
	Lifecycle management	Motorway network Performance Condition Asset valuations Scheduled inspections Routine Maintenance Rehabilitation plan Asset creation Asset disposal	Part 1 and Part 4
	Risk management	Risk assessment Mitigation strategy	Part 4
	Asset management practices	Asset Management System Operational Maintenance Plan Annual Works Program	Part 4.
	Plan and process improvement	Monitoring Improvements	Part 4.

2.1.4 Operational Maintenance Plan

The Franchisees must develop, implement and maintain an OMP based on the initial maintenance standards detailed in the Performance Specification. The OMP is a subset of the TAMP and used to ensure performance meets the standards required under the Performance Specification.

The OMP must be developed and maintained by the Franchisees to address as a minimum the issues set out in Table 2-3.

Table 2-3: Issues for consideration during development of the Franchisees' Operational Maintenance Plan

Issue No.	Issue	Comment
1	Pavement repairs to existing pavements and new and refurbished pavements	The OMP must clearly document the strategy and methodology for maintaining the overall integrity of the new and refurbished pavements over the Concession Period.
2	Bridges / Structures Structure walls approach slabs	The OMP must clearly document the strategy and methodology for maintaining the integrity of Structures through the Concession Period This includes the Defect repair and servicing of Structures. This shall include adherence, as a minimum, to the TMR bridge/culvert servicing manual.
3	Programmed Maintenance	The OMP must clearly document the strategy and methodology for planning and undertaking Programmed Maintenance work over the Concession Period.
4	Personnel	The OMP must define the maintenance team structures, maintenance personnel, the minimum skill and responsibility levels of each position as well as the lines of communication that are required to ensure that the maintenance obligations of the RFA are met.

Issue No.	Issue	Comment
5	Maintenance depots / stockpile sites	The OMP must document the location of maintenance depots and stockpile sites, and the techniques to be used to manage these sites. It must also detail the inventory of spare parts (both standard and non-standard) that are required to ensure that Response Times are met.
6	Maintenance risk management assessment	The OMP must include a detailed risk assessment that both identifies risks and nominates the treatment to minimise those risks. This shall include such items as fire threat management.
7	Intervention Level and Response Time	The OMP must demonstrate how compliance with the Intervention Level and Response Time requirements of the RFA, including the Performance Specification and maintenance standards, will be achieved.
8	Traffic control procedures	The OMP must address traffic management through the Concession Period. The OMP must clearly define and document the traffic control procedures including the systems, process and personnel responsible for traffic control over the Concession Period.
9	Key procedures	The OMP must clearly document the key maintenance procedures including the systems and personnel involved in the implementation of the procedure with particular attention to: <ul style="list-style-type: none"> - annual Routine Maintenance work planning, - identification and scheduling of Routine Maintenance work, - Programmed Maintenance work planning.
10	Models	The OMP must document the pavement management system processes and models that will be used for pavement modelling.
11	Asset Management System	The OMP must document the system or systems that will be used to track the condition and status of: <ul style="list-style-type: none"> - assets - inspection and testing programs - safety issues - as-built information - identified Defects, planned repairs and repairs made. The OMP must define the process and time required for the Franchisees to populate the AMS with details and condition of existing assets.
12	Fixed Plant and Equipment Inventory	The OMP must document the plant and equipment that will be used for maintenance.
13	Durability and Residual Design Life	The OMP must document how the durability and Residual Life requirements of the RFA will be met. The OMP must document the procedures for condition inspections that will be used to assess the Residual Life.

2.1.5 Annual Works Program

The Franchisees shall deploy an AWP which is the current year of the 10 year program required by the TAMP.

2.2 Long Term Expenditure Plan

The Franchisees shall develop and maintain a Long Term Expenditure Plan (as a subset of the TAMP) representing the plan developed for the maintenance and renewal of the Tollroad that as a minimum shows:

- a) the funds required to operate, maintain and renew the Tollroad assets for a minimum 10 year rolling period;
- b) forecasts including projected expenditures and when those funds will be required;
- c) assumptions used to develop the plan;
- d) methodologies adopted for forecasting and monitoring financial performance;
- e) the Tollroad asset valuations, using the remaining life for Tollroad assets calculated in accordance with the Performance Specification;
- f) sustainability including asset sustainability ratio;
- g) sensitivity analysis and scenario analysis addressing planned, optimistic and conservative outcomes;
- h) risk management including future demand and asset degradation;
- i) ongoing planned improvement and monitoring.

Further information and guidance is available and should be sought from:

Austrroads Guide to Asset Management: Part 8 Asset Valuation and Audit; and
IPWEA Australian Infrastructure Financial Management Guidelines.

2.3 Asset management (computerised) system

2.3.1 Overview

The Franchisees must establish an Asset Management System. The Franchisees must submit a plan to TMR for review, detailing the process and timeline for populating the Asset Inventory within the Asset Management System. This Asset Management System must include all Tollroad Infrastructure and the condition of all existing, new and refurbished assets. The asset inventories must, as a minimum, include: pavements, Structures, electrical and mechanical plant, road furniture, roadside amenities, landscaping and urban design features, drainage, cuttings, embankments and traffic control devices.

The Franchisees must maintain trained, qualified, and appropriately experienced staff to maintain the Asset Management System.

The Asset Management System must:

- a) link any inventory, Defect database, and testing and inspection plan so that the system produces a prioritised list of maintenance Activities;
- b) facilitate the planning, execution and achievement of the desired asset management goals using a computerised Asset Management System comprising at least four sub-systems (which may be separate computer systems) including:
 - i. asset database and reporting;
 - ii. decision support / analysis;
 - iii. maintenance management; and
 - iv. Structures management;
- c) be seamless and integrated regardless of the number of individual components or whether each component is computerised or manual;
- d) export information suitable for importation to ARMIS;
- e) if the Asset Management System or a portion thereof is a proprietary product, the Franchisees must provide a user licence to the State to allow viewing of the system and be maintained for a period ending two years after the Handover Date.; and
- f) be capable of administering all road related infrastructure assets and be capable of supporting and recording all asset management and maintenance management tasks.

Further detail is provided in Clause 5.3.

2.3.2 Asset database and reporting

The Franchisees shall establish an Asset Management System which must include at least the following details for each Asset Group:

- a) Location (allowing usage of both GPS location devices and through chainages consistent with the Road Reference System).
- b) Unique asset number.
- c) Where appropriate a description including:
 - I. type, size, length (start and end points);
 - II. features;
 - III. manufacturer details and recommended inspection, testing or maintenance regime, proposed replacement date, maintenance process documentation;
 - IV. manufacturer's or Franchisees' guarantee of life of the asset (especially for electrical or mechanical elements); and
 - V. photographs or representational drawing(s) (either whole asset or ends with typical mid-section).
- d) Details of the sites nominated under the Franchisees' Environmental Management Plan as contaminated sites or monitoring sites for noise, air, water, or soil quality.

2.3.3 Decision support / analysis

As a subset of the Asset Management System, the Franchisees must employ a systematic approach to select future actions and works using interventions and other constraints to meet the defined level of service required by the RFA and the Performance Specification.

2.3.4 Maintenance management

As a subset of the Asset Management System, the Franchisees must:

- a) employ a systematic approach to the management of the maintenance, which must comply with the requirements of the Performance Specification;
- b) demonstrate through a maintenance management system that the Tollroad is being maintained in compliance with the requirements of the RFA, including the timely identification of Defects and maintenance;
- c) manage maintenance systematically and record details of Defective assets containing data including:
 - i. asset number (as recorded in the asset register);
 - ii. type of Defect;
 - iii. date Defect advised or discovered;
 - iv. a photograph of the Defect (optional);
 - v. Activity used to correct a Defect; and
 - vi. date Defect repaired;
- d) ensure functionality of the system to facilitate:
 - i. prioritisation for Defects rectification from most important to least important;
 - ii. production of asset inspection schedules (including testing programs for environmental monitoring sites) with inspections prioritised from most important to least important (for environmental monitoring refer to the Performance Specification);
 - iii. allocation of a job number for each Defect repair;
 - iv. production of an inspection report program detailing which assets need inspection in accordance with the:
 - manufacturer's maintenance requirements;
 - planned maintenance inspection schedule; and
 - program maintenance inspection schedule;
- e) produce a Forward List of Works program based on the prioritised Defects and inspection program;

- f) produce a list of all assets and their current general condition;
- g) update the asset register to advise that the asset or Defect was inspected, corrected, refurbished, or replaced at a certain date; and
- h) produce an electronic folder for submission to the State at the end of each Financial Year with updated asset and maintenance data in a format that allows the State to analyse the information and, if necessary, evaluate the Forward List of Works submitted by the Franchisees.

2.3.5 Structures management

As a subset of the Asset Management System, the Franchisees must:

- a) employ a systematic approach to the management of the Structures, which must comply with the requirements of the RFA, including the Performance Specification; and
- b) demonstrate through its Structures management system, that the Structures are suitable for the Tollroad and in compliance with the requirements of the Performance Specification.

2.3.6 Landscape, revegetation and urban design

The Franchisees shall develop and implement an Asset Management System which must also address: landscape, revegetation and urban design components of the Tollroad; landscape, revegetation and urban design outcomes; public safety; sustainability; durability; changing community attitudes; and the overall reduction of 'whole of life' inputs, supported by maintenance management Activities to enhance these outcomes.

Table 2-4 provides an outline, with example inputs, to serve as a guide for the Franchisees when developing sections of the OMP with respect to landscape, revegetation and urban design components of the Tollroad. The Franchisees must familiarise themselves with the requirements and objectives of the landscape, revegetation and urban design components of the Tollroad, particularly those relevant to maintenance minimisation and optimum performance thereof.

Table 2-4: Example landscape, revegetation and urban design asset register

Landscape and revegetation treatment inventory								
Asset Number	Location (Chainage/s)	Road corridor formation and extent (Area/Length)	Landscape and revegetation treatment and photos	Planting densities	Projected vegetation cover (per Area)		Species or drawing reference	Function/design intent or design report reference
51	2300 - 5000	Embankment batter 27,000 m ²	140 mm container stock plantings in mass mulched areas	1 plant/m ²	Year 1 Year 2	30% 80%	LR_564257_10	Batter stabilisation, aesthetics.
52	2300 - 5000	Drainage swale 16,200 m ²	Rock mulch and macrophyte plantings	4 plant/m ²	Year 1 Year 2	80% 100%	Schoenoplectus validus Baumea articulata	Swale stabilisation, improve water quality.
Urban design treatment inventory								
Asset Number	Location (chainage/s)	Road infrastructure component	Urban design treatment and photo	Extent (Structural item / area)	Material specification or specification reference and Suppliers / Manufacturers / Franchisees Warranty Period		Function/design intent or design report reference	
75	1525 - 2753	Noise wall	Painted finish	7368 m ² (1228 x 6 m)	Commercial grade exterior semi-gloss paint Colour X Proposed repainting date		Anti-graffiti treatment; and aesthetics.	
76	2890	Retaining wall	Painted mural	250 m ² (50 x 5 m)	Commercial grade exterior semi gloss paint Artists contact details Proposed repainting date		Anti-graffiti treatment; Local community support; and aesthetics.	

3 Design requirements

3.1 General

This clause 3 describes the relevant parts of TMR Standards that relate to design aspects for Tollroad Infrastructure. TMR Standards are expected to change during the Concession Period to keep abreast of changing technology, changing industry practice, and changing community and government expectations. When a TMR Standard changes such that it conflicts with part of this clause 3, then the TMR Standard shall take precedent to the extent of any conflict.

The Franchisees shall implement the design requirements of the Performance Specification which apply only to those assets that are being rehabilitated or replaced and are not applicable to existing in-service Tollroad Infrastructure assets until they require rehabilitation or replacement. In performing or procuring design for the Tollroad the Franchisees must:

- a) ensure design is only performed by a design consultant pre-qualified under TMR's pre-qualification system;
- b) incorporate an integrated design approach to safety in design;
- c) ensure all design is and the object of the design is fit for its intended purpose;
- d) ensure the design documentation complies with the document hierarchy within the Performance Specification;
- e) use suitable TMR Standards or Australian Standards, or if such do not exist for the design of an asset, use international standards that reflect Best Practice with prior written approval of TMR;
- f) ensure that the Tollroad Infrastructure meets or exceeds the requirements of the Performance Specification;
- g) unless advised otherwise by the State, ensure all designs are submitted to the State for:
 - i. review, where the Design Life of the asset is specified and its replacement, rehabilitation or renewal is required under the Performance Specification prior to the Handover Date, or
 - ii. approval where the Design Life of the asset is specified and its replacement, rehabilitation or renewal falls due under the Performance Specification after the Handover Date; and
 - iii. in any event, ensure submission not less than 3 months prior to construction, and include all electronic design models and drawings;
- h) if required by the State, make available the appropriate design personnel to explain any design documentation and provide such information regarding any design documentation as the State reasonably requires; and
- i) acknowledge and agree that the State:
 - i. does not assume or owe the Franchisees any duty of care to review, or in reviewing, any design documentation submitted by the Franchisees or for any errors, omissions or compliance with the Concession Documents; and
 - ii. does not by virtue of any review, comment, consultation or failure to review any design documentation submitted to the State by the Franchisees entitle the Franchisees to any Claim against the State or relieve the Franchisees from any of its obligations under the Concession Documents or otherwise at Law or prejudice any right of the State against the Franchisees.

3.2 Design Life

The Franchisees shall ensure any new assets, including Asset Items and Asset Sub-Items, are designed to have the minimum Design Life set out in Appendix 4-B.

Where the finished shape, height or level of Tollroad pavements are intended or likely to change during the Design Life of these assets, the Franchisees must ensure its design processes accommodate such changes and that the Tactical Asset Management Plan identifies how such asset changes will be accommodated while meeting any clearance requirements.

3.3 Traffic and vehicle fleet

As a minimum the Franchisees shall ensure the assets within the Tollroad are designed and maintained to cater for:

- a) the posted speed limits as specified or agreed between TMR and the Franchisees;
- b) the design vehicles (including their turning requirements) in accordance with, the TMR Road Planning and Design Manual, Clause 5.7 Design Vehicles;
- c) the designs, speeds and performance criteria for interchanges and intersections as detailed in the TMR Road Planning and Design Manual;
- d) all operating traffic conditions;
- e) the design loadings for Structures to allow for HLP400 loading;
- f) pavement design traffic calculated in accordance with Section 7 of the TMR Pavement Design Manual;
- g) personnel movement associated with breakdowns and other Incidents;
- h) access by emergency service vehicles, personnel and plant;
- i) access by maintenance vehicles, personnel and plant; and
- j) pedestrian and bicycle movements on pathways and Local Roads.

3.4 Durability

The Franchisees must ensure the durability of all Tollroad Infrastructure. Durability must be addressed throughout the design, construction, refurbishment and maintenance processes for the entire Tollroad. For each asset comprising the Tollroad Infrastructure the Franchisees must:

- a) define the characteristics of the environment;
- b) identify the potential deterioration mechanisms in that environment;
- c) determine the likely rate of deterioration;
- d) assess the material life;
- e) define the required material performance;
- f) assess the need for further protection;
- g) develop procedures for replacement of Asset Items and Asset Sub-Items at intervals consistent with the Design Life specified in Part 4 where replacement is practicable and economically viable;
- h) determine inspection and monitoring requirements for all assets; and
- i) outline possible remedial measures if appropriate.

The durability requirements must be applied diligently and continuously throughout the Concession Period for all design, refurbishment or rehabilitation of any asset within the Leased Area.

3.5 Intelligent transport systems

The Franchisees shall ensure ITS components are designed such that they operate as part of, and integrate with existing ITS and the TOSS and stand-alone systems specified in the TMR Standards. All systems and devices, including telecommunication networks, must be capable of operating continuously (24 hours per day, 365 days per year) for the Design Life of the system and/or device.

The design of all the ITS components must consider access for maintenance. In general the design should allow maintenance to be undertaken during daylight hours without the need to close traffic lanes or disrupt traffic flows. However where this is not practicable, the design must allow maintenance to be undertaken at night when traffic lanes can be more easily closed, and the design is to provide adequate lighting in and around all relevant areas to facilitate maintenance Activities.

Designs for ITS must allow for and include:

- a) final location and detailed site layout for each ITS device and all infrastructure including: field cabinet, mains power supply, facilities for telecommunications, ducts and pits for power and telecommunications;
- b) all systems and all associated electronics and components;
- c) all devices and all associated electronics and components;
- d) all infrastructure and associated device mounting arrangements;
- e) equipment layout in the field cabinets;
- f) all mounting Structures including footings;
- g) embedded software systems;
- h) software device drivers;
- i) computer software necessary for local commissioning, operation and maintenance;
- j) functional safety design requirements as defined in the operations specifications;
- k) telecommunications network including connections to the network node cabinets; and
- l) all temporary infrastructure including cabinets, mains power, telecommunication systems and associated systems.

3.6 Landscape, revegetation and urban design

The Franchisees must ensure that the development of design is such that appropriate solutions are developed for all visible features of the Leased Area with respect to landscape, revegetation and urban design outcomes, providing integrated design solutions for all components of the Leased Area, including the integration of:

- a) landscaping and revegetation;
- b) Structures, fixtures and fittings required for utility services;
- c) Structures, including urban design finishes and treatments;
- d) lighting, including feature lighting;
- e) signage, including support structures;

- f) architectural features, such as bridge entry statements;
- g) acoustic control and road furniture, including noise walls;
- h) community art and conservation works, including murals and interpretative boardwalks; and
- i) landscape maintenance access devices.

3.7 Stormwater Runoff and Drainage

Drainage design, including runoff calculations, must comply with the TMR *Road Drainage Manual*, all other relevant and referenced TMR Standards and be carried out in accordance with the methodologies in the following reference documents:

- TMR *Road Drainage Manual*;
- *Waterways Design: A Guide to the Hydraulic Design of Bridges*; and
- *Bridge Waterways, Hydrology and Design*.

In the event of a conflict regarding runoff calculations and/or drainage design between any of the reference documents identified in above, then the document setting the higher standard is to have precedence over all other documents.

Notwithstanding the requirements of the TMR Standards, drainage design must:

- a) provide for a 100 year ARI flood cross drainage throughout the Leased Area;
- b) incorporate the planned ultimate urbanisation and development within the catchment including topographical changes;
- c) allow for blockage of inlets and outlets;
- d) not exceed the capacity of any downstream system;
- e) provide for intermediate pits where piping/culverts exceed 100 metres in length;
- f) have separate cross drainage and pavement drainage systems;
- g) fully document both hydrological and hydraulic aspects, calculations, references and methodology including all sourced information;
- h) incorporate all open drains, channels, diversion drains, swales, table drains, catch drains and kerb and channel so that all surface drainage design:
 - i. provides for a 20 year ARI flood with no encroachment into traffic lanes and a maximum of one metre encroachment into an adjacent traffic lane in a 50 year ARI flood;
 - ii. provides for a 20 year ARI flood for channels and open drains and have a minimum longitudinal grade of 0.5 % or minimum longitudinal grade to 0.3 % where the road alignment is less than 0.5 % and detailed drainage design demonstrates compliance with all other requirements of the Performance Specification;
 - iii. avoids aquaplaning in accordance with section 11.3 of the TMR *Road Drainage Manual* at the operating speed of the road element;
 - iv. provides for a 20 year ARI flood for basin overflow; and
 - v. sufficient cross drainage in suitable locations to ensure environmentally sensitive mangroves are preserved;
- i) detail sub surface drainage including sub-soil, pavement and sub-pavement drains which:
 - i. provide for an outlet at a maximum interval of 80 metres; and
 - ii. have a minimum grade of 0.5 %, or minimum grade to 0.3 % where the road alignment is less than 0.5 % and detailed drainage design demonstrates compliance with all other requirements of the Performance Specification;

- j) ensure pipe drainage systems in conjunction with surface drainage are to be designed:
 - i. for a 20 year ARI flood;
 - ii. so pits, pipes and box culverts are self cleaning; and
 - iii. to allow for connections of sub-soil drainage system; and
- k) and shall not incorporate any of the following materials which are not permitted to be used in drainage structures:
 - i. Metal culverts.
 - ii. Plastic pipes.
 - iii. Fibre reinforced pipes.
 - iv. Steel reinforced plastic pipes.
 - v. Flowable fills for backfilling pipes and culverts.

3.8 Pavements

3.8.1 General requirements

The Franchisees shall ensure pavements are designed to require only periodic replacement of the surface layer and minimal maintenance, with no subsequent strengthening requirements for the duration of the pavement Design Life. Pavements must be designed in accordance with the following:

- TMR *Pavement Design Manual* for new and reconstructed pavements.
- *Pavement Rehabilitation Manual* (QT 1992).
- The Methodology for Designing Pavement Rehabilitation Treatments (Report No. DG9228/7000, April 2007).
- Austroads *Guide to Pavement Technology Part 5: Pavement Evaluation and Treatment Design* (AGPT05/09) for rehabilitated pavements.
- Update of the Austroads *Sprayed Seal Design Method* (AP-T68/06).
- TMR Project Specification Technical Standard 38 (PSTS 38) for pavement drains.
- TMR Project Specification Technical Standard 101 (PSTS 101) for Checking Subgrade; Capping Layer; Drainage Layer; Controlled Subgrade; Working Platform; Temporary Pavement; Verge.
- Dense graded and open graded asphalt in accordance with Heavy Duty Asphalt requirements of MRTS 30 and MRTS 31.
- The quality system requirements of the RFA.

All pavement designs shall account for the following:

- a) Open graded asphalt surfacing shall be used on road sections where the speed limit is (or will be) greater than 80 km/h.
- b) Adoption of 'staged construction' as defined in the TMR *Pavement Design Manual* is prohibited for all pavements including temporary, rehabilitated and new pavements.
- c) Trafficking during the construction period as part of the design life.
- d) Any new trafficked lane must be constructed for the full width of the new pavement, including any shoulders.
- e) Unless approved otherwise by TMR, the structural standard of shoulders on all new pavements shall be the same as the adjacent traffic lane. However where the Franchisees are rehabilitating existing pavements, the existing structural standard of the shoulders can be retained provided the Franchisees can satisfy themselves that this approach will not compromise the structural integrity of the rehabilitated pavement, particularly in the adjacent traffic lanes.

- f) New and rehabilitated pavements must not be cut except for the purpose of installing traffic loop detectors and destructive pavement testing.
- g) If Defects exceed the allowable stated in this Part 4 on any section of a pavement, then the full depth of the pavement shall be deemed not to comply with the Performance Specification and the Franchisees must undertake all investigations and remediation works for the full depth of the pavement to produce a compliant pavement.
- h) Supervision during construction of pavements must include surveillance of all constituents and processes, including the winning and manufacture of aggregates (all sizes including boulder, gravel, sand, filler, silt and clay), sealing and the manufacture of asphalt and concrete.
- i) Deck wearing surfaces and areas where there are relieving slabs shall not be deemed to be pavements for the purposes of pavement design or pavement rehabilitation.
- j) Notwithstanding the requirements of this clause 3.8, the minimum design life of pavements shall be:
 - (i) 40 years for all new pavements (unless specified otherwise by future changes to TMR Standards);
 - (ii) 40 years for all pavement rehabilitation works on the Gateway Motorway Facility (unless specified otherwise by future changes to TMR Standards); and
 - (iii) 20 years for all pavement rehabilitation works on the Logan Motorway Facility.

3.8.2 New pavements

High load intensity, low intervention pavement (HILI) as defined in the TMR *Pavement Design Manual*, must be provided on all Tollroad Mainline Carriageways and Entry Ramps and Exit Ramps. The HILI pavements must be designed for and constructed from either CRCP with asphalt surface, or full depth asphalt as defined in the TMR *Pavement Design Manual*.

Each new pavement design and each pavement rehabilitation design must be supported by documented assessments, design calculations and methodologies that comply with the design reporting requirements included in Appendix 4-D.

All new pavements are to have an asphalt surface.

3.8.3 Rehabilitated pavements

Unless permitted otherwise by TMR, the design of rehabilitated pavements shall use the methodologies, performance characteristics and material properties given in the TMR *Pavement Design Manual* (except that the *Pavement Rehabilitation Manual* (QT 1992) and the Methodology for Designing Pavement Rehabilitation Treatments (Report No. DG9228/7000 April 2007) take precedence). Rehabilitated pavements must conform to the following requirements:

- a) No existing rigid pavement base or sub-base layer is to remain or be included as part of the rehabilitation works (e.g. some old pavements in the existing Tollroad such as concrete sections are to be reconstructed using a new pavement design that complies with the requirements of the Performance Specification).

- b) New asphalt layers shall comply with the material types, mixes, and structures used for full depth asphalt pavements as given in the TMR Pavement Design Manual (2009) for full depth asphalt pavements e.g. where Table 2.3-1 of the TMR Pavement Design Manual (2009) stipulates a HILLI pavement is required (for a new pavement), then the asphalt layers in the rehabilitation design shall comply with Table 2.3-1 thereof and all dense graded asphalt shall comply with MRTS31 and the properties (e.g. design moduli for various heavy vehicle operating speeds) and performance criteria adopted for asphalt layers for design shall be as per the TMR Pavement Design Manual (2009).
- c) A SAMI shall be included at the base of the bottom layer of any new asphalt where a cement treated/modified/stabilised layer forms part of the completed works irrespective of whether the layer is an existing or new layer.
- d) Where no existing asphalt is to remain between a cement treated/modified/stabilised layer and new asphalt then an emulsion primer seal shall be applied to the top of the cement treated/modified/stabilised layer prior to construction of the SAMI and the SAMI shall then be placed directly on the primer seal after an appropriate period of time has elapsed (e.g. after the emulsion has fully 'broken').
- e) SAMIs shall not be trafficked.
- f) The trafficking of the existing pavement prior to the commencement of rehabilitation must be taken into account in the design.
- g) Rigid pavement overlays are not permitted.

3.9 Geotechnical requirements

Embankments and cuttings must be designed to conform to the TMR *Scope of Works and Technical Criteria, Attachment 7A Geotechnical Design Standard - Minimum Requirements*.

Designs shall specify that construction of pavement layers above the compressible foundation materials must not commence until:

- a) all primary consolidation settlement of the compressible foundation materials under the design loading has been completed;
- b) the minimum control fill thickness requirements nominated in PSTS101 have been complied with but shall not be less than 600 mm; and
- c) the predicted residual settlements and differential settlements of the compressible foundation materials in both the transverse and longitudinal directions satisfy the total in-service settlement permissible within 40 years of pavement construction criteria (

Table 3-1) and the maximum allowable differential settlement permissible within 40 years of pavement construction is specified in

Table 3-1. but local effects such as occur transversely across a pavement where settlement is greater in the centre shall not exceed half the values below.

Table 3-1: Maximum differential settlement for settlement bowls.

Length of settlement bowl (m)	Maximum differential settlement (mm)
5 (at bridge abutments only)	5
10	15
15	33
20	60
25	90

3.9.1 Earthworks Formation

The Franchisees must ensure that all earthworks are:

- a) constructed in accordance with Technical Standard MRTS04;
- b) generally (including batters, boulder walls and embankments, both cut and fill) designed and constructed so that the slopes do not erode, fret or change shape during the Concession Period, and that both short and long term stability is addressed taking into account such factors as geological weathering and climate;
- c) able to provide protection and treatment to each cut batter, with provisions for drainage, as soon as practicable to avoid escalation of deterioration in any areas of concern to effectively limit environmental impact and ensure safety of Road Users at all times; and
- d) accessible for plant and equipment to the batter slopes to:
 - i. allow ready installation of any treatment measures which may become necessary;
 - ii. facilitate inspection of the face of the batter; and
 - iii. enable landscaping operations on fill batters.

3.10 Structures

The Franchisees shall ensure all Structures are designed in conformance with the TMR *Scope of Works and Technical Criteria, Attachment 7B Design Criteria for Bridges and Other Structures*.

3.11 Geometric design requirements

All design work must comply with the TMR *Road Planning and Design Manual* and:

- a) application of the Extended Design Domain (EDD) principles set out in Chapter 2 of the TMR *Road Planning and Design Manual* is not permitted without approval of the State;
- b) if vertical clearances of existing structures are less than the requirements of the TMR *Road Design and Planning Manual*, the existing clearance must be maintained at a minimum until such time as a replacement or rehabilitation is required, at which time the requirements of the TMR *Road Planning and Design Manual* must be met;

- c) horizontal and vertical clearances between the Tollroad Infrastructure and any rail infrastructure must comply with the requirements of relevant Authorities, including Queensland Rail;
- d) horizontal and vertical clearances between the Sir Leo Hielscher Bridges and the Brisbane River navigation channels must comply with the requirements of relevant Authorities, including Maritime Safety Queensland;
- e) the Sir Leo Hielscher Bridges including associated light poles, sign gantries or other structures mounted on the bridge must not project above the level of the top of the light poles at the crest of the Sir Leo Hielscher Bridges and any work above this level must comply with the requirements of relevant Authorities, including the Civil Aviation Safety Authority; and
- f) the following minimum vertical clearances shall apply notwithstanding the requirements of Section 7 of the *Road Planning and Design Manual*:
 - i. for any new or replacement structure over the Mainline Carriageway, clearance must be a minimum of 6.5 m; and
 - ii. for any sign or barrier over a motorway pedestrian or cyclist pathway clearance must be a minimum of 2.6 m.

3.12 Road related assets

Roadside areas must be designed to comply with the requirements of the TMR Standards and road related assets must be positioned in a way which is compatible with other sections of the surrounding road network; and does not compromise Road User safety.

Design of all directional, regulatory, warning, advisory and information signposting must comply with:

- TMR *Manual of Uniform Traffic Control Device*;
- the TMR *Traffic Road Use Manual*; and
- the TMR *Road Planning and Design Manual*.

General design principles shall take to account the following:

- a) If sign Structures are not designed to collapse on impact by a motor vehicle, protection must be provided in accordance with the TMR *Road Planning and Design Manual*.
- b) No roadside furniture is to be placed within the roadway shoulder.
- c) Road verges must be kept as free of furniture as much as possible.
- d) Any furniture within the Clear Zone that does not collapse on impact must be protected using a safety barrier.
- e) Batters or walls of cuttings are to be shaped and constructed to provide either a Clear Zone run-off area, a rigid safety barrier, or features that emulate a rigid safety barrier.
- f) Any bridge piers and abutments in the Clear Zone must incorporate a TMR-approved safety barrier, and all safety barriers must be designed to comply with practices detailed in the TMR *Road Planning and Design Manual*.

3.13 Lighting

All lighting design must be undertaken in accordance with Chapter 17 of the TMR *Road Planning and Design Manual* by an Energex SWP 47 rated service provider and be certified by a Professional Engineer registered with the Board of Professional Engineers of Queensland with the appropriate qualifications as to lighting layout design and electrical layout design.

Lighting designs shall allow for:

- a) maintenance factors not exceeding:
 - i. for IP 5x luminaires: 0.7; and
 - ii. for IP 6x luminaires: 0.8;
- b) lighting pole alignment where:
 - i. the layout for the road lighting poles complies with arrangements in AS/NZS 1158.1.1;
 - ii. arrangement 1 may be used for Entry Ramps and Exit Ramps;
 - iii. arrangement 2 must not be used on any ramp on or forming part of the Tollroad; and
 - iv. lighting poles located in depressed medians must be offset from the 'V' drain;
- c) Rate 1 Lighting and Rate 2 Lighting to comply with:
 - i. AS/NZS 1158 Road Lighting;
 - ii. AS/NZS 1158.1.3, Vehicular Traffic (Category V) Lighting - Guide to Design, Installation, Operation and Maintenance, Appendix B Guidelines for the Use and Placement of Rigid and Frangible Road Lighting Poles;
 - iii. TMR Road Planning and Design Manual –Chapter 17 (Lighting); Clause 17.6 Requirements for Rate 1 and 2 Public Lighting;
 - iv. QTSC Group - Standard Conditions for the Provision of Public Lighting Services;
 - v. Energex Public Lighting Manual - Policy, Design and Equipment; and
 - vi. Energex Public Lighting Manual – Construction;
- d) Rate 3 Lighting to comply with:
 - i. AS/NZS 1158 Road Lighting;
 - ii. AS/NZS 3000 Electrical Installations (known as the Australian / New Zealand Wiring Rules);
 - iii. AS/NZS 1158.1.3, Vehicular Traffic (Category V) Lighting - Guide to Design, Installation, Operation and Maintenance, Appendix B Guidelines for the Use and Placement of Rigid and Frangible Road Lighting Poles;
 - iv. TMR Road Planning and Design Manual – Chapter 17 (Lighting); Clause 17.7 Requirements for Main Roads Rate 3 Public Lighting;
 - v. TMR Standard Drawings; and
 - vi. All relevant TMR Standards;
- e) Rate 3 Lighting using TMR registered suppliers and products for the following items:
 - i. road lighting poles, outreach arms and luminaires headframes; and
 - ii. road lighting luminaires;and for information regarding TMR registered suppliers and products for the above items refer to the TMR ITS and Electrical Technology Branch;
- f) Rate 3 Lighting and associated electrical equipment must not have any part of its installation (including conduits and switchboards) in common with Rate 1 Lighting and Rate 2 Lighting systems;
- g) all lighting in the Leased Area within a six kilometre radius of an airport to be designed to comply with the provisions of the Civil Aviation Safety Authority

(CASA) Civil Aviation Safety Regulation (CASR 1998), Manual of Standards Part 139, Aerodromes, Chapter 9 section 9.21;

- h) appropriate CIE (International Commission on Illumination) road surface reflecting properties of the pavement to be used for all lighting design calculations;
- i) lighting design to be coordinated with maintenance design to minimise traffic disruption and ensure worker safety during lighting maintenance Activities;
- j) lighting design to be coordinated with other Tollroad Infrastructure including ITS devices, sign posting and the landscape and urban design to minimise the effects of shadows on road Carriageways from other Tollroad Infrastructure including shadows from future vegetation growth;
- k) lighting of roadways, carparks, pedestrian facilities and bicycle facilities to be coordinated with lighting for other purposes, including Brisbane River navigation lighting;
- l) professional specialist advice to be obtained for all lighting design;
- m) switchboards which allow for:
 - i. all switchboards to be installed in positions that allow for 24 hours, 7 days per week access by maintenance personnel without the need to implement any form of traffic control or lane closures;
 - ii. provision to park a service vehicle within 30 metres of the switchboard and clear of any trafficked roadway;
 - iii. all circuits to be separately labelled for identification.
 - iv. all switchboards with spare capacity for the installation of an additional 1 x 3 phase 32 amp circuit and 3 x 20 amp single phase circuits; but
 - v. where there is a conflict with (i) to (iv) above and AS/NZ3000, the requirements of AS/NZ 3000 shall apply; and
- n) safety of all Road Users is maximised through careful application of the total design.

3.14 Traffic Signals

All traffic signal design must be undertaken in accordance with Chapter 18 of the TMR *Road Planning and Design Manual* and comply with TMR Standards including Technical Standard MRTS93.

3.15 Electrical

The Franchisees must ensure design and installation of electrical components are to the standards documented in AS3000 *Electrical Installation-Buildings, Structure and Premises (Wiring Rules)* and to the standards required by the relevant Authorities; and:

- a) all cables must be colour coded for the appropriate phase as per AS 3000 *Electrical Installation-Buildings, Structures and Premises (Wiring Rules)* and be fitted with permanent labels at the point of connection in a switchboard, identifying the destination and circuit number;
- b) all voltage drop calculations must be based on a maximum voltage drop (under the maximum expected load from any operational condition including Incident conditions) not to exceed 4% when calculated from the point of supply to any point in the installation and cable sizes must be selected accordingly;

- c) circuit protection devices must be fully coordinated to achieve complete discrimination so that, in the event of a fault, there is no interruption to upstream supplies to other circuits;
- d) traffic signals must be connected to a different main switch from lighting and traffic signals power circuits must be provided with a warning 'not to turn off' attached next to the isolator switch; and
- e) all electrical switchboard doors must be fitted with a three point locking system.

3.16 Permanent Static Signage

The Franchisees must design or procure design for:

- a) any new permanent static signs;
- b) all alterations to and/or relocations of existing permanent static signs necessary for the safe and efficient operation of the Tollroad and Affected Road Network; and
- c) the new and existing permanent static signs shall include:
 - i. all signs in the sign classifications below (which are more particularly described in clause 1.5 of the *Manual of Uniform Traffic Control Devices*);
 - regulatory signs;
 - warning signs;
 - guide signs; and
 - freeway guide signs;
 - environmental signs; and
 - e-toll signage; and
 - ii. any other permanent static signs required, including:
 - signs for help telephones at emergency stopping bays; and
 - signs on and for pedestrian and bicycle facilities.

3.16.1 General Requirements

The Franchisees shall ensure permanent static signs incorporate high quality sign face information that will enable Road Users to make informed decisions with a level of safety and clarity appropriate for the particular road environment, which for the Tollroad and Affected Road Network signed from the Tollroad, is a high speed, high volume environment.

Permanent static signs must comply with:

- a) the requirements of all relevant TMR Standards including MRTS 14;
 - i. the TMR *Manual of Uniform Traffic Control Devices*; and
 - ii. TMR's *Traffic and Road Use Management Manual*;
- b) the Design Life requirements of the Performance Specification;
- c) the Handover requirements of the RFA; and
 - i. include all necessary footings, support structures, sign faces and legend; but
 - ii. the lighting of the faces of permanent static signs on the Tollroad is not required; and

- d) in areas where a possible sight line clash may occur between permanent static directional signs and other signs or ITS gantries, the directional signs must take precedence in location to ensure maximum visibility for Road Users.

3.16.2 Freeway guide signs

The Franchisees must obtain confirmation of the exit numbering from TMR prior to commencement of manufacture or alteration / relocation of any signs with an exit number and provide guide signs for the Exit Ramps on the Tollroad and Affected Road Network (including the sections of Affected Road Network beyond the limits of the Tollroad) which comply with the requirements of the TMR *Manual of Uniform Traffic Control Devices* including:

- a) advance exit signs;
- b) exit direction signs; and
- c) exit number and / or exit number supplementary plate signs.

3.16.3 E-toll signage

The Franchisees must ensure E-toll signage includes all permanent static signage to advise Road Users:

- a) that the Tolls will be charged to use the Tollroad;
- b) that all Tolls are E-toll;
- c) of the Toll prices;
- d) of the Toll evasion penalties; and
- e) of directions for Non-Product Users,

or as otherwise agreed between the parties from time to time.

The Franchisees will be deemed to have complied with clause 3.16.3(c) if:

- a) paragraph 3.2 of the Gazette Notice contained in Exhibit E to this deed is complied with at any time there is a change to a toll in respect of the Tollroad; and
- b) permanent static signage refers Tollroad Users to the 'go via website' or such other website which contains Toll prices and is maintained and operated by the Franchisees or the Tolling Services Contractor from time to time.

The Franchisees will be deemed to have complied with clause 3.16.3(d) if permanent static signage advises Tollroad Users that "Toll evasion is an offence".

3.16.4 Advertising Signage

The Franchisees shall ensure advertising signage complies with Part 5 and the RFA.

3.16.5 Signage Lettering and Layout

The Franchisees shall ensure the lettering, including font size, and layout on permanent static signs other than freeway guide signs is in accordance with the TMR *Manual of Uniform Traffic Control Devices*, and as a minimum, all sign face materials are in accordance with the *Traffic and Road Use Management Manual* and MRTS14.

3.16.6 Gantries

The Franchisees shall ensure overhead signage gantry Structures which also support ITS devices and associated electrical equipment include walkways suitable for use by personnel undertaking maintenance of the sign and / or ITS devices and / or installation of future ITS devices, and those gantries conform with the TMR MRTS 61.

3.17 Linemarking

The Franchisees shall ensure linemarking, including delineation, complies with the requirements of the TMR Standards, including the *Manual of Uniform Traffic Control Devices*, and the requirements of MRTS45.

Temporary linemarking used for the purpose of traffic management during maintenance Activities must not be visible following completion of the permanent works.

3.18 Requirements for Roadside Barriers

All permanent roadside barriers must be provided in accordance with the requirements of the TMR's *Road Planning and Design Manual*, and must comply with the requirements of MRTS14.

4 Inspection and monitoring

This clause 4 describes those parts of the TMR Standards that relate to the inspection and assessments that are used to determine the condition, performance and minimum remaining life of Tollroad Infrastructure with which the Franchisees must comply. TMR Standards are expected to change during the Concession Period to keep abreast of changing technology, traffic loadings, community values and government expectations. When a TMR Standard changes such that it conflicts with part of this clause 4, then the TMR Standard shall take precedence to the extent of any conflict.

4.1 Infrastructure inspection and condition monitoring strategy

Within 3 months of the Commencement Date the Franchisees must implement an inspection and condition monitoring strategy and, as part of the strategy, the Franchisees must detail a plan to execute the requirements of all asset types.

4.1.1 Benchmarking infrastructure condition surveys

The Franchisees must carry out and complete infrastructure condition surveys to establish the condition of all Tollroad Infrastructure. The initial infrastructure condition surveys must be undertaken in sufficient time so that they can be used to inform the development of the initial TAMP. The requirements for these infrastructure condition surveys include:

- a) for bridges, the condition surveys must include a Level 2 inspection in accordance with the TMR *Bridge Inspection Manual*;
- b) all infrastructure condition surveys must be carried out by an independent qualified assessor approved by the State; and
- c) for each infrastructure asset, the Franchisees must:
 - i. issue to the State a preliminary infrastructure condition report for the asset within 30 Business Days of the completion of an infrastructure condition survey for the asset and include details of the condition of the asset, including all Asset Items and Asset Sub-Items;
 - ii. allow 20 Business Days from the receipt of the preliminary infrastructure condition report for the State to review and comment on the report;
 - iii. prepare and submit to the State a final benchmark condition report within 15 Business Days after the comments are received from the State; and
 - iv. prepare the final benchmark condition report by updating the various preliminary infrastructure condition reports submitted to include all amendments necessary as a consequence of the comments by the State on the preliminary infrastructure condition survey report.

4.1.2 Ongoing infrastructure condition surveys

For the balance of the Concession Period, the Franchisees must carry out infrastructure condition surveys at the required frequency to determine the condition of all assets, with frequencies determined by the asset type.

These infrastructure condition surveys must be carried out in accordance with the requirements of Clause 4,1.1.

The State may undertake its own ongoing verification condition surveys including pavement condition and bridge inspection which:

- i. shall be at the cost of the State; and

- ii. may, for inspection of individual assets, be staggered relative to each other.

4.2 Pavements

4.2.1 Pavement Condition Testing

Throughout the Concession Period the Franchisees must:

- a) carry out pavement condition testing on all Mainline Carriageways and Entry Ramps and Exit Ramps forming part of the Tollroad, and report against the performance indicators listed in clause 6;
- b) carry out tests at the locations (for all wheel paths in all traffic lanes) as specified in the relevant Austroads Guidelines, Specifications and test methods described in Table 4.1;

Table 4-1: Test Requirements

Performance indicator	Test requirements
Roughness	<ul style="list-style-type: none"> • International Roughness Index or IRI as calculated by the quarter car method, and determined by averaging two individual Single Track IRI values obtained separately in each wheel path of a lane. • Class 1 inertial laser profiler. Devices used shall be able to measure road surface profile to within a minimum accuracy of 5% of the reference profile. • Specification: AG:AMS001 <i>Specification for Pavement Roughness Measurement with an Inertial Laser Profilometer</i>
Rut depth	<ul style="list-style-type: none"> • Automated non-contact method, with a minimum of 13 measurement points across the profile. • The rut depth shall be the maximum deviation of the transverse profile of the surface from a virtual 2.0 m straight edge. • The left and right wheel path rut depth shall be reported. • Specification: AG:AMS004 <i>Specification for Pavement Rutting Measurement with a Multi-Laser Profilometer</i>
Cracking extent	<ul style="list-style-type: none"> • High speed automated technique with the following specifications: <ul style="list-style-type: none"> • covers a survey width of no less than 2.3 m per lane; • able to detect crack width of 1 mm and above. • Cracking extent shall be calculated and reported separately as the percentage area of each of the following types of crack: <ul style="list-style-type: none"> • Transverse; • Longitudinal; • Crocodile; • Straight.
Ravelling	<ul style="list-style-type: none"> • High speed automated technique that covers a survey width of no less than 2.3 m per lane—measured as extent of lane affected
Macrotecture	<ul style="list-style-type: none"> • Mean profile depth (MPD) using Class 1 inertial laser profiler. • Specification: AG:AMS005 <i>Specification for Pavement Surface Texture Measurement with a Laser Profilometer</i>
Skid resistance	<ul style="list-style-type: none"> • Sideways Force coefficient routine investigation machine (SCRIM) method • SFC₅₀ • Data is to be seasonally corrected. • Test Method: RTA T189 <i>Determination of skid resistance by Sideways Force Measuring Equipment</i>
Pavement deflection	<ul style="list-style-type: none"> • Falling Weight Deflectometer (FWD) 40, 60 or 80 kN as required to achieve a deflection in the pavement. • Characteristic deflections , normalised for WMAPT temperature

Performance indicator	Test requirements
	<ul style="list-style-type: none"> • Pavement deflectograph (optional – if used then Specification AG:AM003 applies) • Specification: AG:AMS002 <i>Specification for Pavement Deflection Measurement with a Falling Weight Deflectometer (FWD)</i>

- c) determine pavement condition testing frequencies after taking into account the functional, safety, and other aspects of the Tollroad but in any event, must be undertaken within 10 months to 14 months of the last test date and average no less than 1 per annum over the Concession Period, except in the case of skid resistance testing where a Sideways Force coefficient routine investigation machine is unavailable at the relevant time (despite the Franchisees using reasonable endeavours to procure such equipment), in which case the test must be undertaken within such longer period as agreed by the parties (acting reasonably);
- d) ensure test locations include:
 - i. all Mainline Carriageways including all lanes, including merge / diverge areas; and
 - ii. all ramps (including Entry Ramps and Exit Ramps), with a minimum of one test per lane;
- e) ensure that for new pavements and rehabilitated pavements, the first set of pavement condition testing is carried out no later than 6 months after the relevant part of the Tollroad has been opened to traffic;
- f) ensure performance indicator data is available to the State within the Asset Management System (refer Clause [2.3](#)) within 20 Business Days of receipt of the results of the pavement condition tests; and
- g) ensure test results are reported for segments of 100 metres or shorter length.

4.2.2 Deflection Tests

The Franchisees must carry out deflection testing:

- a) using a falling weight deflectometer to determine deflection bowl and pavement strength characteristics;
- b) at intervals sufficient to characterise the structural condition of the pavement and any rehabilitated pavement (but in any event must not be more than 100 metre intervals);
- c) on both the inner wheel path and the outer wheel path of the most heavily trafficked lane on all Mainline Carriageways and Entry Ramps and Exit Ramps forming part of the Tollroad and for widened pavements, carry out additional tests on any lane where its pavement structure is different from the most heavily trafficked lane;
- d) with a loading weight for the falling weight deflectometer sufficient to adequately characterise the structural capacity of the pavements (which is anticipated to require a load of up to 120 kN);
- e) ensuring specified falling weight deflectometer testing is, where warranted and at the discretion of the Franchisees, supplemented by deflectograph testing to allow the Franchisees to better assess the variability of the pavements;

- f) ensuring all deflection test results are made available to the State within the Asset Management System in accordance with Clause 2.3 within 20 Business Days of the Franchisees' receipt of the results of the pavement deflection tests;
- g) including analysis after each subsequent test to compare the current results with previous results and if the current results are substantially different from previous results, carry out further investigations to assess the cause of the variance; and
- h) for the duration of the Concession Period.

4.2.3 Pavement Condition Test Methods, Guidelines and Standard Practices

The Franchisees must carry out pavement condition testing in accordance with the current guidelines which include Austroads 2009, *Austroads Guide to Asset Management*, Part 5, Austroads, Sydney, NSW. The Franchisees must be satisfied that relevant contemporary national and international documentation is observed at the time of pavement condition testing, and adhere to the guidelines and standard practices until such time that new guidelines and/or standard practices make these guidelines and/or standard practices obsolete, at which time the Franchisees must adopt the new guidelines and/or standard practices. For all pavements condition testing the Franchisees shall:

- a) adopt contemporary testing methods current at the time of testing;
- b) meet as a minimum the requirements in Table 6-2 and 6-3.
- c) where future technologies result in new testing methods, adopt the new testing methods;
- d) comply with the guidelines and standard practices including the Austroads' guidelines if and to the extent there are differences between its details and those of other publications;
- e) comply with relevant TMR test methods and guidelines which shall take precedence over all other publications if and to the extent of any differences with those other publications;
- f) demonstrate to TMR's satisfaction that appropriate data validation procedures (including those in the guidelines and standard practices in Section 4.2.3 above) are in place before carrying out any tests; and
- g) in addition to the above data verification procedures, calibrate the proposed testing equipment by carrying out tests at any TMR calibration site within SEQ which is available at the time of testing.

4.3 Structures

4.3.1 Structure inspections

The Franchisees must ensure Structures are inspected in accordance with the TMR *Bridge Inspection Manual* and a Structure management plan is developed by the Franchisees and approved by TMR for all Structures that have been rated as CS3 or CS4. This plan must define the required inspection regime, repair or replacement strategy and operational issues such as load, width and vehicle mass limit restrictions. Refer to Appendix F of the TMR *Bridge Inspection Manual* (BIM) for guidelines on the development of management plans.

Overall Structure condition rating shall follow the method described in section 3.8.6 of the BIM (including use of Figure 1 – Significance Ratings) and, in addition:

- a) if there is more than 25 % of any principal load bearing component (significance rating 4) in any substructure or span group then the overall rating must be CS4 and the principal component numbering shall be:
 - i. girders (21,22);
 - ii. trusses (23,24);
 - iii. arches (25);
 - iv. cables/hangers (26);
 - v. load bearing diaphragms (32);
 - vi. headstocks (54,55);
 - vii. columns piles (56) and
 - viii. other subjective aspects of the overall condition rating shall still apply;
- b) If there is more than 25 % of any principal load bearing component (significance rating 3) in any substructure or span group then the overall rating must be at least CS3, and the presence of more serious Defects elsewhere may still result in a higher overall rating;
- c) large traffic management signs include such infrastructure as gantries, cantilevers, masts and other large mounting structures are to be inspected following the general methodology of the BIM and more particularly the TMR Bridge asset management advice note number 112 (August 2010) and classified as requiring the same inspection regime as steel culverts;
- d) large components shall be defined under the BIM component categories asset out in Table 4.2:

Table 4-2: Large traffic management signs component categories

Component number	Component
90	Piles
91	Footing
92	Base plates, Fittings and Hold-Down Bolts
93	Column
94	Column Truss
95	Gantry Beam
96	Gantry Truss
97	Sign Face Supports
98	Walkways, cable trays, ladders and miscellaneous
99	Mounted Devices

- e) further details on the inspection of large traffic management signs such as CS guidelines are included in the TMR Bridge asset management advice note number 112 (Aug 2010);
- f) a Structure maintenance schedule must be recorded with each inspection;
- g) level 1 inspections are required after events such as major rain event, flooding, fire or accident, and are further defined as:
 - i. major rain/flooding event with an annual exceedance probability (AEP) of 5%; or
 - ii. bushfire within 100 metres of the structure; or
 - iii. vehicular accident/collision with the structure; and
- h) the Franchisees must submit an appropriate annual report on Structures inspected as required by the BIM in addition to reports for all inspection that are

undertaken which must be submitted (electronic and hard copy) to TMR in the BIM format each 6 months; and

- i) all inspections must be undertaken by an independent assessor meeting the eligibility requirements contained in the *BIM Inspector Accreditation Appraisal Procedure* and approved by the State.

4.3.2 Structure network performance profile

To monitor the performance of Structures within the Leased Area the Franchisees shall establish annual performance profiles of Structures as part of the benchmarking work detailed in Clause 4.1.1. The profiles shall include:

- a) a summary of all Structures per CS based on CS 1 to CS 4;
- b) a summary of all Structures per CS type including bridges, culverts, retaining walls and large traffic management signs;
- c) a CS profile of all Structures at component category level based on CS 1 to CS 4 using categories defined using the BIM standard component schedule with each matrix reported by component category, e.g. deck surface shall have all component types listed and reported by categories including:
 - i. deck surface;
 - ii. deck joints;
 - iii. superstructure;
 - iv. bearings;
 - v. substructure;
 - vi. miscellaneous;
 - vii. culverts; and
 - viii. large traffic management signs;
- d) a detailed list of any components reported in CS 3 or CS 4;
- e) any components that are CS 3 or CS 4 and are unchanged or worse CS than the previous inspection;
- f) the number of bridges with Defective components in CS 4, irrespective of significance rating;
- g) a count of components per CS profile based on significance rating (CS 1 to CS 4) and reported for each component category from the TMR BIM standard component schedule, with a separate report for each grouping of significance rating;
- h) overdue level 2 inspections for bridges and culverts;
- i) inspections completed for bridges and culverts;
- j) the maintenance backlog as identified from the bridge inspections;
- k) inspections due within the next 12 months;
- l) Structures that require a Structures management plan as per the BIM; and
- m) each Financial Year, the year on year information must be reported with sufficient detail showing trends in each category listed in Clause 4.3.2.

4.4 Minor assets

As part of the Routine Maintenance inspections the Franchisees must ensure the following Structures and assets are inspected and monitored in accordance with the maintenance standards:

- a) drainage structures;
- b) minor culverts;
- c) surface water channels;

- d) barriers;
- e) carriageway lighting;
- f) delineation – lines and markers;
- g) signs;
- h) paths – cycle and pedestrian; and
- i) vegetation.

4.5 Electrical Equipment

The Franchisees shall ensure electrical equipment condition is tested periodically and that condition indicators are based on the relevant manufacturer's recommendations and provide data capable of predicting probable failure.

The method and frequency of testing of condition indicators must be as nominated by the manufacturer together with the minimum equipment performance at which intervention is required but in any event intervals shall not exceed 12 months between successive tests.

4.6 Infrastructure for Management, Control and Monitoring Systems

4.6.1 Intelligent Transport System Devices and Infrastructure

The Franchisees are responsible for the inspection and monitoring of ITS devices and infrastructure to ensure that the road operation requirements of the Performance Specification are met. Devices and infrastructure include VDD, ramp meters, VMS, VSL, LUMS, CCTV, WIM, driver advisory signs, and the Tollroad's telecommunications network.

5 Information management

5.1 Sharing information with the State

The Franchisees shall, in accordance with the Performance Specification, share with and regularly provide information to the State including:

- a) initial provision to the Franchisees of all inventory records held by the State;
- b) annual updates of all asset information to be provided by the Franchisees to the State; and
- c) other information as is reasonably required by the State or which is reasonably inferable as necessary from the RFA or the Performance Specification for the monitoring, assessment and management of Tollroad Infrastructure during the Concession Period.

5.1.1 Asset information

For any assets upon which maintenance is undertaken, the Franchisees must ensure accurate details such as as-built drawings and as-constructed information are prepared and maintained and that information is provided to the State each Financial Year (or as otherwise requested by the State subject to reasonable written notice) and shall include electronic and hard copies of the required information.

5.2 Record keeping

All asset and maintenance information related to the Tollroad shall be kept in time series and the Franchisees shall ensure all records are maintained in forms satisfactory for retention throughout the entire Concession Period.

5.3 Asset Management System

As outlined in Clause 2.3, the Franchisees must develop and maintain an Asset Management System to a standard which satisfies all of the planning, monitoring, control and reporting requirements of the RFA and the Performance Specification, and the information contained in the Asset Management System must be made available for independent access and interrogation by the State, upon reasonable notice.

The Asset Management System must, as a minimum:

- a) be maintained to represent a current record of the type, class, nature, location and composition of all assets within the Leased Area or otherwise under the care or control of the Franchisees (the '**Asset Inventory**');
- b) contain a record of the current, historical and projected future condition of each asset within the Leased Area including detailed records of the repair or replacement of Asset Items or Asset Sub-Items with sufficient detail to establish the Residual Life of the Asset Items and Asset Sub-Items;
- c) maintain current records of the nature, extent, quantity, location, time and type of any maintenance works performed by, or programmed to be performed by, or on behalf of the Franchisees under the RFA and the Performance Specification;
- d) record the specific condition and Defect information for individual Asset Items and Asset Sub-Items within each relevant Asset Group; and
- e) maintain pavement performance models of the actual performance of the pavements as detailed in Clause 6, and predictions of the future performance derived from monitoring during the Concession Period for the entire Leased Area. Such pavement performance model(s) must provide details of recorded

and predicted growth in the volume of vehicular traffic for both cars and commercial vehicles.

5.3.1 Asset Inventory

The Asset Inventory must list all assets to be maintained under the RFA and the Performance Specification, structured in layers comprising Asset Groups, Asset Items and, where appropriate, Asset Sub-Items.

The Franchisees must ensure inventory data required in accordance with this Clause 5 is maintained by the inclusion, removal or revision of data as the Asset Inventory changes resulting from any work undertaken by the Franchisees..

5.3.2 Inspection

The Franchisees must ensure the Asset Management System documents the regular inspection of the Asset Items and Asset Sub-Items and documents any failure to meet the Performance Specification and/or condition indicators. The Asset Management System must be prepared and maintained to initiate an appropriate maintenance response and the nature and timing of the necessary response (or any failure to be met) must be defined and recorded in the maintenance standards for each Asset Group.

5.3.3 Condition

Within the Asset Management System, the Franchisees must record the condition of assets as required in accordance with the condition inspection and the Performance Specification procedures including the maintenance standards for the entire Concession Period.

5.3.4 Location Referencing

The location referencing system to be developed and maintained by the Franchisees is to be based on a linear system covering the Tollroad, dividing the work into homogeneous sections no longer than 100 metres with individual pavement Asset Items not to exceed 100 metres in length. The Franchisees must adopt TMR's ARMIS road location referencing system, or an alternative agreed and approved by TMR.

5.3.5 Maintenance Service Information

The Franchisees must record the output of maintenance work required under Clause 7.3 in accordance with the most recent revision of the O&M Plans.

5.3.6 Time Series of Data

The Franchisees must ensure that the Asset Management System retains an historical record of all of the data and information listed in this Clause 5 and each data item must be referenced with the record date appropriate to the type of data.

5.3.7 Pavement Performance Modelling

The Franchisees must ensure the Asset Management System includes a suite of pavement performance models for predicting the future pavement condition and remaining life of each section of pavement for the Tollroad. These pavement performance models must be capable of predicting future pavement performance over the specified Design Life of the Tollroad pavements and meet the requirements in this Part 4.

As a minimum, the basis of the models must provide for and take into consideration the effect of maintenance works and analyse (on a life cycle basis) pavement performance over the pavement design life, together with the following factors and attributes:

- a) pavement type;
- b) pavement layering;
- c) pavement structural strength;
- d) pavement age;
- e) surface age;
- f) traffic volume, vehicle mix and axle loads;
- g) traffic growth;
- h) pavement condition.
- i) roughness progression;
- j) rut depth progression;
- k) structural cracking; and
- l) pavement strength; and

during the Concession Period, pavement performance analysis and models must:

- m) be updated annually (as a minimum) to account for actual traffic and measured pavement condition;
- n) be run annually (as a minimum) to produce new predictions of pavement condition and maintenance requirements over the balance of the Design Life of the pavement.
- o) be submitted annually to the State as a working copy of the pavement performance models and all pavement data, including up-to-date pavement condition and maintenance requirements, must be provided immediately prior to Handover; and
- p) be applied for all medium (tactical) and long term (strategic) planning of pavement works and for estimating the remaining life of pavement assets as described in Clause 6.

5.4 Tollroad ITS systems

In accordance with the RFA and Performance Specification, the Franchisees must provide and maintain adequate computer, communications, ITS devices and electrical hardware for the required Tollroad systems in accordance with TMR Standards.

5.5 O&M Plans

5.5.1 General

The Franchisees must develop the O&M Plans which integrate operational and maintenance Activities with (as a subset of) the Concession Plans required for the operation of the Tollroad. O&M Plans must be developed and implemented by 1 July 2012, with subsequent reviews and updates to be completed by the commencement of each Financial Year.

5.5.2 Contents of the O&M Plans

As a minimum, the Franchisees must ensure the O&M Plans include complete systems and procedures for compliance with:

- a) the Asset Management System;
- b) the Franchisees' maintenance standards;

- c) the condition monitoring of assets;
- d) description requirements of the maintenance operations groups including:
 - i. the number, type and skills of personnel;
 - ii. vehicles, plant and equipment to be used in the various operations;
 - iii. subcontract arrangements (if any), and any responsibilities;
 - iv. the location(s) of the maintenance organisation(s) and resources;
 - v. responsibilities of personnel;
 - vi. contact details; and
 - vii. training requirements;
- e) the Performance Specification including:
 - i. pavement ride quality and other pavement performance criteria;
 - ii. Response Time targets for Defect rectification and Incident management;
 - iii. equipment availability targets;
 - iv. water and air quality targets and limits;
 - v. noise targets and limits;
 - vi. normal operating condition levels (including signage etc.);
 - vii. design life and durability strategies;
 - viii. load limits and ratings;
 - ix. bridge inventory;
 - x. vegetation coverage targets;
 - xi. litter control targets;
 - xii. graffiti control targets; and
 - xiii. declared weeds control strategies;
- f) updating of permanent plant and equipment inventory, detailing all permanent plant and equipment (excluding mobile equipment used for maintenance) and the manufacturers' handbooks and spare parts lists reflecting the Asset Items and Asset Sub-Items of the Asset Management System established in accordance with this Part 4;
- g) guidelines for establishing frequency of inspection, maintenance and repairs by individual Asset Groups so that the frequency of inspection of any particular Asset Group is not less than the minimum inspection frequency given in the maintenance standard for that Asset Group;
- h) any special purpose manuals for use by the Franchisees, Police, QFRS and QAS, containing a brief description of all systems and equipment to be maintained or supplied, with illustrations, diagrams and sketches, particularly in relation to Incident operating procedures; and
- i) the Franchisees' obligations with respect to durability and residual life under the RFA during the Concession Period and at Handover.

5.5.3 Durability Assessment Reports

The Franchisees must ensure the requirements and outcomes of the durability assessment reports are included in the O&M Plans and cover:

- a) the type and frequency of inspection/monitoring for critical and non-critical assets;
- b) guidance on interpretation of inspection/monitoring data;
- c) actions to be taken arising from review of the data;
- d) schedules of maintenance;
- e) the system of recording inspection/monitoring and maintenance records; and

- f) a process for achieving restoration or replacement for durability in compliance with the Performance Specification where compliance would otherwise be compromised.

6 Asset performance

6.1 Introduction

The Franchisees must undertake reviews of asset performance in accordance with the criteria provided within the Performance Specification using the same process and in parallel with the review mechanism for assessing achievement of the KPIs. The Franchisees must make their own assessment of the performance of each Tollroad asset, including Asset Items and Asset Sub-Items in terms of:

- a) the micro-environment;
- b) potential deterioration mechanisms in this micro-environment;
- c) the likely material or asset life;
- d) the feasibility and cost of in situ monitoring, maintenance, repair and replacement;
- e) the necessity of providing additional protection (e.g. coatings); and
- f) the significance of failure.

In undertaking this asset performance review, the Franchisees must make their own assessment of whether the performance criteria provided by the Performance Specification is sufficient for the proper and adequate protection of the Tollroad, or for assessing performance in accordance with the RFA and the Performance Specification, or whether additional controls are required by the Franchisees to comply with the RFA and Performance Specification. Regardless of the Franchisees' assessment, the Franchisees must comply with the condition, performance criteria and minimum remaining life as specified in the Performance Specification,

6.2 Allowable Non-conformances

The Franchisees must ensure that the age, condition and performance of the assets complies with the requirements of the Performance Specification during the Concession Period. The only exceptions are for those assets listed in Appendix 4-C, for which full compliance with the Performance Specification for the Defects listed, has been delayed by the maximum rectification periods listed in Appendix 4-C.

However, for clarity, these Allowable Non-conformances do not relieve the Franchisees of their obligation to provide and maintain prescribed levels of safety in regard to all aspects of the Tollroad (including its operation) at all times during the Concession Period.

For pavement non-conformances listed in Appendix 4-C.2, the Franchisee must prepare a PRP to rectify these defects within the specified maximum rectification periods. The PRP must:

- a) include all works required to address all the non-conformances detailed in Appendix 4-C.2;
- b) describe the rectification works in detail including the total cost of the rectification works;
- c) demonstrate that at least 20% of the total cost of the rectification works will be expended by 30 June 2013; and
- d) demonstrate that at least 10% of the total cost of the remaining rectification works is expended each Financial Year beyond 30 June 2013.

The Franchisees must:

- e) submit the initial PRP to TMR by 1 December 2011;

- f) submit the annual review of the PRP at least 40 Business Days prior to each Financial Year; and
- g) must comply with the PRP at all times during the Concession Period until the required rectification works are complete.

6.3 Asset Assessment Method

The main components for assessment of the performance of the asset by the Franchisees relate to the level of service provided to Road Users, asset condition and remaining life. Specific objectives and requirements are listed within the Performance Specification for technical levels of service and the remaining life of assets. The Franchisees are at liberty to determine their own Intervention Levels (time or condition based as appropriate) and the specific measures and treatments employed to ensure that the objectives are met, subject to certain conditions contained in the Performance Specification.

Performance of the Tollroad is to be assessed using:

- a) functional performance; and
- b) remaining life, guidelines for which are set out below.

Table 6-1: Asset performance

Asset	Functional performance	Remaining life
Structures	Inspections and evaluations as per the BIM	Inspections and evaluations as per the BIM
Pavements	Surface and pavement condition direct measurement	Progression of roughness, rutting and pavement strength
Road related assets	Measured performance	Measured / predicted performance with an age override as per the maintenance standards

Further to

Table 6-1, approaches for performance assessment of specific asset types are described below

6.3.1 Pavements

For assessment and reporting purposes, road pavements are to be divided into logical 100 metre segments (or parts thereof) for which direct measurements (refer to Clause 4.2) of the pavement characteristics are to be undertaken annually and used to ascertain both the functional performance and remaining life. Direct measurements include:

- a) roughness;
- b) rutting;
- c) cracking (reported by type, see Clause 4.2);
- d) ravelling;
- e) texture depth;
- f) skid resistance; and
- g) deflection.

The remaining life of in-service pavements is to be assessed (where the remaining life is defined as the estimate in years until the next major intervention by rehabilitation, restoration or replacement, based on:

- h) functional condition-based attributes for roughness, rutting and structural cracking, determined by the specified limit pavement performance criteria (LPPC) in Table 6.2, and employing a proven deterministic pavement deterioration model suitably calibrated to local conditions¹; and
- i) structural condition derived from deflection, based on a fractional value of the original pavement strength, expressed as the ratio of current strength and original early life strength² (see Table 6.2)

The shortest remaining life estimate determined from these methods is reported as the remaining life.

This assessment is achieved through adopting the process in Figure 6.1.

1 The HDM suite of deterministic models forms an established basis, and these or other proven models may be applied subject to TMR approval.

2 Based on Martin and Moffat (2007) 'Assessment of Remaining Service Life of Pavements', Austroads Project No: AT1169 (Report AP-R332/08) where strength is expressed in terms of the modified structural number, and structural deterioration model is estimated employing an acceptable model. See, for example, Choumannivong and Martin (2009) 'Predicting structural deterioration of pavements at a network level', Austroads Project No. REAT1064.

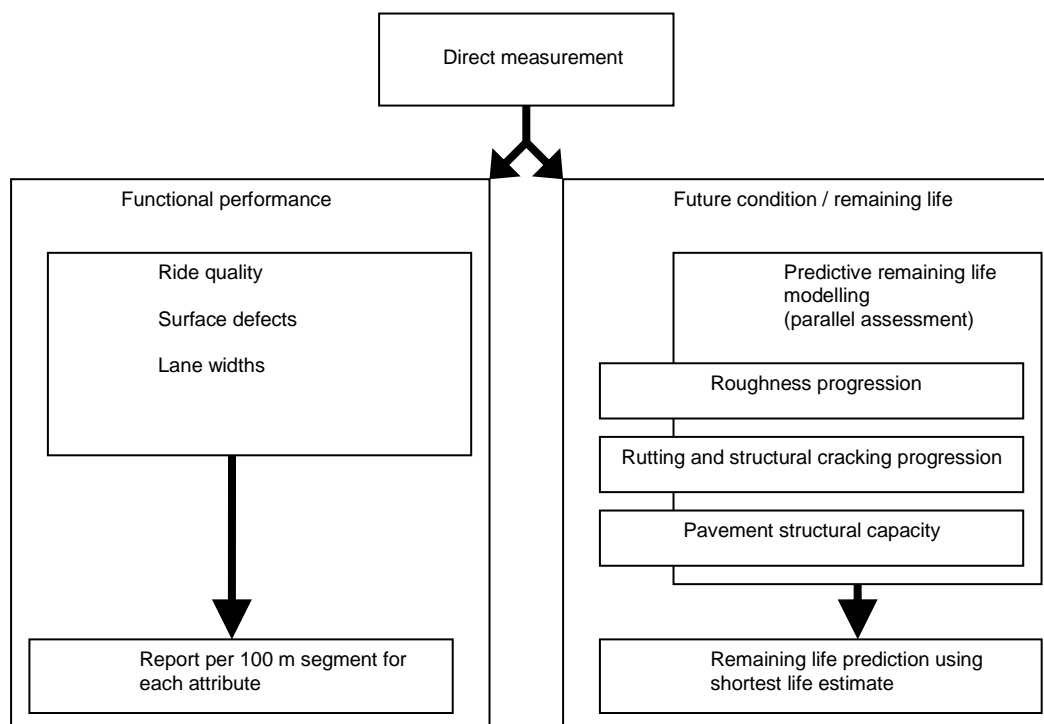


Figure 6.1: Pavement and surface assessment

For further detail refer to Clause 6.4

6.3.2 Structures

The Franchisees must ensure all Structures are inspected in accordance with the BIM and that the maintenance of Structures is sufficient to maintain the Structure in a CS2 (or better) of the BIM. Structures must be inspected, assessed and monitored in a systematic fashion and managed to ensure that they are capable of safely carrying the expected loads throughout the life of each Structure.

6.3.3 Road related assets

Road related assets shall be inspected and maintained in accordance with the maintenance standards in Appendix 4-E during the Concession Period.

6.4 Pavements

The Franchisees shall ensure the pavements within the Leased Area:

- a) are monitored and maintained such that all pavements comply with the condition, performance and minimum remaining life requirements of the Performance Specification during the Concession Period;
- b) comply with the Performance Specification for the running surface specified in this clause 6;
- c) assist in keeping noise levels within the requirements of the Performance Specification and minimise spray in wet conditions (caused by moving vehicle tyres interacting with water on the pavement surface);
- d) incorporate drainage practices which maintain a constrained moisture regime which prevents significant variations in the capacity of the sub-grade to support the pavement;
- e) separate surface and sub-surface drainage systems to avoid overloading sub-surface systems;
- f) accommodate movements in the sub-grade associated with changes in moisture content; and

- g) in addition to the requirements detailed in Appendix 4-E of this Part 4 of the Performance Specification, the Franchisees must assess pavement performance using the following performance measures:
- i. roughness;
 - ii. rutting;
 - iii. cracking;
 - iv. ravelling;
 - v. skid resistance;
 - vi. texture;
 - vii. deflection;
 - viii. pavement strength;
 - ix. remaining life of existing in-service pavements; and
 - x. surface age.

6.4.1 Limit pavement performance criteria

The Franchisees must ensure pavement performance (and remaining life) is assessed against the limit pavement performance criteria in Table 6-2, assessed for each 100 m segment. Separate to the pavement performance profiles, the performance of an individual traffic lane segment shall be deemed to be Defective if, within any 1 km length of pavements, condition results for 2 or more 100 metre segments are outside or do not satisfy the limit pavement performance criteria for any performance indicator listed in Table 6-2, (other than skid resistance). Such Defective 100 metre segments need not be continuous, but need to be within the same traffic lane.

To ensure the skid resistance performance of the Tollroad pavements remains satisfactory, the Franchisees shall prepare a Skid Resistance Management Plan (**SRMP**) consistent with the Austroads Guide to Asset Management and the Austroads Guidance for the Development of Policy to Manage Skid Resistance. The SRMP shall be prepared and approved by 30 September 2013 and shall include:

- the methodology for determining sites which fail to meet the investigatory standard;
- the methodology for defining defective sites;
- the methodology for investigating defective sites;
- the range of treatment options available for treating defective sites, and the target implementation dates for each treatment;
- the range of options for interim measures, including the installation of warning signs and the rules for use of such signs.

For skid resistance, the performance of a lane segment is deemed to be Defective if results for any 100 metre segment is outside or do not satisfy the limit pavement performance criteria.

Table 6-2: Limit Pavement Performance Criteria

Performance indicator	Unit	Limit pavement performance criterion (LPPC) (F value– Refer Table 6-3)
Roughness	IRI	less than 3.5
Rut Depth, 80 th percentile – dense graded asphalt	mm	less than 12
Rut Depth, 80 th percentile – open graded asphalt	mm	less than 15
Cracking extent	%	less than 4

Performance indicator	Unit	Limit pavement performance criterion (LPPC) (F value– Refer Table 6-3)
Longitudinal cracking	metre	less than 5
Ravelling	%	less than 10
<u>Macrotexture – areas greater than 80km/h open graded asphalt</u>	<u>mm</u>	<u>Greater than 1.0</u>
<u>Macrotexture - areas greater than 80km/h dense graded asphalt</u>	<u>mm</u>	<u>Greater than 0.4</u>
Macrotexture – areas 80 km/h or less	mm	Greater than 0.4
Skid resistance – through carriageways (manoeuvre-free areas)	SFC ₅₀	Greater than 0.45
Skid resistance – ramps and associated merge / diverge areas	SFC ₅₀	Greater than 0.5
Pavement remaining life - new pavement	Years	Greater than 5 during the Concession Period with minimum 10 year retained at Handover
Pavement remaining life on: the Gateway Motorway Facility; all sections of new pavement on Logan Motorway Facility constructed during the Concession period; and all sections of rehabilitated pavement (where a design life or greater than 20 years is used) constructed on the Logan Facility during the Concession Period)	Years	All sections greater than 10
Pavement surface age (to 50mm depth) – open graded asphalt	Years	Any section - no greater than 10
Pavement surface age (to 50mm depth) – dense graded asphalt	Years	Any section - no greater than 16
Note: SNC _i is the modified structural number for the pavement at year 'i'. SNC ₀ is the modified structural number for the pavement at year zero.		

6.4.2 Pavement performance profiles

The Franchisees must ensure the performance measures as defined in Clause 6.4 are reported annually as a cumulative distribution of all 100 m segments. The Franchisees must ensure that the performance profiles for the Tollroad (measured and reported annually via a cumulative distribution of all 100 metre segments) are equal to or better than the acceptable performance profiles as defined in Table 6-3. The values in Table 6-3 relate to Figure 6.2.

Table 6-3: Pavement performance profiles

Performance Indicator	Unit	Limit value					
		0% (A)	25% (B)	50% (C)	75% (D)	90% (E)	100% (F)
Roughness	IRI	<1.0	<1.4	<1.8	<3.0	<3.5	Limit Performance Criterion from Table 6.2
Rut depth, 80 th percentile	mm	<2.5	<3.5	<5.0	<6.5	<12	Limit Performance Criterion from Table 6.2
Cracking extent	%	< LPPC (F)	< LPPC (F)	< LPPC (F)	< LPPC (F)	< LPPC (F)	Limit Performance Criterion from Table 6.2
Longitudinal cracking	metre	< LPPC (F)	< LPPC (F)	< LPPC (F)	< LPPC (F)	< LPPC (F)	Limit Performance Criterion from Table 6.2

Performance Indicator	Unit	Limit value					
		0% (A)	25% (B)	50% (C)	75% (D)	90% (E)	100% (F)
Ravelling	%	< LPPC (F)	< LPPC (F)	< LPPC (F)	< LPPC (F)	< LPPC (F)	Limit Performance Criterion from Table 6.2
Macrotexture – areas greater than 80 km/h	mm	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	Limit Performance Criterion from Table 6.2
Macrotexture – areas 80 km/h or less	mm	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	Limit Performance Criterion from Table 6.2
Skid resistance – through carriageways (manoeuvre-free areas)	SFC	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	Limit Performance Criterion from Table 6.2
Skid resistance – ramps and associated merge / diverge areas	SFC	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	Limit Performance Criterion from Table 6.2
Pavement strength – new pavement	Ratio of SNCi / SNCo	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	Limit Performance Criterion from Table 6.2
Pavement strength – Gateway Motorway Facility	Ratio of SNCi / SNCo	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	> LPPC (F)	Limit Performance Criterion from Table 6.2
Pavement remaining life	Years	Average across Gateway Motorway Facility (plus all sections of Logan Motorway Facility with new pavements constructed during Concession Period, plus all sections of Logan Motorway Facility with rehabilitated pavement (designed for greater than 20 years) constructed during the Concession Period) >20					
Pavement remaining life	Years	Average across Logan Motorway Facility (excluding all sections with new pavements constructed during Concession Period, and excluding all sections of rehabilitated pavement constructed during the Concession Period where these rehabilitated pavements are designed for greater than 20 years) >10					
Surface age– open graded asphalt	Years	Average entire Tollroad <60% of the maximum age, with all sections <10					
Surface age – dense graded asphalt	Years	Average across entire Tollroad <60% of the maximum age, with all sections <16					

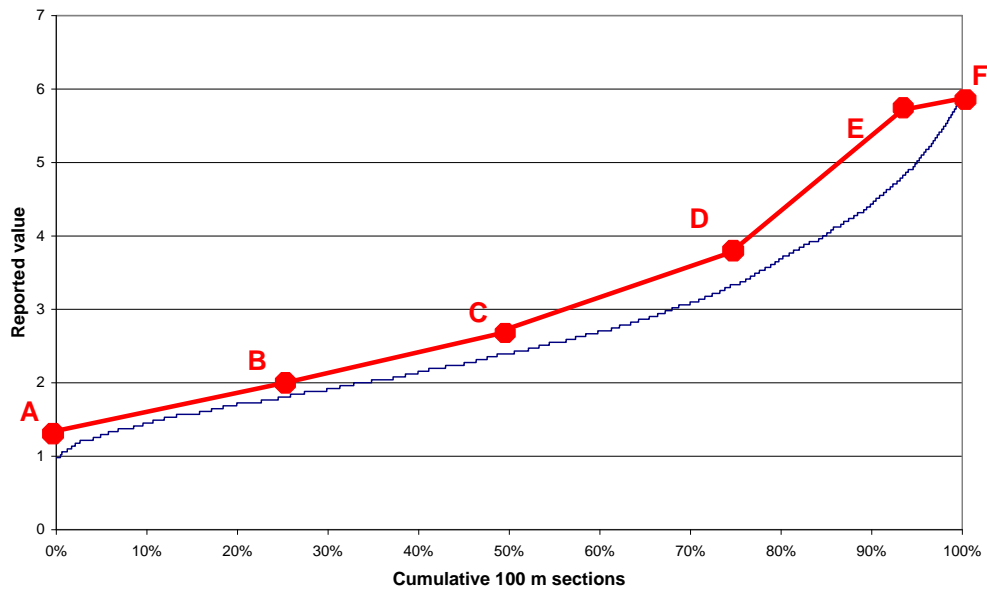


Figure 6.2: Schematic performance profile (refer Table 6-2)

6.5 Structures

The Franchisees must ensure that all Structures are maintained in CS2 or better (following the evaluation process of the BIM) during the Concession Period, and that all restoration works are undertaken to the relevant maintenance standards in the Operational Maintenance Plan. In addition the Franchisees shall ensure:

- a) any Structures in CS3 must have a Structure Management Plan (as defined in the manual) which includes the allowable rectification period of that Structure;
- b) any Structures in Cs4 must be immediately rectified using all necessary measures;
- c) Structures must be maintained, rehabilitated and replaced as required to meet the current service level of each bridge;
- d) rehabilitation is performed so as to achieve the objective of restoring the Structure to 'as new' condition with respect to the original designed load capacity and level of service (but does not include strengthening of bridges to provide a load capacity greater than the original design);
- e) rehabilitation Activities include (as necessary) deck replacement, splicing piles, installation of supplementary piles, plating corroded steel sections, patching concrete, installation of cathodic protection and barrier replacements, generally delivered through the Franchisees' Programmed Maintenance projects for Structures that exceed the threshold for the development of a Structures Management Plan as defined in Appendix 4-F of the BIM;
- f) any components in CS3 or CS4 are repaired, replaced or rehabilitated; and
- g) all Structures are maintained in a safe and serviceable condition at all times (in accordance with the original design specifications) and including the following functional requirements:
 - i. load capacity;
 - ii. height clearance;

- iii. width;
- iv. suitability of safety barriers;
- v. alignment; and
- vi. flood immunity.

6.6 Road related assets

6.6.1 Earthworks Formation

The Franchisees must ensure that all earthworks are;

- a) maintained in accordance with Technical Standard MRTS04;
- b) generally (including batters, boulder walls and embankments, both cut and fill) maintained so that the slopes do not erode, fret or change shape during the Concession Period or at Handover, and that both short and long term stability is addressed taking into account such factors as geological weathering and climate;
- c) able to provide protection and treatment to each cut batter, with provisions for drainage, as soon as practicable to avoid escalation of deterioration in any areas of concern to effectively limit environmental impact and ensure safety of Road Users at all times;
- d) cleared of material which becomes detached from excavation batters and prevented from reaching the road shoulder; and
- e) accessible for plant and equipment to the batter slopes to:
 - i. allow ready installation of any treatment measures which may become necessary;
 - ii. facilitate inspection of the face of the batter; and
 - iii. enable landscaping operations on fill batters.

6.6.2 Water and drainage management

The Franchisees must ensure:

- a) drainage systems:
 - i. manage quality and quantity of stormwater as close to its sources as possible;
 - ii. are structurally safe at all times;
 - iii. do not direct additional runoff stormwater or spillage from the Leased Area on to the pavements of the Affected Road Network; and
 - iv. do not increase flood levels for any storm event as a result of any works in the Leased Area; and
- b) all facilities are maintained ready and available to prevent environmental damage due to a spillage Incident.

6.6.3 Flood Levels

The preferred flood immunity of the Tollroad is that the Mainline Carriageways are above a 100 year ARI flood as calculated in accordance with the procedures defined in the Institution of Engineers, Australia publication titled *Australian Rainfall and Runoff*. Where the existing immunity of any section of the Mainline Carriageways of the Tollroad does not meet the 100 year ARI flood immunity target, the flood immunity of the Tollroad at the Commencement Date is to be maintained, as a minimum.

When the Franchisees are considering replacement, refurbishment or rehabilitation of relevant drainage structures on sections of the Tollroad which have less than a 100 year ARI immunity, the Franchisees are to notify TMR to give TMR the opportunity to

consider a Modification or Upgrade under the RFA to achieve an improved flood immunity on the relevant section of the Tollroad.

Regardless of the flood immunity of any section of the Tollroad, the Franchisees must undertake all reasonable maintenance measures to help ensure the Tollroad is protected from major erosion damage during flood events (for example, maintain vegetation cover over erodible areas).

6.6.4 Delineation and Signposting

The Franchisees must ensure delineation and signposting is appropriate to the traffic, lighting and climatic conditions which could be reasonably expected on the Tollroad and:

- a) in respect of delineation, the Franchisees must provide:
 - i. a high standard of definition of the Tollroad Mainline Carriageways by edge lines and raised reflective pavement markers;
 - ii. well sited intersections with layouts that clearly identify to motorists the permitted manoeuvres and those required to enter and exit the Tollroad, including those for entry to and exit from the through lanes;
 - iii. clear visibility of merge and diverge areas; and
 - iv. pavement wearing surfaces that combine with the delineation to give both audible and visual warnings that vehicles are moving out of a through lane; and

- b) In respect of signposting, the Franchisees must provide:
 - i. signage requirements for pedestrian and cycling facilities, regulatory parking and intersection control and warnings;
 - ii. legible posted speed limit signs for the road taking into account the possible range of climatic conditions;
 - iii. consistency and compatibility between the Tollroad and the surrounding road network;
 - iv. signs associated with warning speed zones, place names, feature names and appropriate symbols;
 - v. advice to motorists of progressive information (particularly where interchanges occur) and reassurance for the routes selected;
 - vi. supporting Structures that collapse on motor vehicle impact where they are not protected by a safety barrier;
 - vii. warning to motorists advising of the tolled route and the Tollroad traffic conditions, sufficiently early to allow diversion onto the local road network; and
 - viii. signs associated with alternative routes.

6.6.5 Carriageway lighting

Notwithstanding the requirements of (a) to (n) below, this clause 6.6.5 shall be interpreted as follows:

- When installing new or replacement carriageway lighting infrastructure (for example, new streetlights, streetlight poles, pits, ducting), these components must comply with TMR Standards including the standards specified in this clause 6.6.5.

- However, this clause 6.6.5 does not require the Franchisees to install additional streetlights to increase lighting intensity or coverage on any section of the Gateway Motorway Facility or the Logan Motorway Facility unless these are part of a Modification or Upgrade.

Unless approved otherwise by TMR, the Franchisees must ensure:

- a) lighting must be maintained on the following roadways:

- i. all Mainline Carriageway lanes and Entry Ramp and Exit Ramp lanes within the Tollroad; and
 - ii. pedestrian facilities and bicycle facilities;
- b) lighting of roadways, car parks, pedestrian and bicycle facilities must, where part of the existing Tollroad Infrastructure or where added as a Modification or an Upgrade, comply with the following minimum performance specifications:
 - i. illumination levels for roadways lighting to AS/NZS 1158.1.1 - Category V3, except that road lighting within the Toll plaza must comply with AS/NZS 1158.1.1 – Category V1;
 - ii. illumination levels for pedestrian facilities, pedestrian paths and bicycle facilities (including shared facilities such as paths) lighting to AS/NZS 1158.3.1 - Category P1;
 - iii. heavy vehicle inspection sites lit in accordance with the *Road Planning and Design Manual* – Chapter 17 (lighting); Clause 17.5.5 ‘Vehicle Inspection Sites’;
 - iv. glare in compliance with the light technical parameters of AS/NZS 1158.1.1;
 - v. lighting in the vicinity of the Brisbane Airport to the Civil Aviation Safety Authority and AS/NZS 1158.1.1;
 - vi. lighting poles to AS/NZS 1158, unobtrusive and aesthetically attractive;
 - vii. frangible lighting poles of the slip base type unless protected by barriers or located outside the Clear Zone as defined in AS/NZS 1158.1.1;
 - viii. lighting poles setback generally in accordance with AS/NZS 1158.1.3, *Vehicular Traffic (Category V) Lighting - Guide to Design, Installation, Operation and Maintenance*, Appendix B *Guidelines for the Use and Placement of Rigid and Frangible Road Lighting Poles*;
 - ix. lamps generally colour corrected high-pressure sodium to ensure adequate colour rendering and to prevent confusion with other lamps used for traffic control;
 - x. illumination levels for car park lighting to AS/NZS 1158.3.1 Category PII; and
 - xi. lamps for carparks must be metal halide;
- c) lighting efficiency and power consumption is optimised by selection of appropriate equipment and appropriate switching control;
- d) careful attention is given to the extent of the lighting to minimise the sight adaptation problems when entering underpasses;
- e) lighting on Local Roads is upgraded wherever:
 - i. the lighting level on the Local Road is affected by the Tollroad Infrastructure alterations; or
 - ii. works on the Local Roads include adjustments to channelization and / or the width of the roadway pavement; and
- f) where lighting is upgraded on Local Roads as a consequence of the requirements in Clause 6.6.5, the lighting complies with the standards current at the time the lighting upgrade is undertaken;
- g) lighting on all bridges and elevated Structures is from poles aligned behind the bridge parapets or barriers with lighting pole locations co-ordinated with the management of bridges and elevated Structures;
- h) boundaries of the lighting areas are determined in accordance with AS/NZS 1158.1.1 and lighting areas on the Tollroad extends to the existing lighting provided on Local Roads and existing pedestrian and bicycle pathways;
- i) the relevant local power supply Authority is afforded access to maintain all Rate 1 Lighting and Rate 2 Lighting;

- j) they maintain all Rate 3 Lighting;
- k) road lighting is capable of operation each calendar day during the hours of darkness with lamps switched on when ambient light falls below 30 Lux +/- 25% and switched off when the ambient light increases above 30 Lux;
- l) Rate 1 Lighting and Rate 2 Lighting are switched on and off with a photoelectric cell that is mounted as an integral component of the luminaires;
- m) a suitable switching control system is located within a switchboard to switch the Rate 3 Lighting on and off in accordance with the requirements of Clause 6.6.5 or a photoelectric cell associated with the switching control system may be mounted on a pole adjacent to the switchboard with a backup switching system used to ensure correct switching in the event of failure of the primary system; and
- n) all lighting complies with relevant TMR Standards including MRTS 91, MRTS 92, MRTS 94 and MRTS 95.

6.6.6 Signs

The Franchisees must ensure:

- a) all signs are maintained in accordance with the maintenance standards in Part 4;
- b) the maximum age of any sign face does not exceed 14 years; and
- c) the average age of all sign faces does not exceed 60% of the maximum age specified in clause 6.6.6(b).

Notwithstanding clause 6.6.6(b), the maximum age of a sign may exceed 14 years in circumstances where the Franchisees undertake annual condition assessments of those signs (including an inspection of night time reflectivity), but the age of those signs will not change the maximum age for the purposes of clause 6.4.1 of Part 1.

6.6.7 Paths – cycle and pedestrian

The Franchisees must ensure:

- a) all existing cycle and pedestrian paths are maintained in accordance with the maintenance standards including all ITS, electrical, lighting, traffic lights and CCTV associated with the pathways;
- b) paths are in a safe and operable condition suitable for cyclists and pedestrians including personal security from factors such as overgrown vegetation and lighting;
- c) signage and linemarking comply with the Manual of Uniform Traffic Control Devices, including a single barrier line centreline and directional pavement arrows and shared pathway symbols at a maximum of 50 metre centres; and
- d) bicycle and wheelchair compliant barriers are installed at each pathway entrance to prevent vehicle access in normal operations but allow for removal for emergency vehicle access.

6.6.8 Vegetation

The Franchisees must ensure landscaping and re-vegetation is maintained in accordance with the relevant maintenance standards.

6.7 Infrastructure for Management, Control and Monitoring Systems

6.7.1 Intelligent Transport System Devices and Infrastructure

The Franchisees must:

- a) maintain ITS devices and infrastructure to ensure that the road operation requirements of the Performance Specification are met, including for VMS, VSL, CCTV, driver advisor signs and the telecommunications network, with a minimum 24 spare fibre cores in each segment of the telecommunications network ring(s);
- b) ensure all systems and devices, including telecommunication networks, are capable of operating continuously;
- c) ensure the reliability and availability of all systems and devices is no less than the reliability and availability of the Franchisees' telecommunication systems, as guaranteed by the Franchisees' external telecommunications providers;
- d) where ITS devices and infrastructure are maintained directly by the Franchisees, ensure that device and infrastructure downtime is limited to a maximum 4 hour outage in a single occurrence;
- e) where ITS devices and infrastructure are maintained by an independent third party, ensure that device and infrastructure downtime is no greater than as guaranteed by the Franchisees' independent third party service providers;
- f) provide hardware employing technology current at the time of replacement / maintenance which:
 - i. use commercially available, proven products and equipment to minimise interfacing and operational problems;
 - ii. consider the required design life at the time of replacement / maintenance of the asset and sub-asset; and
 - iii. use modular equipment that allows assets and sub-assets that have failed, to be easily replaced;
- g) use software using an open architecture complying with programming standards using standard non-proprietary interfaces which must:
 - i. be commercially available; and
 - ii. have all source code licensed to the Franchisees, which is transferable to TMR at Handover; and
- h) ensure all ITS hardware including lanterns, signals, mounting and cabling is sourced from suppliers registered on TMR's approved supplier list.

6.7.2 Toll Collection Infrastructure

In relation to the Toll collection infrastructure, the Franchisees must comply with the relevant requirements of the maintenance standards.

7 Routine Maintenance

7.1 General

The Franchisees must maintain the Tollroad during the Concession Period so that at all times the Tollroad:

- a) is fit for its intended purpose;

- b) will satisfy Handover conditions in the RFA (except as permitted otherwise under clause 6.2);
- c) as a minimum, satisfies TMR's maintenance requirements in this Part 4 (including condition, performance levels and minimum remaining life requirements) and the maintenance standards developed by the Franchisees;
- d) has been repaired (or replaced as appropriate) such that all Asset Items or Asset Sub-Items satisfy the requirements of the RFA and the Performance Specification, or has components refurbished to ensure continued compliance with the RFA;
- e) has all maintenance Activities undertaken in accordance with the Operational Maintenance Plan, including all assets within the jurisdiction or control of the Franchisees irrespective of each asset's location, including any assets outside the Leased Area such as traffic detector loops located in the Affected Road Network; and
- f) has an Operational Maintenance Plan developed from the initial maintenance standards in Appendix 4-E.

Without limiting the maintenance Activities, the Franchisees must:

- i. ensure that only trained and experienced maintenance personnel are engaged on maintenance Activities;
- ii. ensure maintenance personnel and resources are continuously available for unplanned maintenance;
- iii. undertake planned and unplanned Routine Maintenance, refurbishment work and repairs including graffiti removal;
- iv. undertake inspections of the Asset Groups, Asset Items and Asset Sub-Items;
- v. ensure the Tollroad is safe for all Road Users;
- vi. coordinate all maintenance Activities with Proximate Work, Agreed PW, Third Party Works, Modifications, Upgrades, or any works or Activities undertaken by the State or third parties as defined in Access Agreements or Interface Agreements;
- vii. keep the Tollroad in a clean and tidy condition and remove all litter and debris;
- viii. develop TMPs for maintenance Activities and manage traffic in accordance with these TMPs;
- ix. maintain a complete inventory of spare parts stock and stores to ensure that the Tollroad complies with the requirements of the RFA, including the Performance Specification throughout the Concession Period despite any procurement delays;
- x. undertake all maintenance Activities to a standard not less than the TMR Standards, and where TMR Standards are not sufficient to meet performance criteria, the Franchisees shall adopt Best Practice to ensure the performance criteria are met;
- xi. include manufacturers' requirements and calibration (including normal pressures, temperatures, current and voltage levels, running levels and tolerances) in technical specifications and the maintenance standards;
- xii. maintain adequate and appropriate maintenance records including those records required by the Performance Specification;
- xiii. develop and implement maintenance standards for landscape, revegetation and urban design works which comply with TMR Standards and at least equal to that provided by TMR on the Reference Motorways; and
- xiv. develop, finalise, implement, review and modify the O&M Plans, the Operational Maintenance Plan and the maintenance standards to ensure continued compliance with the RFA and the Performance Specification.

7.2 Maintenance standards

7.2.1 Scope

The Franchisees must ensure their maintenance standards include:

- a) the Franchisees' general maintenance standards, including:
 - i. maintenance Activities, including Restoration Standards for the maintenance Activities (refer Appendix 4-E);
 - ii. maintenance Intervention Levels and Response Times; and
 - iii. maintenance inspection plans and performance specifications; and
- b) instructions and requirements for the application of the Franchisees' maintenance standards, including:
 - i. the Franchisees' maintenance standards;
 - ii. the Asset Management System;
 - iii. the Operational Maintenance Plan;
 - iv. the management of maintenance works;
 - iv. Programmed Maintenance works;
 - v. maintenance inspections; and
 - vi. general management of the Tollroad.

7.2.2 Development of the Franchisees' maintenance standards

The Franchisees must ensure:

- a) the Operational Maintenance Plan as a component of the asset management process, employs documented maintenance standards for each Asset Group that ensures that all the requirements of the RFA and this Performance Specification are met at all times during the Concession Period;
- b) they take full responsibility for ensuring that the maintenance standards that are developed comply with the requirements of the RFA and the Performance Specification;
- c) they update and improve the maintenance standards to ensure compliance with the RFA and the Performance Specification at all times;
- d) they develop maintenance standards for each Asset Group which include:
 - i. performance (and minimum remaining life) to be provided or otherwise satisfied by each Asset Group, Asset Items and Asset Sub-Items within each Asset Group;
 - ii. Intervention Levels and Response Times for maintenance work on each Asset Group; and
 - iii. inspection plans defining the frequency of the inspections of each Asset Group; and
- e) maintenance standards include as a minimum performance, Intervention Levels, Response Times and inspection frequencies no less than those specified in the maintenance standards in Appendix 4-E.

7.2.3 Contents of Franchisees' maintenance standards

The information in Table 7-1 is to be provided in each maintenance standard developed by the Franchisees:

Table 7-1: Maintenance standard information

Information	Description
Reference No	A unique code reference number.
Asset Group	The Asset Group to which the standard applies.
Primary outcome	The outcome to which the Asset Group makes its primary contribution.

Information	Description
Maintenance rationale	The purpose for the maintenance of the Asset Group.
Defects	A listing of the principal Defects likely to occur and the associated risk of its occurrence and the appropriate remedial action.
Performance requirements	The Performance requirements to be provided by the Asset Group, and by Asset Items and Asset Sub-Items within that group, at various specified times up to the end of the Concession Period.
Inspection procedure	A reference to procedures used to inspect the condition of the Asset Group and monitor the durability performance.
Intervention standard	The Intervention Level and Response Time for maintenance work on the Asset Group.
Inspection plan	The frequency of inspection of the Asset Group. The plan must cover both routine regular inspections and less frequent but more comprehensive inspections and tests.
Maintenance Activity references	A listing of the principal maintenance Activities used to maintain the Asset Group.

7.2.4 Intervention Standards

The Franchisees must ensure:

- a) the intervention standards determine the need for, timing and nature of, a response to a recognised Defect in any Asset Group, Asset Item or Asset Sub-Item and such need for the response is described by a Defect severity rating using a standardised, objective Defect recognition procedure;
- b) the timing of a response is the maximum time period between the detection or notification of a Defect at the defined Intervention Level, and the completion of the appropriate response and will depend on the condition of an Asset Group, Asset Item or Asset Sub-Item relative to the Defect intervention standard and the severity of the impact of the Defect on the required performance of the affected Asset Group, Asset Item or Asset Sub-Item;
- c) the maintenance standards for each Asset Group must include a comprehensive schedule of the intervention standards and remedial actions to be undertaken to ensure that the Asset Group and its component Asset Items and Asset Sub-Items are fit for the intended purposes at all times during the Concession Period;
- d) minimum performance requirements are defined for each Asset Group, Asset Item and Asset Sub-Item, below which remedial action is to be implemented within a defined period rather than delaying rectification until the next routine service or lane shutdown; and
- e) the level of redundancy incorporated within the system, and the degree to which the safe operation of the Tollroad is compromised by sub-standard performance of the specific Asset Group, must be used to determine an acceptable Response Time.

7.2.5 Regular Reviews of maintenance standards

The Franchisees must ensure:

- a) the Franchisees' maintenance standards are regularly reviewed by the Franchisees during the Concession Period and updated to ensure that historical performance records reflect continued certainty that the latest

inspection plans, performance requirements (including minimum remaining life) and intervention standards will enable the Franchisees to comply with their obligations under the RFA;

- b) reviews of the Franchisees' maintenance standards are undertaken as part of the Quality Management Plan on a continuous basis and, as a minimum, formal reviews of all maintenance standards are undertaken:
 - i. one year after the Commencement Date; and
 - ii. every two years thereafter, up to the Handover; and
- c) any alterations in maintenance standards are notified to the State and must meet or exceed the initial maintenance standards.

7.3 Maintenance management

7.3.1 General

The Franchisees must ensure

- a) they employ a systematic approach to the management of maintenance which must comply with the requirements of the Performance Specification;
- b) they are guided by Appendix 4-E.2 'Routine Maintenance Cycle which defines possible Activities and processes within a maintenance management system;
- c) through a maintenance management system, the Franchisees are able to demonstrate that the Tollroad is being maintained in compliance with the requirements of the Performance Specification and the RFA, including undertaking the timely identification of Defects and maintenance; and
- d) that their maintenance management system records Programmed Maintenance in a Forward List of Works.

7.3.2 Defect Identification

The Franchisees:

- a) acknowledge that Defects may affect the condition, safety, serviceability, remaining life, structural capacity and / or appearance of the Tollroad, and Intervention Levels represent the magnitude or state of a Defect at the point at which maintenance Activities are required to correct the Defect;
- b) must comply with requirements for inspection and monitoring plans as detailed in Appendix 4-E.5, and must specify minimum frequencies for a selection of inspection and monitoring Activities;
- c) must:
 - i. record each identified Defect no later than the date on which the Defect is recognised as reaching any one or more Intervention Levels;
 - ii. list the appropriate Activity on the Forward List of Works (excluding Priority Group "1" Defects which must be actioned immediately);
 - iii. program and complete the Activity within the required Response Time; and
 - iv. notify TMR in writing of Defects that are not corrected within the relevant Response Time and provide all relevant details about the identification, logging and programmed action to correct that Defect;
- d) must submit to TMR, details of the proposed Activity including the specifications and Restoration Standards that will apply to the Activity, if the

Franchisees choose to conduct an Activity that is not included in Appendix 4-E.3; and

- e) must ensure all graffiti removal is classified as Routine Maintenance.

7.3.3 Prioritising Defects

The Franchisees must

- a) classify Defects in terms of their priority for maintenance action by using the following Priority Groups (listed in order of decreasing short term priority):
 - i. safety or Priority Group “1”, because these Defects normally constitute a hazard to the Road User and the Intervention Level is normally reached without any significant warning, they do not lend themselves to a planned approach, although resource provision must be made for them within the Operational Maintenance Plan;
 - ii. preventative or Priority Group “2”, where these Defects, unless corrected, would otherwise eventually form ‘useability’ or ‘safety’ Defects, with an example of this being the repair of cracked / stripped areas to prevent potholes and pavement failures; and
 - iii. useability or Priority Group “3”, where these Defects generally focus upon the overall serviceability, structural capacity or appearance of the asset and do not fall into either of the above two categories; and
- b) document the risk assessments undertaken to demonstrate that Defects falling within the same Priority Group are further prioritised for maintenance action.

7.3.4 Undertaking Maintenance

The Franchisees must ensure:

- a) maintenance is undertaken once a Defect reaches the nominated Intervention Level, and the Defect must be rectified before the expiry of the earlier of the nominated Response Time nominated in either Appendix 4-E or the Franchisees’ maintenance standards;
- b) inspection, testing, or monitoring Activities are scheduled in advance and are undertaken within five Business Days of the scheduled date; and
- c) all maintenance is undertaken in accordance with relevant standards specified in the RFA and Performance Specification including the Restoration Standards in Appendix 4-E and TMR Standards.

7.3.5 Recording and Reporting Maintenance

The Franchisees must ensure:

- a) all maintenance performed, including the Activity, quantity, Restoration Standard achieved, and location, is captured and recorded in the maintenance management system;
- b) the Asset Management System clearly demonstrates the way in which maintenance and the priorities for maintenance are determined in the field (maintenance management component) and produces the following outputs:
 - i. detailed description and current condition of any asset or sub-asset;
 - ii. Tollroad inspection reports, including data and records from inspections, monitoring and testing Activities that were undertaken during the reporting period;
 - iii. Forward List of Works, including planned inspection, monitoring and testing Activities; and

- iv. record of completed Activities, including results from inspection, monitoring and testing Activities;
- c) they provide reports Quarterly on all maintenance Activities to the State, which must include:
- i. a monitoring, inspection, testing schedule for maintenance in the coming 6 months (planned from the asset register and routine safety);
 - ii. details of completed maintenance and any relevant test report;
 - iii. a current list of Defects including the date originally logged, location, magnitude, and priority;
 - iv. a current list of Defects not rectified by the Response Time defined by the Franchisees' maintenance standards;
 - v. the Forward List of Work;
 - vi. a register of safety issues and Response Times;
 - vii. an updated copy of the Asset Inventory and any other asset management data (in hard copy and electronic form) to enable updating of TMR's asset systems database including ARMIS and SCENARIO;
 - viii. a summary report of management of identified environmental and cultural heritage sites (including contaminated sites, maintenance depots, stockpile sites) and spares / replacement parts / materials on hand; and
 - ix. a summary of workplace health and safety issues, including details required under the RFA and Performance Specification; and
- d) that global positioning system (**GPS**) devices or other geographical location devices are used to locate assets and define work areas and link to the TMR road reference system (which is a part of ARMIS for which the level of accuracy required will generally be sub-metre for the location of assets and less than 5 metres for the locations of Defects and work areas).

7.4 Programmed Maintenance Activities

Where Programmed Maintenance Activities are to be carried out and the preparation of design documentation is necessary, the Franchisees must follow a professional design process for the preparation of design documentation in accordance with the design requirements of this Part 4.

The Franchisees must ensure Programmed Maintenance Activities are planned to minimise disruption of traffic flows and comply with the design reviewed and accepted by TMR.

7.5 Inspection and Monitoring Plans – Specified Levels of Service

Inspection and monitoring plans in Appendix 4-E.5 detail the inspection and monitoring plans for some of the assets forming the Tollroad, and the results of analysing the information gathered from undertaking these inspections must be used by the Franchisees for planning and conducting Programmed Maintenance Activities and as generated from the inspections.

The inspection and monitoring plans to be prepared and implemented by the Franchisees describe a minimum level of service for various assets that must not be breached at any time. These plans link directly with other Performance Specification requirements for individual assets.

7.6 General Management of the Tollroad

7.6.1 Clean-up

The Franchisees must:

- a) leave the site of any maintenance clean and tidy;

- b) not stockpile materials for more than 2 calendar days within sight of the travelling public; and
- c) not leave, spread, broadcast or distribute material in drainage paths, over embankments or in any other way as may interfere with water flows, mowing or be hazardous to traffic.

7.6.2 Solvent Spillage

The Franchisees must ensure:

- a) the refuelling of plant, plant leaking fuel or oil, mixing of cutting oil with bitumen, or any other action which may result in the spillage of any solvent is not carried out on any bituminous surface (including asphalt) or on any other surface on which bitumen is to be placed; and
- b) in the event of a solvent spillage, the Franchisees manage the spillage in accordance with Clause 7.5 of the RFA and the requirements of Part 1 of the Performance Specification.

7.6.3 Storage Area Management

The Franchisees must:

- a) nominate any storage areas or stockpile sites within the Leased Area which it proposes to use for the temporary storage of cold-mix asphalt, road asphalt profilings, pavement material, concrete rubble and clean fill that has been generated by maintenance Activities, and because these materials are designated 'contaminated material', the stockpile sites can only to be used when the material is to be either reused or when the material cannot be disposed of at an approved site due to out-of-hours Activities;
- b) accept responsibility for keeping storage areas locked and in a clean and tidy condition with material of the same or similar composition stored at each location grouped together so no cross-contamination between materials can occur;
- c) accept responsibility for regular removal of spoil material and cleanout of all stockpiles; and
- d) ensure stocks of spares or replacement parts are stored safely and in accordance with the recommendations of the manufacturer.

7.6.4 Graffiti Removal

The Franchisees are responsible for the removal of all graffiti within the Leased Area.

If the Franchisees propose to remove graffiti from fences and concrete structures by painting over it, the Franchisees must match any pre-existing paint colour when painting over graffiti and nominate a standard paint system colour palette for use within the Leased Area.

7.6.5 Line-marking and Road-markings

Notwithstanding the Defect description and Intervention Level for road markings described in Appendix 4-E.3, the Franchisees must, at a minimum:

- a) respray painted road markings every 2 years; and
- b) re-apply thermoplastic (or equivalent material) road markings every 4 years.

7.6.6 Electrical Assets

The Franchisees must ensure:

- a) maintenance of the electrical assets must be undertaken in accordance with Volume 5: Intelligent Transport Systems & Electrical Technology of the *Traffic and Road Use Management Manual*.
- b) that a routine preventative maintenance regime is established for all electrical Asset Items and Asset Sub-Items which initially reflects the manufacturer's recommendations (as a minimum), and is developed to achieve the requirements of the Performance Specification for the Asset Group of which the Asset Items and Asset Sub-Items form a part. During the Concession Period, the Franchisees must modify their maintenance regime to achieve the reliability necessary to ensure continued compliance of the Asset Items and Asset Sub-Items with the Performance Specification in the maintenance standards;
- c) that repair strategies, where practical, are based on the planned replacement of Asset Sub-Items rather than field diagnosis followed by replacement at the Asset Item level;
- d) that replacement is undertaken when condition monitoring data indicates that probable failure is imminent or spare parts are no longer readily available; and

The Franchisees may undertake replacement of electrical assets at their own discretion when they considers refurbishment is more cost-effective than repetitive maintenance.

7.6.7 Routine Tollroad Inspections and maintenance

The Franchisees must ensure routine inspections and maintenance of the Tollroad are undertaken on a regular scheduled basis.

Without limiting the scope of the maintenance Activities, the Franchisees must provide:

- a) an outline of the details and the frequency of the anticipated routine inspection and maintenance Activities, and;
- b) a Routine Maintenance schedule developed as part of the Operational Maintenance Plan with additional inspections undertaken to deal with event-related maintenance.

7.6.8 Unplanned Maintenance Work

The Franchisees must:

- a) assess the likelihood and the impact of unexpected failures of Tollroad Asset Items and Asset Sub-Items;
- b) establish a strategy to ensure that the requirements of the RFA, including the Performance Specification, are met at all times during the Tollroad operation and include responses to possible events that would cause the Tollroad to fail to meet the requirements of the RFA; and
- c) provide sufficient skilled personnel, appropriate equipment, appropriate spares and replacement parts, and maintain sufficient spare capacity within operating systems, to ensure continued compliance with the requirements of the RFA and the Performance Specification.

7.6.9 General Replacement and Refurbishment

The Franchisees must carry out the replacement and refurbishment at such times as required for the Tollroad to continue meeting the requirements of the RFA and the Performance Specification.

7.6.10 Vegetation

The Franchisees must ensure trees and shrubs within the Leased Area are not removed unless required as part of the maintenance Activities.

8 Operational requirements

8.1 General

8.1.1 Community Engagement

Where Activities which are required to ensure compliance with the Performance Specification, impact on the Community or Road Users, or which generate interest or concern by the Community, media or Road Users, the Franchisees must engage the process defined within Part 5.

8.1.2 Authorities and Emergency Services

All Activities performed or procured by the Franchisees must satisfy the requirements of all relevant Authorities, including emergency services Authorities, and any works must include the provision of necessary infrastructure to provide access to all parts of the Tollroad for operation and maintenance.

8.1.3 Traffic Safety

The Franchisees must ensure:

- a) that provision is made, including the selection of appropriate work practices and equipment, for the safe passage of all Road Users at all times during any maintenance Activities;
- b) that their use of parts of the Affected Road Network is approved by the relevant Affected Road Operator;
- c) as a minimum, all traffic management must comply with the Environmental Management Plan (Operation), traffic management practices set out in relevant Standards Australia publications and the MUTCD; and
- d) that the traffic and safety management responsibilities for all relevant construction and maintenance staff in regard to all aspects of construction and maintenance Activities are adequately defined.

8.1.4 Equipment Storage

The Franchisees must provide isolated storage for traffic management and safety equipment, and maintenance and repair plant and material, that is kept neat and tidy, and vehicles and equipment at work sites must be stored in accordance with the MUTCD, with specific reference to Part 3 of the MUTCD *for works on roads*.

8.1.5 Works and Activities on land other than the Tollroad

Prior to temporary or permanent occupation of Extra Land, the Franchisees must, in addition to the requirements of clause 7 of the RFA, gain approval and comply with the requirements of any access agreement or written approval, such as a Road Occupancy Licence, as appropriate from the relevant landowner or Authority, and provide a copy to the State upon request.

For the duration of the occupation of Extra Land, the Franchisees must maintain, repair, clean and otherwise be responsible for the condition and function of the Extra land and comply with all relevant Laws..

Extra Land which is occupied by the Franchisees must, prior to hand back to the owner, be reinstated to a condition at least equivalent to that existing prior to the occupation, unless required otherwise by the owner.

8.2 Traffic Management and Safety Procedures

8.2.1 Traffic Management Plans

The Franchisees must ensure:

- a) all maintenance Activities are planned to minimise delay or detours that inconvenience Road Users or which interfere with traffic, and particularly during periods of heavy traffic flow;
- b) prior to undertaking any maintenance Activity which may impact on Road User behaviour or require a traffic lane or Carriageway to be closed for a period, the Franchisees prepare a TMP which addresses all provisions for Road Users for the duration of the maintenance Activity;
- c) that all TMPs comply with the relevant requirements of Part 3;
- d) TMPs for the Tollroad are regularly reviewed and modified in conjunction with the Franchisees' traffic management personnel and emergency services personnel as operating experience accumulates; and
- e) such reviews are arranged and coordinated with TMR (when requested to do so by TMR).

8.2.2 Unplanned Temporary Lane Closure

Unless directed otherwise by TMR, when any unplanned lane, road, footpath or cycleway closure occurs the Franchisees must immediately advise TMR of the nature of the closure and the schedule for reopening. The Franchisees must keep TMR informed of the situation and take all necessary measures to open the lane road, footpath or cycleway as quickly as possible.

8.2.3 Compliance with Traffic Instructions

The Franchisees must comply with any lawful traffic direction or instruction given by an Authority qualified to issue such a direction or instruction, (including the Police, TMR, BAC or Local Government in relation to their respective road networks) in respect of any traffic control proposal or traffic control measures.

An Authority qualified to issue instructions may, at any time, instruct the Franchisees to re-open any traffic lane or shoulder to traffic without delay, whether or not closure is by prior agreement, and the Franchisees must immediately comply with such instructions provided it is safe to do so, but no instructions given by an Authority pursuant to this paragraph shall affect the extent of the Franchisees' rights and obligations as specified in the RFA.

8.2.4 Pedestrian and Cyclist Provisions

The Franchisees must plan and execute the maintenance Activities to ensure that safe conditions for pedestrians and cyclists are maintained at all times.

8.2.5 Traffic Controllers

The Franchisees must ensure that all persons who are required to perform the duties of a traffic controller are accredited persons under the *Transport Operations Road Use Management Act 1995*.

8.3 Debris Removal and Clean Up

8.3.1 General

Subject to provisions governing the treatment and removal of hazardous materials resulting from any Incident and any limitations imposed by Law that may apply to

removal of debris from the Tollroad, the Franchisees are responsible for prompt removal of all debris and material from the Tollroad.

8.3.2 Hazardous Materials

The Franchisees must:

- a) provide assistance as required by the emergency services Authorities (including the Police) or other relevant Authorities to clean up or otherwise assist in respect of a suspected hazardous material spillage Incident where:
 - i. the request originates from an appropriately delegated officer in charge of the operation;
 - ii. the Franchisees would be the most appropriate entity under the circumstances to provide the assistance; and
 - iii. the Franchisees have taken all possible steps to ensure that its personnel will not be placed at risk to their health and safety; and
- b) where the Franchisees are uncertain as to whether the nature of any spilt substance poses a potential risk to its personnel, then the Franchisees must seek confirmation as to the nature of the substance from emergency services personnel and must not involve any personnel in any clean-up Activities that may place them at personal risk until the appropriate Authority has confirmed that they may safely proceed.

8.3.3 Clean Up

Where a Hazardous Substance is not involved, or where a site has been rendered safe, the Franchisees must implement appropriate clean-up procedures which must include:

- a) cleaning of the pavement and the removal of all spilt and residual materials to make it free of contamination;
- b) cleaning any residues such as oil and grease from the pavement using appropriate detergents and thoroughly washing the pavement with water;
- c) ensuring that the surface of the pavement is not slippery to the extent that a safety hazard arises; and
- d) ensuring all clean-up is carried out in an environmentally responsible manner.

8.3.4 Removal of Abandoned Vehicles

Unless otherwise directed by TMR, the Franchisees must:

- a) follow the procedures in the *Traffic and Road Use Management Manual* for the management of abandoned vehicles as if the Franchisees were TMR;
- b) provide a designated area near the Tollroad to secure impounded vehicles until reclaimed by the owner or disposed of by the Franchisees and for the purposes of the *Transport Infrastructure (State Controlled Roads) Regulation 1994*, the Franchisees will be responsible for all negotiations with vehicle owners and for the disposal of impounded vehicles;
- c) where a vehicle has been abandoned on the Tollroad, the Franchisees must remove that vehicle to the designated area unless the nature of the vehicle is such that its removal to the secure area is impractical and in such cases, the Franchisees must remove the vehicle to a safe location; and
- d) within one Business Day of impounding any vehicle, the Franchisees must advise TMR of the date, time and location of the impounding, the current location of the vehicle, and the make, model, vehicle identification number and registration number of the vehicle.

9 Handover requirements

9.1 Maximum age and average age requirements for Tollroad assets

The maximum age and average age requirements that shall apply at Handover are:

- a) as per clauses 6.6.6(b) and 6.6.6(c) for all sign faces; and
- b) as per clause 6.4 for pavement surfaces.

9.2 Minimum Remaining Life for Tollroad assets

The minimum remaining life requirements that shall apply at Handover are:

- a) as per clause 6.4 in relation to pavement remaining life; and
- b) a minimum of five years for all components of the Tollroad.

APPENDIX 4-A TECHNICAL STANDARDS AND GUIDELINES

4-A.1 Reference documents, manuals and guidelines

As a minimum, the following documents are to be used as reference materials by the Franchisees:

Reference	Published By
ASSET MANAGEMENT	
Guide to Asset Management	Austroads
International Infrastructure Management Manual	INGENIUM and IPWEA
Australian Infrastructure Financial Management Guidelines	IPWEA
ROAD DESIGN INCLUDING GEOMETRICS	
Guide to Road Design	Austroads
Road Planning and Design Manual	TMR
DRAINAGE	
Road Drainage Manual	TMR
Waterways Design: A Guide to the Hydraulic Design of Bridges	Austroads
Australian Rainfall and Runoff	Institution of Engineers
PAVEMENT DESIGN	
Pavement Design Manual	TMR
Pavement Rehabilitation Manual	TMR
Methodology for Designing Pavement Rehabilitation Treatments (Report No. DG9228/7000, April 2007)	TMR
Austroads Guide to Pavement Technology Part 2: Pavement Structural Design (AGPT02/08)	Austroads
Austroads Guide to Pavement Technology Part 5: Pavement Evaluation and Treatment Design (AGPT05/09)	Austroads
Technical Note 56: Pavement Surfacing Selection and Design	TMR
Update of the Austroads Sprayed Seal Design Method (AP-T68/06).	Austroads
Project Specification Technical Standard 38 (PSTS 38)	TMR
TMR Project Specification Technical Standard 101 (PSTS 101) for Checking Subgrade; Capping Layer; Drainage Layer; Controlled Subgrade; Working Platform; Temporary Pavement; Verge;	TMR
Technical Note 56: Pavement Surfacing Selection and Design	TMR
BRIDGES/OTHER STRUCTURES	
Scope of Works and Technical Criteria, Attachment 7B Design Criteria for Bridges and Other Structures	TMR
Bridge asset management advice note number 112	TMR
Bridge Inspection Manual	TMR

Reference	Published By
Bridge Culvert Servicing Manual	TMR
Guideline for the Preparation of Road Structure Durability Plans	TMR
TRAFFIC, SIGNS, ROAD SIDE FURNITURE	
Traffic and Road Use Management Manual	TMR
Design guide for roadside signs	TMR
Manual of Uniform Traffic Control Devices	TMR
LIGHTING/ELECTRICAL	
AS/NZS 1158 - Road Lighting	Standards Australia
Standard Conditions for the Provision of Public Lighting Services;	QTSC Group
Public Lighting Manual - Policy Design and Equipment	Energex
Public Lighting Manual – Construction	Energex
AS/NZS 3000 - Electrical Installations ('Australia/New Zealand Wiring Rules')	Standards Australia
OTHER	
Scope of Works and Technical Criteria, Attachment 7A Geotechnical Design Standard - Minimum Requirements	TMR
Drafting and design presentation standards	TMR
Engineering notes manual	TMR
Fauna Sensitive Road Design: Volumes 1 and 2	TMR
Standard Drawings roads manual	TMR
Road Landscape Manual	TMR
Road Safety Barrier Systems & End Treatments	TMR
AS3845: Road Safety Barrier Systems	Standards Australia
Materials Testing Manual	TMR
Road Maintenance Performance Contract Manual	TMR
Road traffic noise management: code of practice	TMR
TC signs	TMR
Main Roads surveying standards	TMR
Road Traffic Air Quality Manual	TMR
Guide to Road Safety Part 6: Road Safety Audit	Austrroads

4-A.2 TMR Specifications and Technical Standards

Table A-1 is the table of contents for the 4th Edition of the TMR Specifications and Technical Standards; references include the annexure, MRTS, MRTS appendices and MRTS annexures:

Table A-1: Technical standards

Document No.	Title
MRTS01	Introduction to Technical Standards
MRTS02	Provision for Traffic
MRTS03	Drainage, Retaining Structures and Protective Treatments
MRTS04	General Earthworks
MRTS05	Unbound Pavements
MRTS06	Reinforced Soil Structures
MRTS07A	In Situ Stabilised Subgrades Using Quicklime or Hydrated Lime
MRTS07B	In Situ Stabilised Pavements Using Cement or Cementitious Blends
MRTS07C	In situ Stabilised Pavements Using Foam Bitumen
MRTS08	Plant-Mixed Stabilised Pavements
MRTS11	Sprayed Bituminous Surfacing (Excluding Emulsions)
MRTS12	Sprayed Bitumen Emulsion Surfacing
MRTS13	Bituminous Slurry Surfacing
MRTS14	Road Furniture
MRTS14A	Road Furniture (Steel Work)
MRTS15	Noise Fences
MRTS16	General Requirements Landscape and Revegetation Works
MRTS16A	Vegetation Protection
MRTS16B	Vegetation Ground Works
MRTS16C	Vegetation Works
MRTS16D	Hardscape Works
MRTS16E	Establishment and Monitor Works
MRTS17	Bitumen
MRTS18	Polymer Modified Binder
MRTS19	Bitumen Cutter Oil and Flux Oil
MRTS20	Cutback Bitumen
MRTS21	Bituminous Emulsion
MRTS22	Supply of Cover Aggregate
MRTS23	Supply and Delivery of Quicklime and Hydrated Lime for Road Stabilisation
MRTS24	Manufacture of Precast Concrete Culverts
MRTS25	Manufacture of Precast Concrete Pipes
MRTS26	Manufacture of Fibre Reinforced Concrete Drainage Pipes
MRTS27	Geotextiles (Separation and Filtration)
MRTS30	Dense Graded Asphalt Pavements and Open Graded Asphalt Surfacing
MRTS31	Heavy Duty Asphalt
MRTS39	Lean Mix Concrete Sub-base for Pavements
MRTS40	Concrete Base in Pavements Jointed Unreinforced, Jointed Reinforced, Continuously Reinforced and Steel Fibre Reinforced Pavements
MRTS42	Supply of Wax Emulsion Curing Compound for Concrete
MRTS45	Road Surface Delineation
MRTS57	Geotextiles for Paving Applications

Document No.	Title
MRTS61	Mounting Structures for ITS Devices
MRTS62	Bridge Substructure
MRTS63	Cast-In-Place Piles
MRTS63A	Piles for High Moment Low Axial Load Applications
MRTS65	Precast Prestressed Concrete Piles
MRTS66	Driven Steel Piles
MRTS67	Bitumen Slip Layer on Piles
MRTS68	Dynamic Testing of Piles
MRTS70	Concrete
MRTS71	Reinforcing Steel
MRTS71A	Stainless Steel Reinforcing
MRTS72	Manufacture of Precast Concrete Elements
MRTS73	Manufacture of Prestressed Concrete Members and Stressing Units
MRTS74	Supply and Erection of Prestressed Concrete Deck and Kerb Units
MRTS75	Supply and Erection of Prestressed Concrete Girders
MRTS76	Supply and Erection of Steel Girders
MRTS77	Bridge Deck
MRTS78	Fabrication of Structural Steelwork
MRTS79	Fabrication of Aluminium Components
MRTS80	Supply and Erection of Bridge Barrier
MRTS81	Bridge Bearings
MRTS82	Bridge Deck Expansion Joints
MRTS83	Anti-Graffiti Protection
MRTS84	Deck Wearing Surface
MRTS84A	Cold Milling Bridge Deck Wearing Surface
MRTS85	Repainting Steel Bridges
MRTS85A	Repainting Existing Steel Bridges and New Steel Bridges Zinc Metal Systems
MR86	Preparation for Bridge Widening
MRTS88	Painting New Work
MRTS89	Post-Tensioned Concrete
MRTS90	Modular Expansion Joints
MRTS91	Conduits and Pits
MRTS92	Traffic Signal & Road Lighting Footings
MRTS93	Traffic Signals
MRTS94	Road Lighting
MRTS95	Switchboards and Cables
PSTS 38	Pavement drains
PSTS 101	Checking Subgrade; Capping Layer; Drainage Layer; Controlled Subgrade; Working Platform; Temporary Pavement; Verge;
ITS 02	Variable message signs
ITS 10	Mains power supply
ITS21	Help phones
ITS 25	Imaging equipment
ITS 26	Communications cabinet
ITS 34	Telecommunications cables
ITS 47	Vehicle detector loop testing

APPENDIX 4-B SPECIFIED DESIGN LIVES

Each of the various new assets, including Asset Items and Asset Sub-Items, must have the minimum Design Life set out in Table B-1 below.

Table B-1: Asset Items and Asset Sub-Items: Specified Design Lives

Asset Group		Asset Item / Asset Sub-Item	
Name	Design Life	Name	Design Life
Sir Leo Hielscher Bridges	300 years	Bridge bearings	100 years
		Expansion joints – centre beams (including welding attachments), support bars (including welding attachments), support boxes and attachments	Refer MRTS90
		Expansion joints – compression and control springs, support bearings	Refer MRTS90
		Expansion joints - seals	Refer MRTS90
		Deck wearing surface	20 years
		Drainage systems	100 years
		Abutment support structure facing	100 years
		Safety screens and fencing	50 years
		Handrails and balustrades	100 years
All other bridge and roadway support structures	100 years	Bridge bearings	100 years
		Expansion joints – structural components	100 years
		Expansion joints - rubbers	40 years
		Deck wearing surface	20 years
		Drainage systems	50 years
		Abutment support structure facing	100 years
		Safety screens and fencing	50 years
Tollroad Carriageway and ramp pavements	40 years	Open graded AC surface layer	10 years
		Linemarking	5 years
		Raised reflective pavement markers	2 years
Pipes and culverts	100 years		
All other drainage elements including building drainage, sedimentation and detention ponds	20 years		
Retaining walls including reinforced soil walls	100 years	Sealant joints and backing rods	15 years
		Surface coating systems	10 years
Reinforced soil embankments	100 years		
Buildings	50 years	Mechanical services	20 years
		Electrical services	20 years
		Interior fabric	20 years
		Interior applied finishes	10 years

Asset Group		Asset Item / Asset Sub-Item	
Name	Design Life	Name	Design Life
Lighting	20 years	Fluoro tubes	15,000 hours
		HPS lamps	20,000 hours
Noise barriers (including noise attenuation devices)	40 years		
Fixed sign faces	10 years		
Sign support structures and other roadside furniture	50 years		
Mechanical and electrical equipment	25 years	Electrical services	20 years
Traffic management and control device (for each ITS device)	20 years	Cables	25 years
		Enclosure	20 years
		Electronics	7 years
		Display elements	10 years
		Uninterruptible power supplies / battery power supplies	6 years
		Other power supplies	10 years
		Fans	5 years
		Field processors	5 years
		ITS telecommunications network devices	5 years
		UPS batteries	3 years
		Ventilation filters	1 year
		WIM sensor	5 years
		CCTV (all components)	5 years
All other ITS devices	10 years		
Local Road pavement support structures	100 years		
Non-Tollroad Road pavements		Surface layer	10 years

APPENDIX 4-C

SCHEDULE OF ALLOWABLE NON-CONFORMANCES

4-C.1 Structures

	ID	Location	Road	Chainage	Permitted Non-conformance	Requirements	Maximum rectification period from Commencement Date
1	20039	Formation St	210A Logan Motorway	1.238	CS 3	<p>Level 3 inspection to be undertaken to determine cause of, and propose remedy for, the following deficiencies:</p> <ul style="list-style-type: none"> ▪ joint systems (waterproofing) ▪ pavement corrections ▪ footpath corrections ▪ guardrail upgrade ▪ roadside fencing ▪ concrete crack treatment ▪ any possible ASR <p>After identification the deficiencies will need to be rectified.</p>	<p>Inspection within 6 months.</p> <p>Rectification within 2 years.</p>
2	20048	Woogaroo St	210A Logan Motorway	5.361	CS 3	<p>Level 3 inspection to be undertaken to determine cause of, and propose remedy for, the following deficiencies:</p> <ul style="list-style-type: none"> ▪ joint systems (waterproofing) ▪ pavement corrections ▪ footpath corrections ▪ guardrail upgrade ▪ roadside fencing ▪ concrete crack treatment ▪ any possible ASR <p>After identification the deficiencies will need to be rectified.</p>	<p>Inspection within 6 months.</p> <p>Rectification within 2 years</p>
3	20054	Stapylton Road	210A Logan Motorway	8.728	CS 3	<p>Level 3 inspection to be undertaken to determine cause of, and propose remedy for, the following deficiencies:</p> <ul style="list-style-type: none"> ▪ joint systems (waterproofing) ▪ pavement corrections ▪ footpath corrections ▪ guardrail upgrade ▪ roadside fencing ▪ concrete crack treatment ▪ any possible ASR <p>After identification the deficiencies will need to be rectified.</p>	<p>Inspection within 6 months.</p> <p>Rectification within 2 years</p>
4	29903	Oxley Creek	210A Logan Motorway	9.747	CS 3	<p>Level 3 inspection to be undertaken to determine cause of, and propose remedy for, the following deficiencies:</p> <ul style="list-style-type: none"> ▪ joint systems (waterproofing) ▪ pavement corrections 	<p>Inspection within 6 months.</p> <p>Rectification within 2 years</p>

	ID	Location	Road	Chainage	Permitted Non-conformance	Requirements	Maximum rectification period from Commencement Date
						<ul style="list-style-type: none"> ▪ footpath corrections ▪ guardrail upgrade ▪ roadside fencing ▪ concrete crack treatment ▪ any possible ASR After identification the deficiencies will need to be rectified.	
5	20057	Paradise Road O/pass	210A Logan Motorway	11.385	CS 3	Level 3 inspection to determine cause of cracking. Remedy as required on SMP.	6 months
6	30421	Steel pipe	210A Logan Motorway	26.385	CS 3	Clear waterway and inspect invert. Undertake any works required.	1 year
7	20153	Slacks Creek	210A Logan Motorway	26.746	CS 3	Repair of barriers, joints and restraint angles	1 year
8	26394	Gateway Mway O/pass	N332 Gateway Extension Motorway	0.805	CS 3	Repair spalling on abutment	2 years
9	32862	Steel culverts	U13A Gateway Extension Motorway	0.707	CS 3	Clear waterway and inspect invert. Undertake any works required immediately.	6 months

4-C.2 Pavements

Road	Section	Permitted Non-conformances (for performance indicators defined in clause 6.4)	Maximum rectification period (measured from Commencement Date)
Logan Motorway	From Ipswich Motorway to centre of Wembley Road Between Wembley Road and 750 metres East of Wembley Road (Through Carriageways / On & Off Ramps)	(a) Roughness (b) Cracking extent (c) Longitudinal cracking (d) Pavement strength as the fractional value of the original strength	7 years
Gateway Extension Motorway	Whole road	(e) Carriageway lighting (f) Signage	10 years

Carriageways

The Code describes the position of the carriageway on the *road* and the Type describes the carriageway function

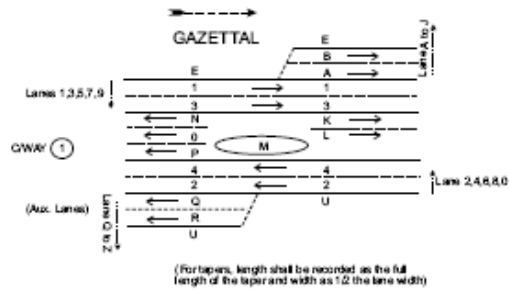
Carriageway Code	Description
1	Primary Through Undivided
2	Primary Through Divided in Gazettal
3	Primary Through Divided against Gazettal
4	L.H. Primary Outside Divided in Gazettal
5	R.H. Primary Outside Divided against Gaz
A	1st Cway on L.H.S of Primary Cways
B	2nd Cway on L.H.S of Primary Cways
C	3rd Cway on L.H.S of Primary Cways
D	4th Cway on L.H.S of Primary Cways
E	5th Cway on L.H.S of Primary Cways
K	1st Cway between Divided Cways 2 & 3 (G)
L	2nd Cway between Divided Cways 2 & 3 (G)
M	3rd Cway between Divided Cways 2 & 3 (G)
N	4th Cway between Divided Cways 2 & 3 (A)
O	5th Cway between Divided Cways 2 & 3 (A)
P	6th Cway between Divided Cways 2 & 3 (A)
Q	1st Cway on R.H.S of Primary Cways
R	2nd Cway on R.H.S of Primary Cways
S	3rd Cway on R.H.S of Primary Cways
T	4th Cway on R.H.S of Primary Cways
U	5th Cway on R.H.S of Primary Cways
V	Roundabout Connection
W	Roundabout Connection
X	Flyover/Underpass Carriageway
Y	Flyover/Underpass Carriageway
Z	Intermediate Carriageway for Duplication

Carriageway Type	Description
A	Auxiliary Carriageway
B	Bi-directional Ramp
C	Bikeway
D	At Grade Intersection Separate Merging
E	Exit Ramp
F	Flyover Carriageway
G	Elevated Roundabout
H	Underpass Roundabout
L	At Grade Intersection Separate Left Turn
O	On Ramp
R	Roundabout Connection
S	Service Road
T	Primary Through Road
U	Underpass
Z	Intermediate Carriageway for Duplication

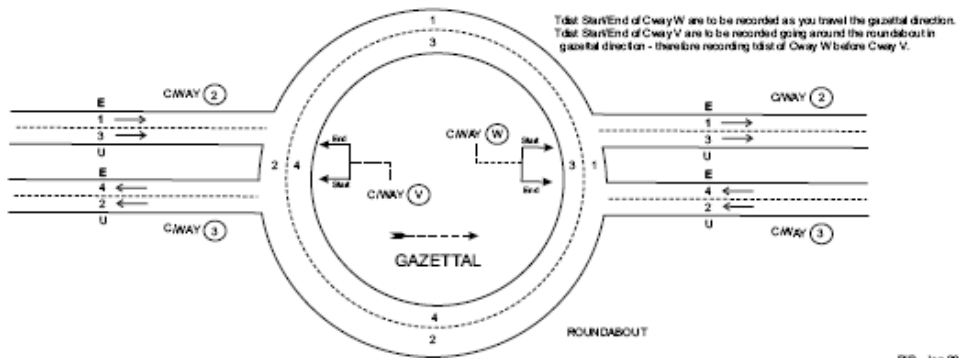
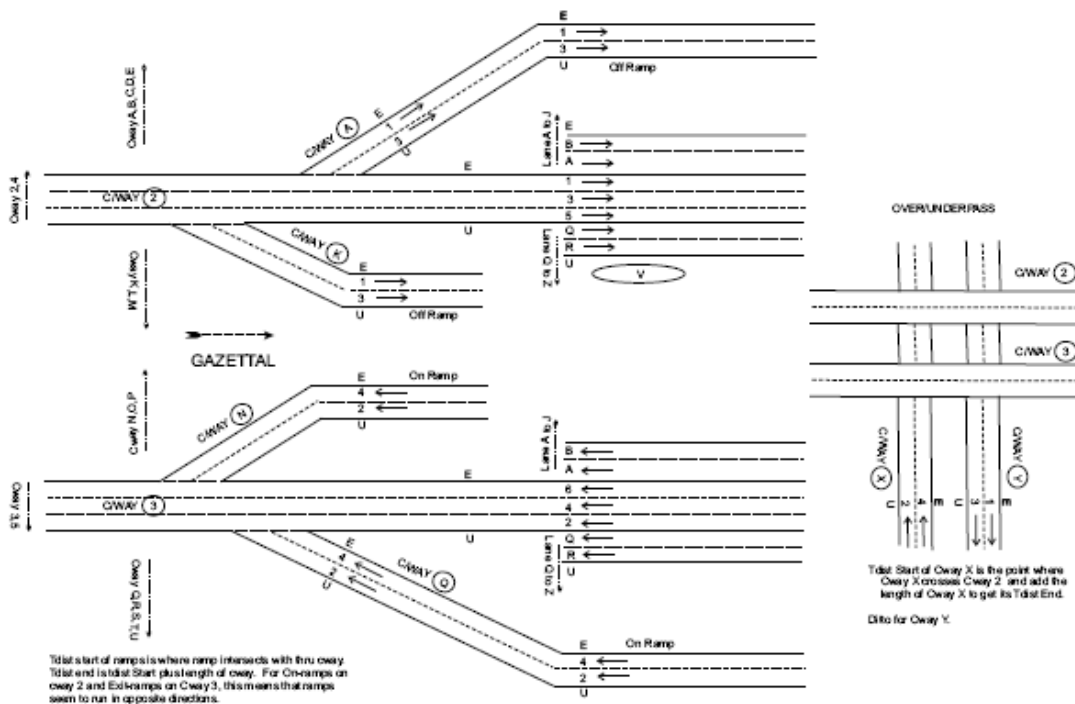
Carriageway Configuration	Description
S	Single Carriageway
V	Divided Carriageway
D	Dual Carriageway

LANE AND CARRIAGEWAY CODE

a. SINGLE CARRIAGEWAY



b. DUAL/DIVIDED CARRIAGEWAY



RB - Jan 2005

APPENDIX 4-D REPORTING REQUIREMENTS FOR NEW AND REHABILITATED PAVEMENTS

4-D.1 New pavements

4-D.1.1 New Pavement Design Report

Where a design report is required for a new pavement (and not the rehabilitation of an existing pavement) the Franchisees must ensure:

- a) a comprehensive pavement design report is prepared for all new pavements (hereafter called '**New Pavement Report**'), and the designs presented in this report shall represent the Franchisees' proposals for construction of the new pavement; and
- b) the report is prepared so that:
 - (i) it addresses all sections requiring a new pavement design;
 - (ii) each different pavement design is identified separately by road name, section name, control line and chainage;
 - (iii) where different designs are completed for any other reason (for example, different traffic loadings, subgrade conditions, subgrade strengths, subgrade treatments, varying recycling treatments or varying paving materials), each design is to be reported separately, including all the input parameters and assumptions;
 - (iv) all CIRCLY outputs are included in appendices and the report clearly identifies the pavement type, structure and location referenced by the CIRCLY output; and
 - (v) it incorporates all the requirements described in this Appendix 4-D.1.

4-D.1.2 Pavement Structure

The New Pavement Report must describe the proposed pavement structures:

- a) layered in descending order from the surface and including:
 - i. all pavement layers including all seals, primes, curing and de-bonding treatments;
 - ii. any working platform layer/s;
 - iii. all subgrade layers including select fill, drainage layers, capping layers, and lower subgrade;
 - iv. all proposed materials described with adequate detail for construction including, for example, asphalt mix type, binder type and percentage, aggregate size, unconfined compressive strength (UCS), estimated spray rate, and material type and its associated Technical Standard; and
 - v. proposed compacted layer thicknesses including any additions to thicknesses made for construction tolerance considerations; and
- b) including any rigid pavement designs which must include steel reinforcement designs, anchor locations and joint layouts.

Table D-1 is an example only of the required format of the New Pavement Report (noting the Franchisees will select all pavement layer sequence, materials and treatments).

Table D-1: Pavement layers, materials and treatments

Road: Chainage: Carriageway: Lane:		
Layer / treatment description (descending order from surface)	Material type and technical standard	Thickness (mm)
Open graded asphalt surface layer		
Polymer modified bitumen seal (estimated spray rate litre / m ²) and mm cover aggregate		
Size 14 binder asphalt (A5S binder)		
Size 20 base asphalt (Class 600 bitumen)		
Class 170 seal (litre/m ²) with mm aggregate		
AMCO prime (litre/m ²)		
Working platform: Cement modified (minimum %, maximum %) Type unbound granular material		
Select fill type		
Capping layer		
Cutting treatment		
Lower subgrade design CBR minimum %		

4-D.1.3 Design Traffic Load

The New Pavement Report must include any assumptions or inputs that impact on design traffic load,

4-D.1.4 Pavement Layers

The New Pavement Report must include, for each pavement layer:

- a) compacted thickness of layer; and
- b) assumed performance criteria, material type, vertical and horizontal moduli, shear modulus, degree of anisotropy, Poisson's ratio, design flexural strength and any other inputs used in the design.

4-D.1.5 Working Platform

Where a working platform/s is proposed to suit construction or other requirements, the New Pavement Report must:

- a) identify respective working platform structure locations (e.g. with respect to carriageway and chainage);
- b) compacted thickness of layer/s;
- c) material type in each layer including, as appropriate: percentages of additives, 7-day UCS, asphalt (binder and aggregate size) type, seals; and
- d) assumed performance criteria, material type, vertical and horizontal moduli, shear modulus, degree of anisotropy, Poisson ratio and any other inputs used in CIRCLY design.

4-D.1.6 Proposed Select Fill Layer/s

If select fill layer/s are proposed, the New Pavement Report must report this proposal, generally as described in Table D-2 below:

Table D-2: Select Fill

Section	Location in subgrade	Thickness	Material and technical standard referenced	CBR % including test conditions	WPI	Comments
Identify carriageway, chainage, & lane as required						

In addition to the above, for select fill layers, the New Pavement Report must report on the assumed performance criteria, material type, vertical and horizontal moduli, shear modulus, degree of anisotropy, Poisson's ratio and any other inputs used in CIRCLY design.

4-D.1.7 Proposed Capping Layer/s and/or Drainage Layers

If the Franchisees propose to use capping layer/s and/or drainage layers, the following properties/ characteristics are to be reported.

Table: D-3: Capping layers and / or drainage layers

Section	Location in subgrade	Thickness	Material and technical standard referenced	CBR % including test conditions	WPI	Comments
Identify Carriageway, chainage, lane as required						

In addition, for the capping layers and/or drainage layers the Franchisees are to report the assumed performance criteria, material type, vertical and horizontal moduli, shear modulus, degree of anisotropy, Poisson's ratio and any other inputs used in CIRCLY design.

4-D.1.8 Lower Subgrade CBR and Swell

The lower subgrade design CBR and swell shall be reported as detailed in the following table:

Table D-4: Lower Subgrade CBR (%) Selection

Section	WPI	Potential swell ¹ %	Rationale for sectioning	Values of all DCP CBRs analysed	Values of all soaked CBRs analysed including test conditions	CBR % selected
Identify Carriageway, chainage, lane as required						

The New Pavement Report shall include details of the test conditions (e.g. relative density, soaking period, etc.):

- a) for each section, all statistical calculations are to be reported; and
- b) in addition, for the lower subgrade layer/s the Franchisees are to report the assumed performance criteria, material type, vertical and horizontal moduli, shear modulus, degree of anisotropy, Poisson's ratio and any other inputs used in CIRCLY design.

4-D.1.9 Temporary Pavements

For each of the proposed temporary pavements, the Franchisees are to report the following as part of the New Pavement Report:

- a) respective temporary pavement location e.g. with respect to carriageway and chainage;
- b) design traffic load, proposed period of time to be utilised and proposed number of lanes open in the same direction;
- c) compacted thickness of layer/s in the temporary pavements;
- d) material type in each layer including, as appropriate, percentage of cement to be added, UCS, asphalt (binder and aggregate size) type, seals; and
- e) assumed performance criteria, material type, vertical and horizontal moduli, shear modulus, degree of anisotropy, Poisson's ratio and any other inputs used in CIRCLY design.

4-D.1.10 Pavement Drains

The New Pavement Report is to include all proposed mitigating drainage measures to address these performance requirements, including drawings of the location and construction detailing in the pavement drain located between any rehabilitated pavement and new pavement.

4-D.1.11 Tolerances

The New Pavement Report is to include layer thickness increases that will address required construction tolerances that are made to any pavement layer thicknesses derived from the design.

4-D.1.12 Departures

Where the Franchisees propose in any design submission to depart from any of the requirements of the brief, technical standards and annexures that impact on the pavement design structure including pavement layer thicknesses and pavement materials, the Franchisees must identify these as departures in the new pavement design report.

Where a departure from standards is made, designs must provide sufficient supporting evidence to show that the departure will not result in a reduction in pavement performance. The Franchisees shall note that any application for a departure from standards, which would result in a reduction in the performance specifications, will not be acceptable.

4-D.1.13 Appendices

Copies of any test results/certificates or other information supporting the design assumptions should be included.

4-D.2 Rehabilitated Pavement Design Report

The design report for a rehabilitated pavement shall be prepared as follows:

- a) List all sections to be rehabilitated.
- b) Include a table of contents that identifies designs by location, section control line and chainage.
- c) Where different designs/options are completed for any reason, each design/option shall be separately reported.
- d) This design report shall be for pavement rehabilitation only. A separate report shall be prepared and submitted for new pavements as detailed in Appendix 4-D.1 above.
- e) Each design must be identified with the associated section and section location (control line(s), Carriageway(s), chainage(s) and lane(s)) and design inputs, and this must occur for each design variation nominated.
- f) All CIRCLY outputs shall be included in Appendices, and the CIRCLY output is required for each design and design variation. The report is to clearly identify the pavement type, structure and location associated with each piece of CIRCLY output.
- g) All assumptions or inputs that impact on designs shall be listed and described in the pavement rehabilitation design report.

4-D.2.1 Pavement Structure

The Franchisees must ensure the report addresses the following:

- a) details of all proposed pavement structures. This includes details of all layers, with each layer presented in descending order starting at the surface, and further details shall be reported as follows:
 - i. all pavement layers shall be reported including all seals, primer seals and primers, and
 - ii. any existing layers to be plant mixed or in situ treated/modified/stabilised or recycled shall be reported.
- b) All proposed materials, described with full details that are sufficient for construction. For example details shall include the following:
 - i. for each layer the material type and its associated technical standard(s);
 - ii. for all asphalt layers the mix type, binder type, binder percentage and aggregate size;
 - iii. for all seals, primer seals and primers the binder type, estimated spray rate, size of cover aggregate and estimated aggregate spread rate;
 - iv. for all modified or stabilised layers where UCS is relevant, the required UCS values (e.g. minimum and maximum values);
 - v. for all treated, modified or stabilised layers, any requirements other than those given above (e.g. mix design of foamed bitumen stabilised layer); and
 - vi. any other requirements relevant to the design.
- c) Proposed compacted layer thicknesses reported for all layers in each design including, and separately identifying, any additions to thicknesses made to allow for construction tolerances.
- d) for each new and existing pavement layer incorporated into the designs/works:
 - i. material type;
 - ii. performance relationship and criteria used;
 - iii. degree of anisotropy;
 - iv. Poisson's ratio;

- v. vertical and horizontal moduli used in design;
- vi. shear modulus; and
- vii. any other inputs used to design the treatments/options (e.g. other CIRCLY inputs).

The vertical and horizontal moduli reported shall be the moduli used to design the treatments/options (e.g. moderated moduli).

Table D-5 is an example of the required reporting format (noting the designer will select all pavement layer sequences, materials and treatments)

Table D-5: Example structure for reporting pavement designs

Control line: Chainages: Carriageway(s): Lane(s):		
Layer/ treatment description (descending order from surface)	Material type and technical standard	Thickness (mm)
Open graded asphalt, size 14 mm surface layer (binder)		
Polymer modified bitumen seal (estimated spray rate litre / m ²) and size mm cover aggregate (estimated aggregate spread rate m ³ / m ²)		
Binder asphalt, Size 14 mm (XX polymer modified binder)		
Strain alleviating membrane interlayer (SAMI) (XX polymer modified binder, estimated spray rate litre / m ²) and size mm cover aggregate (estimated aggregate spread rate m ³ / m ²)		
AMC4 primer seal (estimated spray rate litre / m ²) and size mm cover aggregate (estimated aggregate spread rate m ³ / m ²)		
Cement treated/stabilised layer (in situ or plant-mixed, mix design, UCS)		
Subgrade		

4-D.2.2 Design Traffic Loadings

All assumptions and inputs that impact on design traffic loadings shall be reported. This includes impacts felt due to capacity constraints or increases in capacity (e.g. capacity increased as lane added in the future).

4-D.2.3 Subgrade Layer/s

The Franchisees must ensure:

- a) the subgrade properties (e.g. CBRs) used to design each treatment/option for each section are reported, at least including the information outlined in Table D-6;
- b) for each section, the subgrade is assessed in accordance with the *Pavement Design Manual* (2009) and include laboratory testing and the use of statistical analysis as outlined in that manual; and
- c) in addition, for each subgrade layer, the following shall be reported:
 - i. material type;
 - ii. performance relationship and criteria used;
 - iii. degree of anisotropy;
 - iv. Poisson's ratio
 - v. vertical and horizontal moduli used in design;
 - vi. shear modulus; and
 - vii. any other inputs used to design the treatments/options (e.g. other CIRCLY inputs).

Table D-6: Subgrade information

Section	Weighted Plasticity Index	Potential swell (%)	Rationale for sectioning	Values of all DCP CBRs analysed (%)	Values of all soaked CBRs analysed (%)	Strength from back analysis (MPa)	Design strength adopted
Identify control line, carriage-way, chainage, lane as required							

4-D.2.4 Major Construction Issues for Consideration

The report shall include all construction issues envisaged (e.g. difficulties in constructing designs under traffic) and the proposed actions required to address these issues.

4-D.2.5 Pavement Drains

The report shall include all proposed drainage measures that are to be employed to address any drainage issues. The report shall include drawings of all pavement drains. Details on the drawings shall include the location and construction of the drains. This shall include any pavement drains located between rehabilitated and new pavements.

4-D.2.6 Tolerances

The report shall include allowance(s) for construction tolerances and report how construction tolerances have been taken into account. The construction tolerance allowance(s) is/are made to the minimum pavement layer thicknesses derived from the mechanistic design process.

4-D.2.7 Report structure

Table D-7 is an example of how the report may be structured.

4-D.2.8 Appendices

Table D-8 is an example of what appendices may be included.

Table D-7: Example report structure

Pavement Rehabilitation Report - suggested headings		
Section	Heading	Notes
	Executive summary	max 3 pages
1.0	Introduction	
1.1	Background - history	
1.2	Locations and chainages	maps
1.3	Existing design standards	road configuration
2.0	Available Data	
2.1	Traffic data	
2.2	DMR FWD Survey	from client, if possible
2.3	Contract Drawings	
2.4	ARMIS information	
2.5	Design traffic loadings	
3.0	Pavement investigation and test results	
3.1	Site visit	
3.2	Trench locations and cross sections	diagrams
3.3	Samples for testing	what was tested
3.4	Falling Weight Deflectometer Survey	graphs
3.5	Trench profile for model purposes	diagrams
3.6	Laboratory testing	refer appendix
3.6.1	<i>Material testing</i>	summ of lab testing
4.0	Deflection analysis	
4.1	Introduction	
4.2	Back Analysis Procedure and Results	table of results
4.3	Pavement Sections	
4.4	Back Analysed Layer Moduli	table of results
5.0	Stabilisation options – suitability test results	
5.1	Stabilisation option 1	table of results
5.2	Stabilisation option 2	table of results
6.0	Design methodology	
6.1	Trench profile for model purposes	
7.0	Pavement rehabilitation designs	
7.1	Design subgrade	
7.2	Base model profiles	
7.3	Design method	GMP method
8.0	Failure mechanism	
8.1	Remaining life of existing pavement	from CIRCLY
9.0	Design options	
9.1	Asphalt overlay design model	diagram
9.1.1	<i>CIRCLY design</i>	
9.2	Rehabilitation option 1	
9.3	Rehabilitation option 2	suggested options -
9.4	Rehabilitation option 3	may vary
9.5	Rehabilitation option 4	
10.0	Conclusions	
10.1	Bitumen seal surface	possible section
10.2	Pavement Rehabilitation options	
10.2.1	<i>Rehabilitation option 1</i>	
10.2.2	<i>Rehabilitation option 2</i>	
10.2.3	<i>Rehabilitation option 3</i>	various options
10.2.4	<i>Rehabilitation option 4</i>	
10.2.5	<i>Rehabilitation option 5</i>	
10.3	Stormwater drainage	possible section
11.0	Recommendations	recommended actions

Table D-8: Example of appendices that may be included

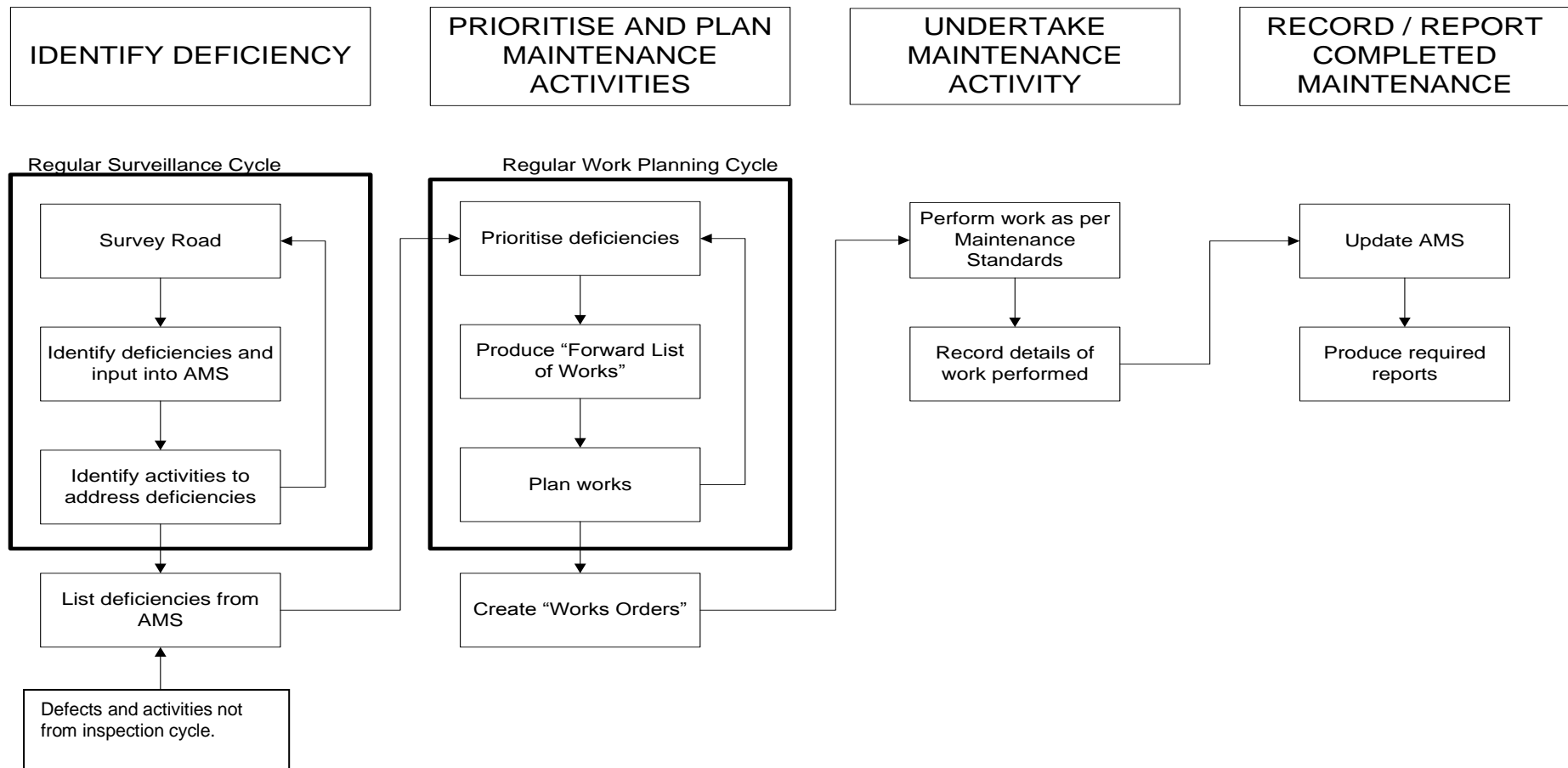
Appendix A – Traffic Loading
Appendix B – Photos/maps
Appendix C – ARMIS charts (from chartview?)
Appendix D -- Trench Profiles
Appendix E – Insitu DCP results (table/graphs)
Appendix F – FWD graphs
Appendix G – Laboratory Test Results
Appendix H – Laboratory foamed bitumen test results
Appendix I – Existing pavement layers - material tests
Appendix J – Laboratory cement stabilised test results
Appendix K – Pavement Back Analyses Layer Moduli
Appendix L – Design life Calculations
Appendix M – CIRCLY reports
Appendix N – Asphalt material properties

APPENDIX 4-E MAINTENANCE

4-E.1 MAINTENANCE TYPES

<i>Maintenance Type</i>	<i>Planning</i>	<i>Category</i>	<i>Typical Planning source</i>
Routine Maintenance	Unplanned	Reactive	Forward List of Works
	Planned	Preventative	Forward List of Works
Preservation		Annual Works Program	
Rehabilitation		Annual Works Program	
Programmed Maintenance			

4-E.2 ROUTINE MAINTENANCE CYCLE



4-E.3 MAINTENANCE ACTIVITIES AND RESTORATION STANDARDS

In accordance with the requirements of the RFA including the Performance Specification,, the Franchisees must identify in their maintenance standards, the maintenance Activities to be used for the maintenance of the Asset Group.

The tables in this appendix set out some maintenance Activities, including Restoration Standards for those Activities. The maintenance Activities, including Restoration Standards, set out in this Appendix must not be viewed as being restrictive or absolute. The Franchisees must develop their own maintenance Activities, including Restoration Standards, which must be not less than the maintenance Activities, including Restoration Standards in this Appendix.

The Franchisees' maintenance Activities must, to the greatest extent practicable, not block the flow of moisture through open graded asphalt surface layers to the road shoulder. The Franchisees' maintenance Activities must include maintenance Activities for the cleaning of voids in the open graded asphalt layer or replacement of the open graded asphalt surface layer, where blockages to the water flow paths in the open graded asphalt surface layer occur.

TMR Standards are the source and reference for these standards.

100 BITUMINOUS SURFACES		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Edge repair	Repair of isolated lengths of sealed / asphalt pavement to restore the edges to line and level.	<p>The maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • Any edge repairs to open graded asphalt must maintain a porous edge. • The sealed width must be restored to within 30 mm of the original line of the sealed edge. • The finished surface must be within +5 mm, -0 mm of the height of and conform to the shape of the surrounding road surface. • The standard of compaction must be such that the final passes of the compaction equipment leave no impressions on the restored surface. • No loose material must be left on the Carriageway. • The patch must not exhibit stripping of aggregate or bleeding of bitumen.
Pothole patching	The repair with asphalt or premix of an isolated hole or series of holes in the roadway surface that is in otherwise sound condition.	<p>The maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • Replace any base course asphalt removed to the level of the surrounding base course. • Reinststate the waterproof membrane on top of the binder layer. • Reinststate the surfacing layer. The surfacing layer must be the same material as the existing surfacing layer. Where the surfacing material is open graded asphalt, it must be reinstated to ensure no ponding of water occurs either on or within the surfacing material. • The finished surface must be within +5 mm, -0 mm of the height of and conform to the shape of the surrounding road surface. • The patch must not exhibit stripping of aggregate or bleeding of bitumen. • No loose material must be left on the Carriageway.

100 BITUMINOUS SURFACES		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Excavate and replace asphalt	The excavation or cold planing of deteriorated asphaltic concrete roadway surface profile to sound material or specified depth, and then restoring to level with new asphalt.	<p>The maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • The length and width of the cold planing must be within ± 150 mm of the dimensions specified. The depth of cut must be in the range specified. • Replace any base course asphalt removed to the level of the surrounding base course. • Reinstate the waterproof membrane on top of the binder layer. • The standard of compaction must be such that the final passes of the compaction equipment leave no impressions on the restored surface. • Pavement repairs on concrete Structures must not damage structural elements or expose reinforcing.
Concrete joint, crack and slab replacement treatment Bike paths only.	<p>The routing, cleaning and filling of joints and cracks in concrete pavements / paths to prevent infiltration of moisture into the underlying pavement structure</p> <p>The replacement of damaged portions of a pavement or path by removal and replacement.</p>	<p>The maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • The joint must be filled along its full length with appropriate resin filler with a step tolerance of ± 5 mm. • For slab replacement – saw cut around the damaged section and remove. Rework and compact the base layer to the appropriate level. Replace section with reinforced slab (precast or cast in situ) that meets relevant specification. Joints must be filled along their full length with a step tolerance of ± 5 mm.
Concrete slab jacking	Includes all associated Activities involved in jacking of concrete pavement slabs.	<p>The maintenance must meet the requirements of the TMR Standards and the additional requirement below.</p> <ul style="list-style-type: none"> • The joint must be filled along its full length with a step tolerance of ± 5 mm.
Surface sweeping and debris removal	The removal of all loose material accumulated on the road surface, edges of the road surface, and from road lines, by hand or mechanical sweeping, including hand removal of larger debris.	The road surface, edges of the road surface, and road lines must be unobstructed and tidy.

100 BITUMINOUS SURFACES		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Shoulder / verge grading	<p>The grading of unsealed shoulders to:</p> <ul style="list-style-type: none"> • remove vegetation including the removal of any windrows of vegetation • remove other debris that may impede drainage or encourage scour • remove unsuitable shoulder material • reinstate the correct profile. 	<p>The maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • Refer to '400 Roadside' for the clearing of vegetation to maintain Clear Zones and sight visibility lines. • At the sealed/unsealed interface, the finished unsealed surface must be even and within +0, -10 mm of the height of the adjacent seal. • Shoulder crossfall must be within +0, -2% (absolute) when compared to the crossfall of the adjacent sealed pavement. • The graded surface must be watered and rolled to provide a sound tight surface. No loose material must be left on the sealed carriageway, in drains or around roadside furniture. • The surface of the sealed Carriageway must not be damaged during the work operations.

200 UNSEALED ROAD SURFACE (Maintenance access routes or private land access only)		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Accessibility grading	Trimming unsealed formation material to restore vehicular access.	<p>The maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • The formation must be graded to fill holes and depressions and smooth loose material. • The surface must be trafficable for light vehicles.
Formation grading	The grading of unsealed formation to reinstate the correct profile ensuring drainage of the pavement and shoulders and providing a suitable running course	<p>The maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • The formation crossfall measured using the grader blade or other means must be within 4% to 6%. • Superelevation on curves must be 4% to 6%. • No water must pond on the surface. • The graded surface must be watered and rolled to provide a sound tight surface with minimal loose stones and no visible vertical movement. • The restored layer must have a minimum depth of 75 mm. • The cross-section must be visually uniform. Minimal loose material must be left in drains or around roadside furniture.
Formation or shoulder resheeting	<p>The addition of imported gravel/material to the running surface or shoulder to:</p> <ul style="list-style-type: none"> • reinstate to the correct profile/height above the natural surface • improve the quality of the surface material or • to obtain an acceptable running course depth 	<p>The maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • The formation crossfall measured using the grader blade or other means must be within 4% to 6%. • Superelevation around curves must be 4% to 6%. • No water must pond on the surface. • The graded surface must be watered and rolled to provide a sound tight surface with minimal loose stones and no visible vertical movement. • The cross-section must be visually uniform. • The restored pavement layer must be a minimum depth of 75 mm. • For shoulder work, the finished unsealed surface must be within +0, -10 mm of the height of the adjacent seal at the sealed/unsealed interface. Shoulder crossfall must be within +0, -2% (absolute) when compared to the crossfall of the adjacent sealed pavement.

300 DRAINAGE		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Earth surface drains	The repair and cleaning of earth surface drains. Repair and cleaning include works and materials (if required) to correct the profile and level of damaged earth surface drains.	<p>For new or refurbished drains: The maintenance must meet the requirement of the TMR <i>Road Drainage Manual</i> and relevant TMR Standards.</p> <p>For existing surface drains only: The drain must be repaired to the original design. If unable to repair to that standard, then it must be repaired to one of the typical designs in the TMR <i>Road Drainage Manual</i> . It is recognised in some cases where a shoulder has insufficient width (which cannot be corrected because of physical constraints), it is desirable to lessen the restoration depth and/or batter slope to ensure the drain remains trafficable (i.e. 600 mm wide, 150 mm deep, batter slope 1 on 4). In this instance, the repair of the drains should be undertaken to a standard that does not lessen the trafficable surface which is currently available to Road Users (i.e. the existing shoulder and/or trafficable drain batter should remain trafficable). The motorists should not perceive that the trafficable width has altered. The drain must be free of all material that could block the flow of water into the drain and along it. The base must be evenly sloped to allow water to flow to the outlet. The base of the drain must be at least 450 mm below the edge of the road shoulder (for earth table drains).</p>
Concrete surface drains	The repair and cleaning of concrete surface drains. Repair and cleaning include works and materials (if required) to correct the profile and level of damaged surface drains.	<p>The maintenance must meet the requirements of the TMR <i>Road Drainage Manual</i> and relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • The drain cross-section must conform to the design. • The base must be evenly sloped to allow water to flow to the outlet. • The drain must be free of all material that could block the flow of water into the drain and along it.
Concrete slabs, paving blocks, kerbs and dykes	The repair or replacement of concrete, paving blocks, kerbs, and dykes.	<p>The maintenance must meet the requirements of the TMR <i>Road Drainage Manual</i> and relevant TMR Standards and the additional requirement below.</p> <ul style="list-style-type: none"> • All excess material must be disposed of neatly outside the road reservation

300 DRAINAGE		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Erosion and sediment control Measures	All works associated with the installation, maintenance or removal of temporary or permanent erosion and sediment control devices that control run off from any surface within the Leased Area. Also includes routine pumping of specialised proprietary sedimentation pits.	<p>The maintenance must meet the requirements of the TMR <i>Road Drainage Manual</i> and relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • The Franchisees must monitor (including testing and reporting of test results) and inspect installed erosion and sediment control measures after rain events and at regular intervals during prolonged rain periods. Inspections are also required to monitor for repair of any damage and to remove excessive sediment deposits. • Devices are to be left in place and maintained until their removal will not result in sediment and turbidity discharge greater than the limits specified in the approved Environmental Management Plan. • Control Measures are to be maintained to the Soil Erosion and Sediment Control Guidelines contained in the Environmental Management Plan. • The Site must be left clean and tidy.
Culverts, pipes and pits	<p>All work associated with the repair and cleaning of culverts, pipes or pits.</p> <p>For existing installations this includes any repairs and the cleaning and removal of debris and silt impeding the:</p> <ul style="list-style-type: none"> • free flow of water, or • where a culvert is a fauna crossing, free fauna access to, through and from the culvert. 	<p>The maintenance must meet the requirements of the TMR <i>Road Drainage Manual</i> and relevant TMR Standards and the additional requirements below.</p> <p>For maintenance Activities:</p> <ul style="list-style-type: none"> ➤ The culverts, pipes and pits and their barrels, inlets and outlets must be free from all material that could restrict the flow of water. ➤ The inlets and outlets must include the area between the culvert, pipe or pit (or similar) to the outlet point of the upstream drainage system and the inlet point to the downstream drainage system. ➤ The concrete culverts and/or pipes, pits must be repaired to the standards specified in the approved repair method. ➤ The Site is to be left clean and tidy.
Inlet and outlet scour	All work associated with restoring scoured areas of drainage inlet and outlets to a stable condition, including any work and materials associated with the installation of new or the repair of existing scour blocks.	The maintenance must meet the requirements of the TMR <i>Road Drainage Manual</i> and relevant TMR Standards.

300 DRAINAGE		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Cut off walls	The replacement or installation of cut-off walls to drainage Structures.	The Maintenance must meet the requirement of the TMR <i>Road Drainage Manual</i> and relevant TMR Standards.
Subsoil drains and pavement drains	<p>All work associated with the installation, repair, inspection and servicing of subsoil drains including:</p> <ul style="list-style-type: none"> • excavating the road formation • installing or repairing subsoil drain • backfilling • restoring the pavement and / or shoulder as required <p>Inspection and servicing of subsoil drains includes routine drain flush out and the removal of all vegetation and other material which could restrict the flow of water from the subsoil drains as well as the repair or replacement of missing or damaged marker posts.</p>	<p>The maintenance must meet the requirements of the TMR <i>Road Drainage Manual</i> and relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • The standard of compaction must be such that the final passes of the compaction equipment leave no impressions on the restored surface. • The finished surface must be within +5 mm of the height of the surrounding road surface. • Outlets to subsoil drains must be free of material which would restrict the flow of water. Markers and screens must be in place and in good condition. • Drainage must be free flowing.
Floodways	<p>The cleaning of debris, silt from floodway sections.</p> <p>The reinstatement of damaged or deteriorated floodway Structures and repair of deteriorated or damaged concrete slopes and margins to original cross-section.</p> <p>Includes work carried out on scour repairs to concrete and stone pitched batter and apron protection</p>	<p>The maintenance must meet the requirement of the TMR <i>Road Drainage Manual</i> and TMR Standards.</p> <p>Refer to 400 Roadside for the clearing of vegetation to maintain a free flowing floodway.</p>

400 ROADSIDE - GENERAL		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Roadside litter collection	<p>The collection and disposal of litter and rubbish, whether from bins located along the right of way or from the right of way itself. Includes the repair and maintenance of receptacles.</p> <p>The disposal of litter must be carried out in accordance with Local Government and State requirements, and the removal must be prioritised in terms of safety, sustainability and aesthetics.</p> <p>Safety</p> <p>The collection, removal and disposal of tyre pieces and other litter constructed of a dense material and likely to become a traffic hazard as a projectile if displaced by a vehicle or if hazardous when struck by a motorcycle over the size of 100 cm² on the sealed roadway. The removal of this litter must take priority over litter that is not located on the sealed surface.</p> <p>Other</p> <p>All areas of concentrated litter and rubbish threatening environmentally sensitive areas within the road reserve must be removed.</p>	<p>Safety</p> <p>No litter over the size of 100 cm² potentially hazardous to traffic (as nominated above) remaining on the sealed roadway.</p> <p>Sustainability</p> <p>No litter must remain near environmentally sensitive areas.</p> <p>Aesthetics</p> <p>The Franchisees must leave the Site clean and tidy.</p>
Graffiti removal	The removal of graffiti from road infrastructure assets.	If graffiti is to be removed by painting over, the Franchisees must first obtain the State's Representative approval of the proposed standard colour palette to be used within the Leased Area. The painting over must match any pre-existing colours.
Urban design treatments	Activities related to urban design treatments of items including noise barriers, retaining walls and structures.	Following maintenance, urban design treatments of items including noise barriers, retaining walls and Structures must meet the requirements of the relevant TMR Standards; Maintenance to feature lighting is to be addressed under 600 Lighting and Traffic Signals.
Exclusion zone fencing (cultural heritage sites and fauna management)	All Activities associated with isolating cultural heritage sites and fauna management including fencing.	Maintenance must meet the requirement of the relevant TMR Standards

400 ROADSIDE - GENERAL		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Site restoration	<p>The restoration and rehabilitation of any ground contaminated with materials used to carry out works, including petroleum products. Includes all areas disturbed by construction Activities, for example:</p> <ul style="list-style-type: none"> • compounds • material storage areas • soil and mulch stockpiles • access and haul roads and • site sheds. <p>Site restoration must include revegetation and other measures necessary to restore the disturbed areas to a condition similar to the site conditions before disturbance.</p> <p>A minimum treatment of grass seeding or native plant seeding is required where the site condition was in a degraded condition.</p> <p>The Franchisees must submit a site restoration plan to the State's Representative for approval to commence restoration works.</p>	<p>The finished maintenance must meet the requirements of the relevant TMR Standards including</p> <p>Restoration Activities include the following work operations:</p> <ul style="list-style-type: none"> • weed eradication; • removal of rubbish, construction materials and other deleterious items; • ground preparation; • identification and management of contaminated land; • spreading of planting media; and • direct seeding or planting of container stock. <p>The maintenance must meet the requirements of the following documents:</p> <ul style="list-style-type: none"> • relevant MRTS • <i>TMR Road Landscape Manual</i> • the Environmental Management Plan.
Embankment stability problems	<p>All Activities required to restore the embankment as designed including:</p> <ul style="list-style-type: none"> • excavating unstable material • installing stabilising treatments such as geotextile, rockfill and/or subsoil drains • backfilling the road formation • restoring pavement, shoulder and bituminous surfaces. <p>landscape, revegetation and urban design treatments to be applied as required by the State</p>	<p>The repaired or restored works must conform to the verified design.</p> <p>An investigation must be undertaken to find the cause and recommend best method of rectification.</p>
Pull off area servicing	<p>The servicing of all aspects of pull off areas necessary for the safety and convenience of the public, including sites used as rest areas, driver reviver sites, or enforcement bays.</p>	<p>Areas must be safe, clean and tidy.</p>

400 ROADSIDE - LANDSCAPE AND URBAN DESIGN TREATMENTS		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Vegetation protection	Protection of vegetation to be retained during maintenance Activities. Maintenance Activities must include the installation of protective fencing and boarding.	Following maintenance, the landscape and urban design treatments must: <ul style="list-style-type: none"> • meet the requirements of the relevant TMR Standards, including MRTS16. Maintenance must meet the requirements of the TMR <i>Road Landscape Manual</i> .
Planting media management	The management of planting media (PM) including the fertility and stability of the material. Maintenance Activities must include PM testing and amelioration, placement of PM, stockpile management and rill repair and general erosion control.	
Fertilising	The fertilising of vegetation. Maintenance Activities must include the application of fertilisers.	
Pest and disease control	The control of pests including weeds, insects (such as fire ants) and disease within the Leased Area and including swales and sedimentation devices. Maintenance Activities must include the application of herbicides and insecticides.	
Slashing and brushcutting	The control of grassed areas to maintain safety and amenity requirements. Maintenance Activities must include the slashing, mowing and brushcutting of grassed areas	
Mulching	The remulching of areas treated with organic or rock mulches to maintain the specified mulch depth and the removal of mulches from areas not specified to be mulched.	
Seeding, turfing and the planting of container, ex-ground and site harvested plant material	The replanting and reseeding of vegetation where failures or damage have occurred. Where vegetation has reached the end of its life and requires replacement, work must be undertaken as periodic maintenance work.	
Pruning and selective removal and disposal of vegetation	The pruning and/or removal of vegetation in general and from clear zone and sight visibility areas. Maintenance Activities must include the pruning and/or removal of non-complying vegetation to maintain safety requirements and/or reduce overcrowding of seeded vegetation. The removal of vegetation from waterways or floodways is considered a special treatment that needs to be actioned on a case by case basis with approval from TMR.	
Disposal of landscape waste materials that cannot be re-used in the landscape	The disposal of landscape and revegetation wastes that cannot be re-used in the landscape including plant containers, stakes and ties.	
Declared weeds	The removal and destruction of declared weeds from the Tollroad	
Other landscape, revegetation and urban design treatments	The maintenance of other treatments including garden edging, irrigation systems, environmental erosion control treatments, and urban design treatments.	

500 ROAD FURNITURE		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Signs, other than advertising signs	<p>The repair or replacement of deficient signs, including guide signs and/or supports with deteriorated faces. Includes the replacement of damaged or deteriorated facilities with new signs and/or supports at that location.</p> <p>The cleaning of sign faces to remove dirt, graffiti and other contaminants to restore the reflectivity and appearance of signs. May also require the removal of graffiti from the back of the sign.</p>	<p>The finished maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • The sign and/or its support Structure must be repaired or replaced to the standards specified in the relevant technical standard and the <i>Manual of Uniform Traffic Control Devices</i> (MUTCD). • The sign face must be cleaned in such a way that all dirt and contaminants are removed. • Any damage caused by the cleaning process is not redeemable by the Franchisees.
Guide markers and delineators	<p>Works for guide markers and delineators include:</p> <ul style="list-style-type: none"> • supply and installation of guide markers to delineate the road alignment • the cleaning of guide markers to remove dirt and other contaminants and restore their white colour • the repair or replacement of guide markers and guide post delineators or their respective components to restore delineation of the road alignment 	<p>The finished maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below.</p> <ul style="list-style-type: none"> • The guide marker must be cleaned such that all dirt and contaminants are removed and/or the marker repainted. • The delineators must be repaired or replaced as specified above.
Barrier furniture and guardrail	<p>All works associated with the cleaning of guardrail and barrier furniture to remove dirt and other contaminants and/or its painting</p>	<p>The finished maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below:</p> <ul style="list-style-type: none"> • AS3845 • <i>Road Safety Barrier Systems & End Treatments</i> • <i>Chapter 8, Road Planning & Design Manual</i> • the <i>Manual of Uniform Traffic Control Devices</i>: • removal of all dirt and contaminants • painting.
Pit lids (electrical)	<p>The replacement of broken or missing lids on electrical pits. Does not include repair or replacement of the pit or assets in the pit.</p>	<p>The finished maintenance must meet the requirement of the Volume 5: Intelligent Transport Systems & Electrical Technology of the <i>Traffic and Road Use Management Manual</i> and relevant TMR Standards.</p>

600 LIGHTING, SIGNALS, INTELLIGENT TRANSPORT SYSTEMS		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Lighting	General maintenance Activities <ul style="list-style-type: none"> • replace lamps and clean lenses, emitting and reflecting surfaces • routine power, lighting, and lighting equipment servicing • repaint controller, mast arms and posts including hardware. 	The finished maintenance must meet the requirements of the relevant TMR Standards and the additional requirement below. <ul style="list-style-type: none"> • For loop or conduit replacement / maintenance, Activities on the pavement must not interfere with or disturb drainage paths through any open graded asphalt.
Ramp Signals	General maintenance Activities <ul style="list-style-type: none"> • replace lamps and clean lenses, emitting and reflecting surfaces • routine power and signals servicing • traffic signal work, general • traffic signal - coordination servicing • routine traffic management equipment servicing • repaint controller, mast arms and posts including hardware. 	The finished maintenance must meet the requirements of the Volume 5: Intelligent Transport Systems & Electrical Technology of the <i>Traffic and Road Use Management Manual</i> and relevant TMR-Standards and the additional requirement below. <ul style="list-style-type: none"> • For loop or conduit replacement / maintenance works, Activities on the pavement must not interfere with or disturb drainage paths through any open graded asphalt.
Intelligent Transport Systems (ITS)	General maintenance Activities and servicing of ITS: <ul style="list-style-type: none"> • devices • systems • infrastructure. 	The finished maintenance must meet the requirements of Volume 5: Intelligent Transport Systems & Electrical Technology of the <i>Traffic and Road Use Management Manual</i> and the relevant TMR Standards and the additional requirement below. <ul style="list-style-type: none"> • For loop or conduit replacement / maintenance works, Activities on the pavement must not interfere with or disturb drainage paths through any open graded asphalt.
After hours call out	The after hours inspection of a traffic signals site due to a fault report to ascertain fault and make site safe but not including remedial action required.	The finished maintenance must meet the requirements of the relevant TMR Standards.

700 TRAFFIC DELINEATION		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Road lines and road markings	General maintenance, appearance, renovation and replacement of all road markings including lines, symbols, transverse lines, chevrons, arrows, legends and painted medians. Includes sweeping, spotting, symbolising, repainting / reapplying.	<p>The finished maintenance must meet the requirements of the relevant TMR Standards and the additional requirement below.</p> <ul style="list-style-type: none"> The road marking must be reinstated in accordance with the <i>Manual of Uniform Traffic Control Devices</i>:
Raised pavement markers	The installation of new, or replacement of missing raised pavement markers.	<p>The finished maintenance must meet the requirements of the relevant TMR Standards and the additional requirement below.</p> <ul style="list-style-type: none"> The Franchisees must install or replace the raised pavement markers to the requirements of the <i>Manual of Uniform Traffic Control Devices</i>:
Remove unwanted road lines and markings	The removal of unwanted road lines and markings.	<p>The finished maintenance must meet the requirements of the relevant TMR Standards and the additional requirement below.</p> <ul style="list-style-type: none"> The road line must be ground off or otherwise treated so that the treated area will not be mistaken for a line or marking in all weather conditions.

800 STRUCTURES		
<i>Activity</i>		<i>Restoration Standards</i>
<i>Title</i>	<i>Description</i>	
Routine bridge servicing, cleaning / clearing	<p>Routine Maintenance works carried out to bridge Structures. Includes but not limited to:</p> <ul style="list-style-type: none"> • bridge deck surface and scuppers of debris or other foreign materials • aggressive materials from steel components • membranes and associated drains • foreign objects from deck expansion joints including joints that may have membranes covered by plates. • girder bearing areas, bridge bearings, bearing sills and sill drains • vent holes in superstructure • abutment and wing wall weepholes • minor works necessary to maintain a free flowing waterway such as the clearing of trees and vegetation 	<p>The finished maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below:</p> <ul style="list-style-type: none"> • Refer to 400 Roadside for the clearing of vegetation to maintain a free flowing waterway. • Use the <i>Bridge / Culvert Servicing Manual</i> to guide Defect identification and restoration requirements.
Routine bridge servicing, minor repairs / replacement	<p>Minor maintenance Activities carried out to bridge Structures of a preventative maintenance servicing nature. Includes but not limited to:</p> <ul style="list-style-type: none"> • tightening or replacement of missing nuts, bolts, plates and other minor components, especially coverplates on edge barriers. • painting of any painted surface where there are signs of flaking, chalking or rust • termite treatment where necessary • minor emergency reinstatement / replacement of isolated expansion joints, posts, cover plates, guardrails • minor repairs from mechanical damage to structure • rail crossing servicing 	<p>The finished maintenance must meet the requirements of the relevant TMR Standards and the additional requirements below:</p> <ul style="list-style-type: none"> • Refer to 400 Roadside for the clearing of vegetation to maintain a free flowing waterway. • Use the <i>Bridge / Culvert Servicing Manual</i> to guide Defect identification and restoration requirements. • Where it is necessary to repair mechanical damage caused by normal wear and tear, or usage of the Structure the repairs must be done to a standard such that the repaired Structure complies with: <ul style="list-style-type: none"> – the requirements of the RFA; and – is in CS2 of the BIM.

4-E.4 INTERVENTION LEVEL AND RESPONSE TIMES

In accordance with the requirements of the RFA, including the Performance Specification, the Franchisees must include in their maintenance standards, Intervention Levels and Response Times for maintenance on Asset Groups.

The tables in this Appendix set out Intervention Levels and Response Times for particular Defects that may occur within the Tollroad. The Intervention Levels and Response Times set are the minimum required standards. The Franchisees must develop their own Intervention Levels and Response Times for each Asset Group, which must be not less than the Intervention Levels and Response Times in this Appendix.

The tables in this Appendix also set out the Priority Group for the Defects and the minimum Restoration Standards.

Unless specified in the tables in this Appendix, the Response Times to correct any Defect must be:

- 5 calendar days for all Defects; except
- where a Defect creates an unsafe travelling environment or traffic congestion or traffic delay, in which case the response time is one calendar day. .

The Restoration Standards refer to the TMR Standards, many of which are listed in Appendix 4-A .

Intervention Levels and Response Times are sourced from TMR *Routine Maintenance Performance Specifications* (RMPC), and in general the requirements shall be no less than those stated in the TMR RMPCs

Emergency				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Emergency response - safety (road, Structures)	<ul style="list-style-type: none"> • Navigation lights not working • Loose stones / debris in the running lanes, especially on bridges or floodways • Any pothole, debris on shoulders or abrupt depression that is hazardous to traffic • Any hazard in traffic / pedestrian pathway or that creates an unsafe environment • Any Defect which exceeds any base Intervention Level that requires immediate response • Any Defect that causes a safety issue including road surface friction • Dead beasts on roadway 	1 - Safety	1 hour	Refer Appendix 4-E.3 - 600 Lighting, signals, ITS Refer Appendix 4-E.3- 100 Bituminous surfaces

Bituminous Surface Defects				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Isolated depressions and bumps - longitudinal in wheel paths (safety)	Ponding of water hazardous to traffic; or Change in depth or height exceeds 40 mm per metre	1 - Safety	2 weeks	Refer Appendix 4-E.3- 100 Bituminous surfaces
Isolated depressions and bumps - longitudinal in wheel paths (other)	Depth or height of 30 mm from 4 m string line; or Change in depth or height exceeds 20 mm per metre	3 - Usability	2 weeks to instigate investigation. 36 weeks to rectify Defect.	Refer Appendix 4-E.3
Ruts	Any detected where the depth of the depression measured laterally from the top of the ridge using a 1.2 m straight edge is 20 mm; or where the requirements of Clause 6 of this Part 4 are exceeded; or where ponding of water hazardous to traffic occurs	1 – Safety 3 - usability	2 weeks to instigate investigation. 36 weeks to rectify Defect.	Refer Appendix 4-E.3
Shoving of pavement or asphalt	Any detected where the depth of the depression measured laterally from the top of the ridge using a 1.2 m straight edge is 20 mm; or where the requirements of Clause 5 of this Part 4 are exceeded; or where ponding of water hazardous to traffic occurs	1 – Safety 3 - usability	2 weeks to instigate investigation. 36 weeks to rectify Defect.	
Potholes (other than safety)	Any pothole not unsafe; or When initial pot hole repair fails	1 - Safety	5 calendar days	Refer Appendix 4-E.3 - 100 Bituminous Surfaces
Rough surface	Roughness (100 m segment): Any detected roughness where is greater than IRI 3.2	2 – Preventative	2 weeks	Refer Appendix 4-E.3- 100 Bituminous Surfaces
Water ponding on open graded asphalt	Any detected	1 – Safety	4 weeks	Clean or replace open graded asphalt to restore porosity.
Crocodile cracking	Any detected that exceeds a 200 mm circle OR moisture is entering the pavement; or where the requirements of Clause 5 of the Asset Management Performance Specification are exceeded	2 – Preventative	2 weeks to instigate investigation. 12 weeks to rectify Defect.	Refer Appendix 4-E.3

Bituminous Surface Defects				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Cracking / pumping	Any detected	2 – Preventative	2 weeks to instigate investigation. 16 weeks to rectify Defect.	Refer Appendix 4-E.3
Bituminous surface cracks	Individual cracks of > 2 mm width; or Extensive cracking and moisture is entering the pavement.	2 – Preventative	2 weeks to instigate investigation. 24 weeks to rectify Defect.	Refer Appendix 4-E.3
Edge break (safety)	20 mm at edge line	1 – Safety	2 Weeks	Refer Appendix 4-E.3- 100 Bituminous surfaces
Edge break (other)	Measurement from prevailing and existing seal edge is: • 20 mm when shoulder seal width is < 0.6 m • 50 mm when shoulder seal width is > 0.6 m	3 – Usability	12 weeks	Refer Appendix 4-E.3 - 100 Bituminous surfaces
Flushing / bleeding seal	Hazardous to traffic; or Fatty strip exceeds 10 m in length on curves or approach/within an intersection or 15 m on straights or 10% of any lane km is fatty.	1 – Safety	4 weeks	Refer Appendix 4-E.3 - 100 Bituminous surfaces
Ravelling or stripping	Isolated patches exceed 10 m ² ;or 10% loss of surface aggregate.	1 – Safety	2 weeks to instigate investigation. 4 weeks to rectify Defect.	Refer Appendix 4-E.3
Excessively noisy bituminous surface	Surface noise is excessive	3 – Usability	36 weeks	Refer Appendix 4-E.3 - 100 Bituminous surfaces
Loose stones on any sealed surface	Where loose material build up is covering edge line; or 25 mm depth of loose material build up adjacent to Carriageway	2 – Preventative	6 weeks	Refer Appendix 4-E.3 - 400 Roadsides
Grass on sealed roadway	Any detected	2 – Preventative	12 weeks	Refer Appendix 4-E.3 D - 400 Roadsides

Bituminous Surface Defects				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Manholes or gully pits excessively noisy	Excessively noisy	3 – Usability	4 weeks	Refer Appendix 4-E.3 - 300 Drainage
Manholes or gully pits surrounding surface Defect	±30 mm step relative to the surrounding surface	2 – Preventative	4 weeks	Refer Appendix 4-E.3 - 300 Drainage
Depressions (service re-instatements)	Refer to 'Isolated depression and bump'	2 – Preventative	4 weeks (or longer time if approved by TMR)	Refer Appendix 4-E.3
Insufficient crossfall	Reduction in designed crossfall; or Settlement of pavement concentrates water flows; or causes water ponding	2 – Preventative	24 weeks to investigate the investigation.	Refer Appendix 4-E.3 - 100 Bituminous Surfaces
Scour channels	Isolated or series of scour channels depth should not exceed 50 mm	1 – Safety	4 weeks	Refer Appendix 4-E.3 - 100 Bituminous Surfaces Refer Appendix 4-E.3 - 200 Unsealed Surfaces
Shoulder edge drop off (safety)	40 mm when sealed shoulder is < 0.6 m 50 mm when sealed shoulder is > 0.6 m but < 1.8 m 20 mm in pedestrian areas	1 – Safety	4 weeks	Refer Appendix 4-E.3 - 100 Bituminous Surfaces Refer Appendix 4-E.3 - 200 Unsealed Surfaces Refer Appendix 4-E.3 - 400 Roadside
Shoulder edge drop off (other)	50 mm when shoulder seal width is >1.8 m	3 – Usability	12 weeks	Refer Appendix 4-E.3 - 100 Bituminous Surfaces Refer Appendix 4-E.3 - 200 Unsealed Surfaces Refer Appendix 4-E.3 - 400 Roadside

Drainage Defects (including surface drains, culverts, pipes, pits, floodways, and subsoil drains)				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Insufficient grade or silted (safety)	Restriction to water draining from road causing water to flow onto the road; or Water ponding at the pavement edge; or Drainage endangering private property	1 - Safety	4 weeks	Refer Appendix 4-E.3 - 300 Drainage
Insufficient grade or silted (other)	Water ponding within 400 mm below shoulder point	2 - Preventative	12 weeks	Refer Appendix 4-E.3 - 300 Drainage
Breached surface drain or erosion scour (safety)	Drainage erosion scour within 300 mm of edge line endangering roadway	1 - Safety	4 weeks	Refer Appendix 4-E.3 - 300 Drainage
Breached surface drain or erosion scour (preventative)	Drainage endangering roadway; or Drainage endangering private property	2 - Preventative	12 weeks	Refer Appendix 4-E.3 - 300 Drainage
Breached surface drain or erosion scour (other)	Erosion channels >150 mm deep	3 - Usability	12 weeks	Refer Appendix 4-E.3 - 300 Drainage
Drainage obstructed (safety)	Private property or the roadway is endangered; or Water sitting in steel culvert	2 - Preventative	4 weeks	Refer Appendix 4-E.3 - 300 Drainage
Drainage obstructed (other)	30% of the inlet / outlet obstructed; or Weed growth in inverts which will significantly impede water flow	2 - Preventative	12 weeks	Refer Appendix 4-E.3 - 300 Drainage Refer Appendix 4-E.3 - 400 Roadside
Scour at inlet and outlets	Significant erosion or movement of rock protection which is likely to affect the structural integrity	3 - Usability	4 weeks	Refer Appendix 4-E.3 - 300 Drainage
Rust in metal culverts	Extending over 20% of surface area; or Rust holes >3 mm deep	2 - Preventative	8 weeks (or longer period if approved by TMR)	Refer Appendix 4-E.3 - 300 Drainage
Paved invert damage (metal culverts)	Likely to affect the structural integrity	2 - Preventative	8 weeks (or longer period if approved by TMR)	Refer Appendix 4-E.3 - 300 Drainage
Aprons, headwalls, wingwalls damaged/missing	Likely to affect the structural integrity	2 - Preventative	8 weeks (or longer period if approved by TMR)	Refer Appendix 4-E.3 - 300 Drainage
Culvert or pipes parting	Likely to affect the structural integrity	2 - Preventative	4 weeks (or longer period if approved by TMR)	Refer Appendix 4-E.3 - 300 Drainage
Damaged culverts and gully pits	Any structural damage affecting the integrity	3 - Usability	8 weeks (or longer period if approved by TMR)	Refer Appendix 4-E.3 - 300 Drainage
Repair or install stone pitching	Likely to affect the structural integrity	2 - Preventative	8 weeks (or longer period if approved by TMR)	Refer Appendix 4-E.3 - 300 Drainage

Drainage Defects (including surface drains, culverts, pipes, pits, floodways, and subsoil drains)				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Silt or blockage in the system including flush points and outlets	Retaining moisture in the road formation	2 - Preventative	36 weeks	Refer Appendix 4-E.3 - 300 Drainage
Marker post hidden or missing	Any	3 - Usability	12 weeks	Refer Appendix 4-E.3 - 300 Drainage
Damaged or missing rodent protection	Any rodent protection or outlet scour or flush point corrosion / damage	2 - Preventative	12 weeks	Refer Appendix 4-E.3 - 300 Drainage
Scoured area endangering Carriageway	Affect the Structural Capacity of Roadway	1 - Safety	1 week	Refer Appendix 4-E.3 - 400 Roadside
Scoured areas on road reserve	Scour is likely to affect adjoining private property; or Likely to cause environmental damage	2 - Preventative	4 weeks	Refer Appendix 4-E.3 - 400 Roadside

Roadside amenity Defects – roadside vegetation including rest areas				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Damaged vegetation	When Activities encroach within 5 m from the dripline of vegetation to be retained.	2 - Preventative	Upon detection	Vegetation protection in accordance with MRTS16; and replacement of damaged vegetation in accordance with MRTS16.
Erosion or quality degradation of planting media	When planting media coverage or quality falls below the standards required by MRTS16.	2 - Preventative	4 weeks; or prior to a loss of planting media and/or vegetation that exceeds the Intervention Levels to public safety, drainage devices and/or environmental protection (water quality and so on).	Planting amelioration in accordance with MRTS16; and repair of rills, ruts, scours, slips and the re-spreading of subsoil and planting media in accordance with MRTS16.
Plant nutrient deficiency symptoms evident	When detected, as required by MRTS16	2 - Preventative	4 weeks; or prior to vegetation failure, whichever occurs first.	Application of fertiliser in accordance with MRTS16.
Pest and/or disease evident	Any detected including public Complaint OR infestation	2 - Preventative	1 week; or prior to vegetation failure, whichever occurs first.	Application of pesticides in accordance with MRTS16.
Landscape, revegetation and urban design and landscaping Defects	Any detected 20% loss of asset or greater.	1 – 3 (relevant to effect on public safety)	Relevant to effect on public safety.	Maintenance must meet the requirements of the <i>TMR Road Landscape Manual</i> .

Roadside amenity Defects – roadside vegetation including rest areas				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
<p>Unsafe vegetation – sight visibility, Clear Zone, lighting and/or traffic sign impediment or fire hazard</p>	<p>Any detected including: Excessive roadside vegetation (grasses) 300 mm or greater in height (other than medians). Control fire hazard or drainage issues</p> <p>Trees or shrubs close to the roadway considered to be a hazard; or Trees or shrubs with trunk diameter 100 mm or greater measured 300 mm above ground level within the Clear Zone.</p> <p>Trees or limbs likely to fall on the roadway; or Limbs/trunks diameter 100 mm or greater with 50% or greater dead or rotting foliage or timber hanging over any portion of the Carriageway.</p> <p>Vegetation that obscures sight distance and minimum stopping sight distance; or Vegetation within 2 m of a guidepost greater than 200 mm high; or any vegetation in the sightline 300 mm high or greater. Any vegetation that obscures roadside furniture, traffic signs, Carriageway lighting; or Any vegetation that is within 3.6 m of the edge of the roadway and exceeds 500 mm in height.</p> <p>Grass/vegetation on medians 200 mm high or greater.</p>	1 – Safety	1 calendar day	Removal of vegetation in accordance with MRTS16.

Roadside amenity Defects – roadside vegetation including rest areas				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Potentially unsafe vegetation – setback requirements to services and Structures impediment	Potential safety issue; or potential drainage issue; or potential sight visibility, Clear Zone, lighting and/or traffic sign impediment; or elimination of potential local fire hazards	1 – Safety	4 weeks; or prior to vegetation impeding safety requirements, whichever occurs first.	Removal of vegetation in accordance with MRTS16.
Unkempt vegetation and vegetation requiring formative pruning	Any vegetation that is not a safety issue, and in drains, around Structures and other assets. Access must be maintained. Any area previously cleared where regrowth is evident.	3 - Usability	8 weeks; or Optimum pruning time for the specific vegetation, whichever comes first	Pruning of vegetation in accordance with MRTS16.
Unsafe disposal of landscaping/revegetation (LR) waste materials	When detected, as required by MRTS16	1 – Safety	1 calendar day	Removal of vegetation in accordance with MRTS16.
Insufficient vegetation cover	When vegetative cover has not developed sufficiently to meet the requirements of MRTS16 and, the Performance Specification.	2 - Preventative	8 weeks; or to coincide with optimum seeding and planting conditions, whichever occurs first.	Seeding and planting of container stock to achieve specified vegetative cover relevant to the age of the LR treatment in accordance with MRTS16.
Failure of vegetation due to extremes in hot and/or windy weather	Prior to the soil moisture content reaching permanent wilting point as required by MRTS16	2 - Preventative	1 calendar day in extreme conditions	Watering of vegetation in accordance with MRTS16.
Weeds other than declared plants evident	Any detected.	2 - Preventative	1 week for high profile areas; 4 weeks for low profile areas; or prior to the formation of seed, whichever occurs first.	Removal of weeds in accordance with MRTS16.
Declared plants evident	Any detected.	2 - Preventative	2 weeks; or prior to the formation of seed, whichever occurs first.	Removal of declared plants in accordance with MRTS16.

Roadside amenity Defects – roadside vegetation including rest areas				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Amenities in rest area	Unusable toilet facilities Litter bins full/overflowing Amenity furniture not functional Vegetation in open areas 200 mm height or greater. Vegetation that exceeds requirements of 'Unsafe Vegetation'	2 - Preventative	2 calendar days	Toilets to be useable and safe. Litter bins not to overflow. Furniture to be kept functional.

Bike / pedestrian paths Defects				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Loose stones / debris on the bike path	Stone build-up / debris likely to be hazardous to cyclists / pedestrians	1 - Safety	1 calendar day	Refer Appendix 4-E.3 - 400 Roadside
Loose stones / debris adjacent to bike path	10 mm depth of loose material; or Stone build-up / debris adjacent to path	2 - Preventative	2 weeks	Refer Appendix 4-E.3 - 400 Roadside
Breached surface drain or erosion scour	Drainage endangering private property	1 - Safety	4 weeks	Refer Appendix 4-E.3 - 300 Drainage
Breached surface drain or erosion scour	Any erosion channel in the surface drain	3 – Usability	12 weeks	Refer Appendix 4-E.3 - 300 Drainage
Drainage obstructed (safety)	Private property or the roadway is endangered	1 - Safety	4 weeks	Refer Appendix 4-E.3 - 300 Drainage Refer Appendix 4-E.3 - 400 Roadside
Drainage obstructed (other)	Over 30% of the inlet / outlet obstructed; or Weed growth in inverts which will significantly impede water flow	2 - Preventative	12 weeks	Refer Appendix 4-E.3 - 300 Drainage Refer Appendix 4-E.3 - 400 Roadside
Culvert, pipes and pits Defects (general)	Damage likely to affect the integrity of the unit	2 - Preventative	12 weeks	Refer Appendix 4-E.3 - 300 Drainage
Damaged path • Faulting (step) • Cracking	Height of vertical step – 10 mm; or Width of crack – 15 mm	1 - Safety	2 calendar days	Refer Appendix 4-E.3 - 100 Bituminous surfaces Refer Appendix 4-E.3 - 400 Roadside
Damaged bike path fencing	Any panels missing, loose or damaged	1 - Safety	2 calendar days	Refer Appendix 4-E.3 - 400 Roadside
Electrical pit (lid only)	Damaged electrical pit lid hazardous to cyclists	1 - Safety	1 calendar day	Refer Appendix 4-E.3 - 400 Roadside
Missing or deficient regulatory, warning or hazard sign	Any missing sign or dirty face or if after cleaning, sign is not clearly legible	1 - Safety	2 calendar days	Refer Appendix 4-E.3 - 400 Roadside Refer Appendix 4-E.3 - 500 Road furniture
Missing or deficient guide sign	Any missing sign or dirty face or if after cleaning, sign is not clearly legible	3 – Usability	4 weeks	Refer Appendix 4-E.3 - 400 Roadside Refer Appendix 4-E.3- 500 Road furniture

Bike / pedestrian paths Defects				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Vegetation	<p>Any detected including: Excessive vegetation (grasses) to control fire hazard or drainage issues 300 mm or greater in height.</p> <p>Trees or shrubs close to the pathway considered to be a hazard</p> <p>Trees or limbs likely to fall on the pathway; or Limbs/trunks diameter 100 mm or greater with 50% or greater dead or rotting foliage or timber hanging over any portion of the carriageway.</p> <p>Any vegetation that obscures roadside furniture, traffic signs, Carriageway lighting; or is within 1.5 m of the edge of the roadway and exceeds 500 mm in height.</p> <p>Grass/vegetation on shoulders/berms or medians 100 mm high or greater.</p>	1 - Safety	1 calendar day	Refer Appendix 4-E.3 - 400 Roadside Refer Appendix 4-E.3 - 500 Road furniture
Road safety audit	Any high risk safety Defect identified through the road safety audit.			Relevant TMR Standards for the treatment of pathways.

Defect Classification Type	Intervention Level	Priority Group	Notes	Response Time	Minimum Restoration Standard
Variable speed limit and Lane Use Management Signs	<p>Critical fault Complete failure of system or equipment.</p> <p>Urgent fault Failure that causes significant doubt about the system or equipment operating in accordance with manufacturer specifications.</p> <p>Minor fault Occasional disruption to systems or equipment.</p> <p>Other A fault which does not fall within the above criteria is deemed a critical fault unless other allocation agreed to by TMR.</p>	1 - Safety		<p>“Response Time” is the measurement between the time a fault or incident occurs and the action taken by the Franchisees to respond and/or make safe. This response time may not include asset rectification time.</p> <p>1 – Safety Critical - 2 hours</p> <p>2 – Urgent – 4 hours</p> <p>3 – Minor – 5 calendar days</p> <p>Where the rectification of a critical or urgent Defect within the response time for that critical or urgent Defect will, or would be likely to:</p> <ul style="list-style-type: none"> • create a threat to the safety of persons or property; or • require the Franchisees to close one or more traffic lanes on the Tollroad, <p>the response time will be such longer period determined by the Franchisees, as is reasonable in the circumstances but not to be greater than 24 hours, having regard to Best Practices, the flow of traffic on the Tollroad and all relevant safety principles.</p>	Refer Appendix 4-E.3 - 600 Lighting, signals, Intelligent Transport Systems
Mains power supply		1 - Safety	Acknowledgement to Service Provider of default.		
Traffic signals		1 - Safety	Currently no traffic signal assets exist.		
Road lighting		3 - Useability			
Help telephones		1 - Safety			
Switchboards		1 - Safety	Relevant to critical ITS devices only.		
Road weather monitoring		3 - Useability			
Over-height detection		1 - Safety			
Telecommunications system including field cabinets and cables		1 - Safety	Relevant to critical ITS devices only.		
Navigation devices		1 - Safety	Air and boating traffic		
VMS		3 - Useability			
WIM		3 - Useability			
Vehicle loop detectors or VDD		3 - Useability			
CCTV		3 - Useability			
Telecommunication cables		3 - Useability			
ITS mounting Structures	3 - Useability				
TTS	3 - Useability				
ANPR	3 - Useability				
Classification counters	3 - Useability				
Motorway lighting failure	Failure that causes significant doubt about the system or equipment not operating in accordance with manufacturer	1 – safety		4 hours	

Defect Classification Type	Intervention Level	Priority Group	Notes	Response Time	Minimum Restoration Standard
	specifications. (e.g. 3 or more consecutive lights)				
Motorway lighting failure	Occasional disruption to systems or equipment. (e.g. less than 3 consecutive lights)	2 – Preventative		14 days	
Motorway lighting	Luminosity at design levels	3 - Useability		12 weeks	
Structural damage (poles)	Potential hazard to traffic or pedestrian (e.g. damage light pole encroaching traffic lane)	1 - Safety 3 - Usability		1 hour – make safe 4 weeks - replace	
Damaged pit lid	Hazardous to pedestrians	1 – Safety		1 day	
Damaged pit	Structural	1 – Safety 3 - Useability		1 day – make safe 8 weeks - repair	

Traffic furniture Defects				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Guide post or delineator Defects (safety)	Missing guide posts in a hazardous location for the travelling public; or Inability at night to see at least two delineators ahead on low beam (both red and white) from a delineator location	1 – Safety	2 calendar days	Refer Appendix 4-E.3 - 500 Road furniture
Guide post or delineator Defects (other)	Missing or leaning guide posts where at least two delineators ahead (both red & white) can still be seen on low beam	2 – Preventative	8 weeks	Refer Appendix 4-E.3 - 500 Road furniture
Guardrail, fencing and concrete barrier structural Defects (safety)	Potential hazard to traffic; or System has a loss of structural integrity	1 – Safety	2 calendar days	Refer Appendix 4-E.3 - 500 Road furniture
Guardrail, fencing and concrete barrier structural Defects (other)	Guardrail panel is bent 200 mm out of alignment	1 – Safety	10 calendar days	Refer Appendix 4-E.3 - 500 Road furniture
Guardrail, fencing and concrete barrier Defects (appearance)	Aesthetic appearance and/or visibility decreased by accumulation of dirt, peeling paint etc.	3 – Usability	6 weeks	Refer Appendix 4-E.3 - 500 Road furniture
Kerb or dyke Defects (safety)	Broken or irregularity projecting into the trafficked area >30 mm; or Potential to cause a traffic hazard	1 – Safety	1 calendar day	Refer Appendix 4-E.3 - 300 Drainage Refer Appendix 4-E.3 - 400 Roadside
Kerb or dyke Defects (other)	Continuous kerbing length damaged or missing that is not a traffic hazard	3 – Usability	12 weeks	Refer Appendix 4-E.3 - 300 Drainage Refer Appendix 4-E.3 - 400 Roadside

Traffic control devices Defects – Signs

Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Deficient regulatory, warning or hazard sign	Sign is beyond repair OR Faded / dirty sign face which is not clearly legible (at night with lights on low beam) from: <ul style="list-style-type: none"> • 85 m at 60 km/h • 115 m at 80 km/h • 140 m at 100 km/h, OR • within 5 seconds of travel at the operational speed OR Missing	1 - Safety	1 calendar day	Refer Appendix 4-E.3 - 400 Roadside
Deficient or damaged sign footings, supports or fittings (safety)	Sign unreadable OR Sign or support is unstable	1 - Safety	1 calendar day	Refer Appendix 4-E.3 - 400 Roadside Refer Appendix 4-E.3 - 500 Road Furniture
Deficient or damaged regulatory, warning or hazard sign footings, supports or fittings (other)	Sign faded OR Sign or support stable but leaning / bent	2 - Preventative	4 weeks	Refer Appendix 4-E.3 - 400 Roadside
Deficient guide sign face	Sign is beyond repair OR Faded / dirty sign which is not clearly legible (at night with lights on low beam) from: <ul style="list-style-type: none"> • 200 m at 60 km/h • 300 m at 80 km/h • 350 m at 100 km/h, OR • within 5 seconds of travel at the operational speed. 	2 - Preventative	4 weeks	Refer Appendix 4-E.3 - 400 Roadside
Sign misalignment	Sign is reflecting glare from vehicle lights at night back to the motorists OR Sign is on a noticeable lean	2 - Preventative	4 weeks	Refer Appendix 4-E.3 - 500 Road Furniture

Traffic control devices Defects - Road Marking				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Damaged painted roadmarkings	More than 50% of the line or marking has: <ul style="list-style-type: none"> worn off; or lost reflectivity; or discoloured when viewed at night using low beam.	1-Safety	8 weeks	Refer Appendix 4-E.3 - 700 Traffic Delineation
Damaged thermoplastic / epoxy roadmarking	Visibility / effectiveness of less than 15% of marking or line is impaired by loss of: <ul style="list-style-type: none"> colour; or reflectivity; or shape. 	1-Safety	8 weeks	Refer Appendix 4-E.3- 700 Traffic Delineation
Damaged raised pavement marker (RPM)	Loss of RPM's or reflectivity of RPMs exceeds; <ul style="list-style-type: none"> 50% on straights; or 25% on curves; or or any consecutive RPMs missing. 	1-Safety	8 weeks	Refer Appendix 4-E.3- 700 Traffic Delineation

Other roadside Defects				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Damaged concrete or paving blocks	Potential traffic hazard to traffic or pedestrians	1 - Safety	1 week	Refer Appendix 4-E.3- 400 Roadside
Graffiti – any surface or sign	Offensive* Non-offensive	2 - Preventative	24 hours 7 days	Refer Appendix 4-E.3- 400 Roadside
Litter on road reserve (routine)	Any	2 – Preventative	1 week	Refer Appendix 4-E.3 - 400 Roadside
Litter on road reserve (sensitive location)	Any	2 - Preventative	1 calendar day	Refer Appendix 4-E.3- 400 Roadside
Unauthorised signs	Any	2 - Preventative	1 calendar day	Refer Appendix 4-E.3- 400 Roadside
Collapsed batter or embankment or earth / rock in sight line (safety)	Traffic hazard	1 - Safety	1 calendar day	Refer Appendix 4-E.3– 400 Roadside
Collapsed batter or embankment or earth / rock in sight line (general)	Any fallen rock or earth reducing sight line (refer to Austroads standards for required sight distances)	1 - Safety	5 days	Refer Appendix 4-E.3- 400 Roadside
Unstable batter, embankment or missing material (general)	May be potential traffic hazard	2 - Preventative	1 week	Refer Appendix 4-E.3- 400 Roadside
Electrical pit (lid only)	Damaged electrical pit lid hazardous to pedestrians	1 - Safety	1 calendar day	Refer Appendix 4-E.3– 500 Road furniture

* Offensive means: racist; sexist; prejudice; contains crude language; depicts graphics of a sexual or violent nature or contains a person's details.

Bridge and miscellaneous Structure Defects				
Defect Classification Type	Intervention Level	Priority Group	Response Time	Minimum Restoration Standard
Major safety issue	Structural Defect / safety	1 – Safety	2 calendar days	Refer Appendix 4-E.3 – 800 Structures
Structures excluding corrugated metal culverts	CS4 not permitted on Tollroad CS3 requires remedial works or replacement	2 – Preventative	12 weeks unless safety issue then 1 week	Refer Appendix 4-E.3– 800 Structures
Corrugated metal culverts	Major safety implications and need fast response. CS4 not permitted CS3 requires replacement	1 – Safety 2 – Preventative	1 week if safety/structural 12 weeks if not structural/safety	Refer Appendix 4-E.3– 800 Structures
Spalled / damaged members (safety)	Structural effect – any damage	1 – Safety	2 calendar days	Refer Appendix 4-E.3– 800 Structures
Spalled / damaged members (other)	Non-structural effect – any damage	2 – Preventative	12 weeks	Refer Appendix 4-E.3– 800 Structures
Bridge joints or cover plates	Any failure. Note: Finger joints and modular joints failure can close a lane and are a major safety issue. Any Defect causing excessive noise, causing community Complaint	1 – Safety 2 – Preventative	1 week For finger joints /modular joints – 1 calendar day	Refer Appendix 4-E.3– 800 Structures
Scouring around bridge piles	Structural integrity of the Structure is likely to be affected	2 – Preventative	1 week	Refer Appendix 4-E.3– 800 Structures
Debris on bridge (non-safety)	30 mm depth of loose material against kerb; or Blockage to bridge scuppers	1 – Safety	2 weeks	Refer Appendix 4-E.3– 800 Structures
Cracked / scoured abutment protection	Likely to affect adjoining private property; or Affect the structural capacity of the abutment protection; or Likely to cause environmental damage	2 – Preventative	12 weeks	Refer Appendix 4-E.3– 800 Structures
Damaged handrails, bridge rails and posts (safety)	Damaged rail or components are a potential hazard to traffic or there is a loss of structural integrity	1 – Safety	2 calendar days	Refer Appendix 4-E.3– 800 Structures
Damaged handrails, bridge rails and posts (other)	200 mm out of alignment measured over any 4 m section	2 – Preventative	12 weeks	Refer Appendix 4-E.3– 800 Structures
Corrosion of steel elements	Damage likely to affect the structural integrity of the bridge	2 – Preventative	12 weeks	Refer Appendix 4-E.3– 800 Structures
Relieving slabs (general)	Rotation of greater than 20 mm/m from plane of bridge; or Depth of depression measured using a 1.2 m straight edge from crest to sag is 30 mm at either end of the relieving slab	3 – Usability	12 weeks	Refer Appendix 4-E.3- 100 Bituminous surfaces

4-E.5 INSPECTION AND MONITORING PLANS

In accordance with the requirements of the RFA, including the Performance Specification, the Franchisees must include in their maintenance standards inspection plans for Asset Groups.

This Appendix includes 'Inspection and Monitoring Plans' which set out monitoring and inspection methods (including condition indicators) and frequencies and scopes for particular assets. The monitoring and inspection methods and frequencies and scopes are to be used as the minimum requirements. The Franchisees must develop their own inspection plans for each Asset Group, which must include monitoring and inspection methods (including condition indicators) and frequencies and scopes that are not less than the monitoring and inspection methods and frequencies and scopes in this Appendix 4-E.5.

The tables in this Appendix 4-E.5 also set out a minimum level of service for the assets. The Franchisees must maintain the assets to ensure test results do not fall below the stated level of service.

Inspection and Monitoring Plan – General

Asset	Monitoring or inspection method	Frequency	Scope	Level of service	Comment
The whole of the Tollroad	Inspect by drive over at design speed during day time.	Drive over – minimum 1 / day, preferably before morning peak.	Whole Tollroad	Tollroad is safe for travel at design speed.	Safety of the Road User is paramount. Inspection must identify Defects that may create hazards or affect the assets forming part of the Tollroad.
The whole of the Tollroad	Inspect by slow drive over. Some measurements may be required.	Drive over – minimum 1 / week.	Whole Tollroad	Refer to the level of service required for the asset / sub-asset.	Early identification and monitoring of Defects is critical. Inspection must identify and monitor Defects that affect the condition of any asset or create poor driving conditions.
The whole of the Tollroad	Inspect by slow drive over at design speed during night with lights on low beam. Some measurements may be required.	Drive over – minimum 2 / year. Inspections must be at least 4 months apart.	Whole Tollroad	Tollroad is safe to travel on at operable speed at night. Night visibility of traffic control devices acceptable at low beam.	Early identification and monitoring of Defects is critical. Inspections must identify and monitor Defects that affect the condition of any asset or create poor driving conditions.
The whole of the Tollroad including paths	Road safety audit - detailed visual inspection	Every 3 years	Safety aspects of travelling on the Tollroad.	Tollroad is as safe as designed, or better.	Road safety audit to be conducted as per Austroads <i>Guide to Road Safety Part 6: Road Safety Audit</i>

Inspection and Monitoring Plan – Asphalt pavement

Asset	Monitoring or inspection method	Frequency	Scope	Level of service	Comment
Pavement	As specified in Performance Specification for: <ul style="list-style-type: none"> • cracking • roughness • rutting • ravelling • deflection • skid resistance 	Annual, unless specific tests are otherwise required in Performance Specification.	As specified in Performance Specification.	As specified in Performance Specification.	
Embankment supporting pavements	Visual check Field survey Instrument monitoring	Annual as a minimum, unless movement discovered through Routine Maintenance inspections	All shoulders and trafficable lanes Check for crossfall adequacy Check for water ponding Check for water being concentrated on the trafficable surface	As specified in Performance Specification.	On or near traffic lanes, settlement must not create: <ul style="list-style-type: none"> • ponding of water • concentration of runoff to a depth unacceptable to drive through at speed. <p>The Franchisees must undertake a full investigation of any breach of the above or the level of service and submit a report with the proposed rectification plan.</p>
Open graded asphalt surface layers	Visual check of porosity during / after rain events	6 months, unless otherwise specified in Performance Specification.	All trafficable lanes	No ponding of water	

Inspection and Monitoring Plan – Electrical equipment & Intelligent Transport Systems

Asset	Monitoring or inspection method	Frequency	Scope	Level of service	Comment
Electrical Equipment / Services including equipment for provision of lighting.	Testing as per the relevant TMR Standards	As per the relevant TMR Standards	All lighting and other electrical equipment not included in ITS requirement.	Electrical equipment must always at least meet the TMR Standards.	Includes electrical, poles, lanterns, conduits, pits
Lighting tubes and lamps	Night inspection. Light meter (luminosity at design level).	Each six months.	Navigation lighting. Street lighting. General lighting (safety lights). Feature lights.	Level of light provided must not fall below what is stipulated in the Performance Specification	
ITS <ul style="list-style-type: none"> • devices • systems • infrastructure • mounting Structures 	Testing and monitoring methodology is described in Performance Specification, or from the manufacturer.	As specified in Performance Specification.	Devices, systems, infrastructure, and mounting Structures are described in Performance Specification.	As described in Performance Specification.	For WIM systems, approach pavement must be maintained in good condition without bumps or dips 100 m prior to mechanism and 50 m after mechanism.

Inspection and Monitoring Plan – Road furniture

Asset	Monitoring or inspection method	Frequency	Scope	Level of service	Comment
Fixed signs <ul style="list-style-type: none"> • Regulatory • Information / direction 	Visual inspection	Daily for poor visibility Annually for reduced reflectivity	All signs	All signs visible at all times.	
Barrier furniture	Visual inspection As per manufacturer's recommendation.	Annual or after Incident	All barrier furniture on the motorway including ramps	Working as designed.	Covers all traffic barriers constructed of steel, wire rope, concrete and plastic; and includes collapsible barriers, end terminals, crash attenuation devices and support Structures.
Bus stop / rest area / vehicle inspection areas and furniture	Visual inspection	Monthly	All areas adjacent to the road provided for vehicles to stop, excluding service roads and Local Roads	Neat, clean All facilities working as designed.	
Noise barriers <ul style="list-style-type: none"> • Structure • noise abatement 	Visual inspection	Structure - weekly for obvious Defects, annual for detailed inspection Abatement – noise level measurements to be conducted every 4 years.	All noise barriers	Barriers in good condition.	Noise level measurements must be used to monitor the efficacy of the noise abatement measures implemented into the Tollroad, and monitored to predict their continued effectiveness.
General fencing and anti-glare barriers	Visual inspection	Monthly; or after Incident	All fences, panels and support Structures	Functioning as designed Structurally sound	
Roadside furniture not covered in other requirements	Visual inspection As per manufacturer's recommendation.	Monthly; or after Incident	All roadside furniture not covered in other requirements	Structurally sound Good condition	

Monitoring and Inspection Plan – Drainage structures

Asset	Monitoring or inspection method	Frequency	Scope	Level of service	Comment
Culvert / pipe / pit inlets and outlets – blocked	Visual inspection	3 monthly prior to wet season	All drainage structures	No reduction in waterway area	Ensure field inlets are child safe and effectively block debris entry.
Culvert / pipe / pit inlets and outlets - scoured	Visual inspection	Annually, or after a 1 in 5 year rain event	Inlet and outlet of all drainage Structures; and Batter chutes.	Digital photos, refer to comment for scouring Incident dependent	Develop a set of reference digital photos to indicate intervention level in various situations
Sub soil drainage	Visual inspection	Directly after rainfall event	All sub-soil drain outlets	Drains / outlets are not blocked or obstructed.	Investigate sub-soil drains that are fast / free flowing during rain
Ponding in drains	Visual inspection	Directly after rainfall event	Gutters and drains adjacent to pavement or where ponding is likely to cause aquaplaning.	Drains to flow as designed.	Develop a set of reference digital photos to indicate when intervention is required
Culverts <1.8 m dia and waterway area < 3 m²	Visual inspection. Record in bridge inspection system.	Level two inspections as per the requirements of the BIM Inspect by remote (robotic) devices every 4 years.	All culverts, pits and pipes.	As per BIM. No reduction in waterway area. Components in sound condition.	Reporting as per BIM.
Condition of open drains	Visual inspection during rain event.	Annual cycle	All open drains	Drains to flow as designed. No spillage at design flows. Drain surface is sound.	

Inspection and Monitoring Plan for sediment basins and natural water courses

Asset	Monitoring or inspection method	Frequency	Scope	Level of service	Comment
Sediment Basins And Natural Water Courses	Dissolved oxygen – in situ	Quarterly	All sediment basins and natural water courses.	Meets requirements of Environment Protection Agency (EPA) and Environmental Management Plan, including Performance Specification.	Investigate and document source of depleted oxygen (such as algal bloom) if upstream value is > 6 mg/L and downstream value is < 6 mg/L. Investigate and implement corrective action.
	Turbidity with a turbidity tube	Quarterly	All sediment basins and natural water courses.	Meets requirements of EPA and Environmental Management Plan, including Performance Specification.	Investigate source of sedimentation if turbidity varies by 11 NTUs between upstream and downstream sample. Apply corrective measures as soon as possible.
	Water depth using a measuring stick	Quarterly	All sediment basins	Sedimentation basin working as designed.	Clean out basin when depth is < 50 cm. Collect and remove dredged material (do not leave on-site). Investigate for basin structure leaks via 'boggy' areas downstream of basin – repair as necessary.
	Copper, lead and zinc - water samples collected and analysed by NATA registered laboratory	Quarterly	All sediment basins and natural water courses.	Meets requirements of EPA and Environmental Management Plan, including Performance Specification.	Results to be presented as mg / L
	Hydrocarbons - water samples collected and analysed by NATA registered laboratory	Quarterly	All sediment basins and natural water courses.	Meets requirements of EPA and Environmental Management Plan, including Performance Specification.	Results to be presented as total petroleum hydrocarbon (TPH) fractions (C6-C9; C10-C14; C15-C28 and C29-C36) and volatile TPHs (1,2 Dichloromethane - D4 and Toluene – D8)
	Scouring / erosion - visual observation	Quarterly	All sediment basins and natural water courses.	Meets requirements of EPA and Environmental Management Plan, including Performance Specification.	Repair erosion / scours to sedimentation basins as necessary
Trash racks	Visual observation	Quarterly	All sediment basins	Sedimentation basin working as designed. Any mechanical devices working as defined.	Clean rubbish from trash racks
Sediment Basins and natural water courses	Odour and water colour - visual observation	Quarterly	All sediment basins	Sedimentation basin working as designed. No gross pollutants.	Investigate cause and ameliorate as necessary

Inspection and Monitoring Plan for sediment basins and natural water courses

Asset	Monitoring or inspection method	Frequency	Scope	Level of service	Comment
	Weeds - visual observation	Quarterly	All sediment basins	Sedimentation basin working as designed.	Remove / spray weeds as required. Refer to MRTS16.
	Security - visual observation	Quarterly	All sediment basins	Sedimentation basin fencing and security working as designed.	Secure fences / gates as needed.
	General observations - visual observation	Quarterly	All sediment basins	Sedimentation basin working as designed, no gross pollutants.	Any outstanding general observations to be made at the discretion of the inspector/monitor. These may include concerns about typha or algae infestation, dumping of waste into basins, oil spills etc
	Mosquito control - visual observation	Monthly	All sediment basins	No mosquito larvae in sedimentation ponds.	

Inspection and Monitoring Plan – Vegetation and urban design treatments

Asset	Monitoring or inspection method	Frequency	Scope	Level of service	Comment
Vegetation and urban design treatments	Planting media management - visual inspection	Weekly	All vegetated areas.	Refer to <i>Road Landscape Manual</i> and MRTS16	Refer to <i>Road Landscape Manual</i> and MRTS16
	Fertilising - visual inspection	As required	All vegetated areas.	Refer to <i>Road Landscape Manual</i> and MRTS16	Refer to <i>Road Landscape Manual</i> and MRTS16
	Pest and disease control - visual inspection	Weekly	All vegetated areas.	Refer to <i>Road Landscape Manual</i> and MRTS16	Refer to <i>Road Landscape Manual</i> and MRTS16
	Slashing and brushcutting - visual inspection	Weekly	All grassed areas.	Refer to <i>Road Landscape Manual</i> and MRTS16	Refer to <i>Road Landscape Manual</i> and MRTS16
	Mulch and environmental matting - visual inspection	3 monthly	All mulched areas.	Refer to <i>Road Landscape Manual</i> and MRTS16	Refer to <i>Road Landscape Manual</i> and MRTS16
	Seeding, turfing and the planting of container, ex-ground and site harvested plant material - visual inspection	Weekly	All vegetated areas.	Refer to <i>Road Landscape Manual</i> and MRTS16	Refer to <i>Road Landscape Manual</i> and MRTS16
	Pruning and selective removal and disposal of vegetation - visual inspection	Weekly	All vegetated areas.	Refer to <i>Road Landscape Manual</i> and MRTS16	Refer to <i>Road Landscape Manual</i> and MRTS16
	Disposal of landscape waste materials that cannot be re-used in the landscape - visual inspection	Weekly	All vegetated areas.	Refer to <i>Road Landscape Manual</i> and MRTS16	Refer to <i>Road Landscape Manual</i> and MRTS16
	Declared plants - visual inspection	Monthly	Whole Tollroad	No declared plants	Refer to <i>Road Landscape Manual</i> and MRTS16
	Include typical failures of urban design treatments such as graffiti, paint deterioration, water/mineral staining etc. - visual inspection from roadside.	Daily drive through.	All urban design treatments.	No reduction in design intent or safety.	The Franchisees must develop this schedule to include all urban design treatments.

Inspection and Monitoring Plan – Geotechnical – Batters / embankments

Asset	Monitoring or inspection method	Frequency	Scope	Level of service	Comment
Batters / embankments	Scouring - visual inspection from roadside	After rainfall events and as part of routine inspection of road furniture	All batters / embankments	No scouring. No reduction in design factor of safety.	Check all high risk areas where possible during rainfall events.
	Slips - visual inspection from roadside	After rainfall events and as part of routine inspection of road furniture	All batters / embankments	No slips. No reduction in design factor of safety.	Check all high risk areas where possible during rainfall events.
	Cracks - visual inspection from roadside	After rainfall events and as part of routine inspection of road furniture	All batters / embankments	No significant cracking. No reduction in design factor of safety.	Dependent on type of material and size of cracks. Requires geotechnical investigation.
	Instability - visual inspection from roadside	After rainfall events and as part of routine inspection of road furniture	All batters / embankments	No instability. No reduction in design factor of safety.	Require geotechnical investigation if instability discovered.

Inspection and Monitoring Plan – Structures (bridges, culverts, footings, walls)

Asset	Monitoring or Inspection Method	Frequency	Scope	Level of Service	Comment
Bridges (including viaducts) and Culverts ≥ 1.8 m dia and cross-sectional area ≥ 3 m ²	Visual inspection Underwater visual inspection Record in bridge inspection system	Level two inspections as per the requirements of the BIM.	All bridges and large culverts.	As per BIM. No reduction in waterway area. No reduction in area for fauna to utilise.	Reporting as per BIM.
Culverts < 1.8 m dia and waterway area < 3 m ²	Refer to 'Drainage structures'				
Mounting or support Structures including all footings.	Visual inspection Record in bridge inspection system	Level two inspections as per the requirements of the BIM.	All mounting or support Structures including footings.	Maintain CS2 for each Structure.	
Fence / wall Structures	Visual inspection Record in bridge inspection system	Level two inspections as per the requirements of the BIM.	All walls and fences including footings, retaining and restraining walls.	Maintain CS2 for each Structure.	

Gateway Motorway Facility & Logan Motorway Facility

Performance Specification Part 5

Corridor Management

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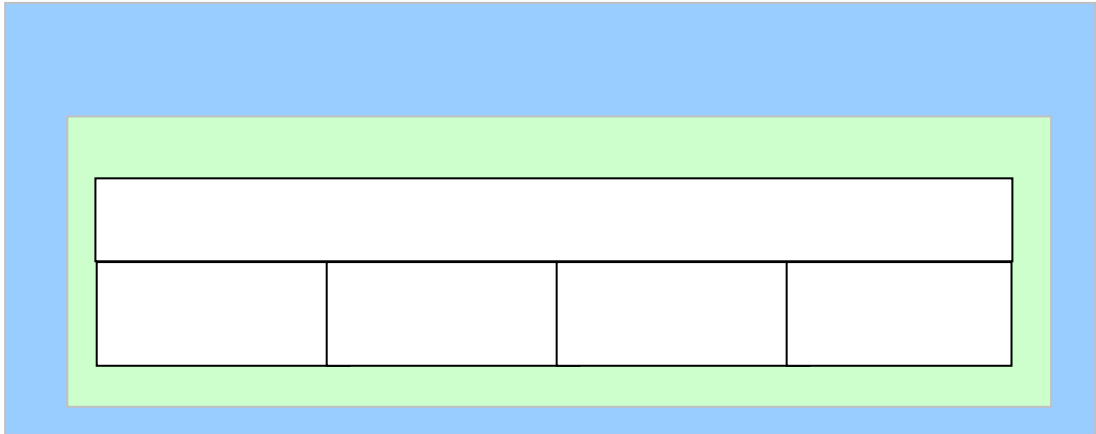
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1 Introduction

1.1 Structure of the Performance Specification

This Part 5 of the Performance Specification is part of the RFA as shown in Figure 1.1 below.

Figure 1.1: Road Franchise Agreement and the Performance Specification



The component parts of the Performance Specification and a summary of their scope are shown in Table 1.1 below.

Table 1.1: Performance Specification Component Parts and their Scope

Part	Title	Scope
1	Management	Performance Management including Environmental Management, Workplace, Health and Safety and Key Performance Indicator Management
2	Commercial Operations	Performance Management of Tollroad User Service and Toll Management
3	Road Operations	Performance Management of the Tollroad Road Operations
4	Asset Management	Performance Management of the Tollroad Infrastructure, Assets and Maintenance
5	Corridor Management	Performance Management of the Leased Area and Access to it

1.2 Definitions

In the Performance Specification (Part 1 to Part 5), unless the context indicates a contrary intention, a word or phrase given a defined meaning in the RFA, and any other part of speech or grammatical form of that word or phrase shall have a corresponding meaning. A word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender.

The management aspects and Key Performance Indicators relating to this Part 5 are contained in Part 1. The definitions are contained in Part 1 and the RFA.

1.3 Objectives of this Part 5 of the Performance Specification

The objectives of this Part 5 are to:

- (a) maximize transport planning outcomes for the State and the Community by ensuring that the Franchisees provides all reasonable information and assistance to the State when the State undertakes transport planning in SEQ;
- (b) minimize adverse Community or Road User reaction to Activities undertaken by the Franchisees by incorporating appropriate impact mitigation measures into all relevant Activities, and by appropriately engaging with Road Users and/or the Community for all relevant Activities;
- (c) minimize any adverse impacts of the Tollroad (including Tollroad Traffic and Activities) on nearby land use and vice versa, and minimise conflicts between the Franchisees and occupiers of that land , by:
 - (i) assisting the State with its assessment of the adverse impacts expected to arise between the Tollroad (including Tollroad Traffic) and proposed changes to land use on land located near the Tollroad;
 - (ii) facilitating construction of Developer Works on the Tollroad that are required to mitigate the adverse impacts referred to in (i) above; and
 - (iii) ensuring the Community is not exposed to excessive road traffic noise emanating from the Tollroad by implementing road traffic noise mitigation measures;
- (d) facilitate the establishment of Interface Agreements between the Franchisees and Other Asset Owners to maximize the safe and efficient construction, operation and maintenance of the Tollroad and other infrastructure located within and near the Leased Area;
- (e) facilitate safe, efficient, convenient and timely access to the Leased Area for the construction, operation and maintenance of Non-Tollroad Infrastructure within the Leased Area as approved by the State;
- (f) minimize the adverse impacts of commercial advertising within the Leased Area on the safe and efficient traffic operations and any future upgrading of the Tollroad; and
- (g) maximize safety, certainty, efficiency, transparency and fairness to all parties by applying governance processes which:
 - (i) ensure the Franchisees use their best endeavours including taking all reasonable measures and acting in a timely manner to facilitate the objectives of this Part 5;
 - (ii) ensure the State and third parties use their best endeavours, including taking all reasonable measures and acting in a timely manner, to minimise any adverse impacts on Activities, the Tollroad and Tollroad Traffic; and
 - (iii) ensure all works and activities comply with Law and the requirements of the Performance Specification and TMR Standards.

1.4 Principles and overall terms

(Requirements): This Part 5 includes the following requirements in regard to managing Non-Tollroad Infrastructure and other issues within and near the Leased Area:

- (a) The State can approve or require various works or activities near or within the Leased Area under the RFA, this Part 5 or under Law including the Transport Infrastructure Act.

- (b) Any approvals or requirements (or failure to issue an approval or requirement) by the State as described in (a) above for any third party issue which may impact on the Franchisees, shall not constitute grounds for a Claim against the State by the Franchisees, even if the approval requires the development, negotiation and agreement of an Interface Agreement or Access Agreement by the Franchisees with any third party.
- (c) The requirements of Part 5 represent the minimum standards of all works and activities required of the Franchisees.

2 Transport Planning

TMR undertakes transport planning activities for various parts of SEQ, including the Tollroad, from time to time. When requested by TMR, the Franchisees must assist TMR with these transport planning activities where it relates to planning of the Tollroad or Affected Transport Infrastructure.

3 Community Engagement

3.1 Introduction

During the Concession Period the Franchisees are likely to undertake works or activities which may generate significant interest from, or create adverse impacts upon, a section of the Community, Road Users or the media. For these cases the Franchisees must develop a Community Engagement Plan to:

- keep the Community, Road Users and the media appropriately informed;
- gather input to help develop mitigation measures; and
- keep adverse impacts to within acceptable limits as defined in this Part 5.

The Franchisees must ensure that for all works and Activities that require a Community Engagement Plan:

- the plan is developed in accordance with this clause 3; and
- the works and Activities fully comply with the requirements of the plan at all times during the implementation phase (or construction phase in the case of works) of the project.

3.2 When is a Community Engagement Plan required

Typically, Community Engagement Plans will be needed for at least:

- (a) Planned Events and Unplanned Events (as described in Part 3) which generate media or significant community interest or have a significant impact on Road Users or a part of the Community;
- (b) any construction or roadworks near existing urban development, including for noise mitigation and other Activities, and especially if significant noise, dust, flooding, worksite lighting or ground vibration is expected or possible;
- (c) any works or Activities which have the potential to create significant delays or confusion for Road Users (for example, complex re-routing of traffic);
- (d) any work or Activities which might draw significant interest from the Community or media or Road Users and thereby attract crowds or cause traffic delays on the Tollroad; and
- (e) new Nominated Tolling Products or a significant change in Nominated Tolling Products.

From June 2012, and then prior to each subsequent Financial Year, the Franchisees shall develop a program describing:

- (f) all the works and Activities proposed during that Financial Year that the Franchisees consider will require a Community Engagement Plan; and
- (g) for the works and Activities in (f) above:
 - (i) a description of the expected items of interest or items creating adverse impacts; and
 - (ii) the proposed measures to mitigate any adverse impacts or address any items of high interest.

The Franchisees shall submit the program to the State for review at least 40 Business Days prior to each Financial Year. The Franchisees must develop and implement a Community Engagement Plan for each project as detailed in this program.

If additional works/Activities need to occur during any Financial Year, the Franchisees must amend the above program and submit it to the State for review at least 20 Business Days prior to commencing any of the additional works or Activities.

In the case of:

- a material risk to the health or safety of the public;
- emergency maintenance and/or repairs (excluding the routine maintenance undertaken in accordance with the Performance Specifications); or
- other cases, as defined by protocols agreed by both parties during the Concession Period

the Franchisees can commence works or Activities without seeking the State's agreement to the type or level of community engagement, provided:

- the Franchisees use their best endeavours to implement community engagement processes as defined in this clause 3; and
- the Franchisees will, upon request, consult with TMR to amend the Franchisees' community engagement activities at any time with a view to better achieving the objectives of this clause 3 should community issues/concerns arise.

When TMR is reviewing the Franchisees' program of projects for when a Community Engagement Plan is required during the coming Financial Year, the State may specify a reasonable lead time to review any Community Engagement Plan for any of the projects listed in the program prior to the construction/commencement phase of each project. Where TMR does specify a reasonable lead time to review a Community Engagement Plan for a project, the Franchisees must provide the relevant plan to TMR in accordance with the lead time specified.

3.3 Intervention by the State

The State anticipates that for most works or Activities undertaken by the Franchisees, the State will not need to review the detailed Community Engagement Plan produced by the Franchisees. However from time to time the State may require the Franchisees to submit details of a Community Engagement Plan to the State for review where the State considers that:

- (a) the project is of a type or nature that the likelihood of significant Community, Road User or media interest or adverse reaction is high; or
- (b) significant Community, Road User or media interest or adverse reaction is occurring, and the State seeks to intervene to manage the level of interest or adverse reaction.

In these cases the Franchisees must:

- (c) immediately submit the project's detailed Community Engagement Plan to the State for review;
- (d) make any modifications reasonably required by the State; and
- (e) immediately implement the modified Community Engagement Plan should the project already be in progress.

3.4 Content of Community Engagement Plans

All Community Engagement Plans must comply with TMR Standards for community engagement and will need to include adverse impact mitigation measures and community engagement processes that are at least equivalent to those used by TMR on the Reference Motorways.

All Community Engagement Plans must contain the following minimum information:

- (a) Adequate but simple description of the project.
- (b) Details of the expected adverse impacts or issues of interest.
- (c) List of stakeholders potentially affected.
- (d) Proposed mitigation measures and an assessment of their acceptability with TMR Standards or similarity with TMR practice on the Reference Motorways.

- (e) Methods and proposed dates and locations of engagement (for example, public displays, public meetings, letterbox drops, one-on-one meetings, media advertising, road signage, and briefings of politicians).
- (f) Proposed engagement materials (simple, colourful pictures and diagrams are strongly preferred to wordy documents).
- (g) Process for capturing feedback and amending the project accordingly where relevant.
- (h) Reporting mechanism which captures details of (a) to (g) above.

3.5 Records

The Franchisees must retain all details of all community engagement undertaken on all projects that require a Community Engagement Plan for at least one year after all works and Activities are completed.

If the State requests a copy of any community engagement material for a project, the Franchisees must promptly supply this material.

4 Road Traffic Noise

4.1 Introduction

Road traffic noise creates adverse impacts on the Community, and poorly designed or poorly constructed noise attenuation treatments can also create adverse impacts on or draw adverse criticism from the media, Road Users or the Community. TMR has developed various TMR Standards and in particular the Noise Code to manage these impacts and concerns. The Noise Code is updated from time to time to align with good practice, community values and Law.

Apart from the exceptions permitted under clause 4.6 below, the Franchisees must ensure the entire length of the Tollroad complies with the Noise Code at all times during the Concession Period.

4.2 Franchisees' Responsibilities

The Franchisees must:

- (a) develop road traffic noise models (**RTN models**) covering the entire Tollroad by the end of 2011, and update these models as specified herein;
- (b) provide the inputs and outputs used by the RTN models to TMR, or to any third party approved by TMR, when requested by TMR;
- (c) identify all sections of the Tollroad where road traffic noise levels at noise sensitive receptors are greater than the relevant maximum acceptable noise levels specified in the Noise Code, and progressively develop a plan to implement noise attenuation treatments to achieve compliance with the Noise Code;
- (d) consult with the Community or Road Users potentially adversely affected by or concerned with the design or construction of the proposed road traffic noise mitigation treatments (in accordance with the Community Engagement Plan), and take all reasonable measures to amend the design and construction of these treatments to mitigate these concerns;
- (e) facilitate the construction of noise attenuation treatments within the Leased Area by the State or third parties (such as Developer Works);
- (f) maintain comprehensive and accurate records in regard to (a) to (e) above; and
- (g) maintain all road traffic noise attenuation treatments within and on the boundary of the Leased Area for the Concession Period in accordance with Part 4 of the Performance Specification and clause 5.8 below.

4.3 Road traffic noise models

- (a) The Franchisees shall develop RTN models to comply with the Noise Code for the entire Tollroad by the end of 2011.
- (b) The Franchisees shall update these RTN models:
 - (i) every ten years during the Concession Period from 1 January 2012 onwards;
 - (ii) within 18 months of any update of the Noise Code, to the extent necessary to incorporate any changes in the Noise Code; and
 - (iii) whenever the Tollroad is upgraded/modified, to the extent necessary to incorporate any changes in noise levels created by the Upgrade or Modification.

- (c) The RTN models shall comply with the requirements of the Noise Code and shall:
 - (i) cover each segment of the Tollroad including each interchange and each section between interchanges.
 - (ii) produce noise contour maps showing road traffic noise levels along the entire Tollroad.
 - (iii) include a terrain model including existing topography, Tollroad geometry, noise mounds/barriers, road surfacing and relevant building heights and footprints.
 - (iv) account for measured traffic speeds and traffic volumes, commercial vehicle percentages and anticipated future traffic growth rates.
 - (v) account for relevant pavement surfacing characteristics of the Tollroad and Common Road Infrastructure.
- (d) The State, at its cost, can review the inputs and outputs of these RTN models at any time to check their accuracy and compliance with the Noise Code, this Part 5, and TMR Standards. If the State detects any errors or deficiencies in the inputs or outputs, the Franchisees must rectify these deficiencies (at the Franchisees' cost) as soon as reasonably practicable (having regard to the nature of the further work that will be needed in order to enable that rectification) after being provided written notification of the deficiencies by TMR, plus pay the reasonable costs of the State's audit of the inputs or outputs used in the RTN models.

The State, or any third party approved by the State, can use the inputs or outputs used by these RTN Models, for any purpose approved by the State.

4.4 Community engagement regarding noise attenuation treatments

Community engagement about road traffic noise attenuation treatments must be conducted by the Franchisees in accordance with TMR's Standards and this Part 5.

When undertaking the design, construction or maintenance of noise attenuation treatments, the Franchisees must take all reasonable measures to minimize any adverse impacts on the Community or Road Users. These adverse impacts can include: inadequate noise attenuation capability; unattractive, unsafe or structurally inadequate noise barriers; or construction or maintenance techniques which create concerns for nearby landowners such as damage to their property or excessive ground vibration.

Prior to constructing any noise attenuation treatments, the Franchisees must undertake community engagement with those persons that are likely to be adversely affected by the treatment (for example; the treatment can be seen from their homes or blocks their views or is located close to their land).

The Franchisees must make all reasonable efforts to mitigate the concerns raised by the community. If TMR receives significant Complaints from the Community, or TMR considers the proposed treatments to be inadequate, TMR can apply reasonable requirements to the design and construction of the treatments (these requirements must be consistent with the practices and treatments adopted by TMR on the Reference Motorways).

4.5 Managing Complaints about road traffic noise

Except where otherwise directed by TMR, and except for enquiries made to TMR's Minister or Director-General, all enquiries and Complaints about road traffic noise or noise attenuation treatments from the media, Community or Road Users shall be responded to by the Franchisees in accordance with TMR protocols, with a copy of all responses provided by the Franchisees to any member of the media, Community or Road Users also to be forwarded to TMR.

Where Complaints about road traffic noise are received by the Minister or Director-General of TMR, the Franchisees must prepare a draft response and return it to TMR within a reasonable timeframe specified by TMR.

To ensure a consistent message is given to the media, Community and Road Users about how road traffic noise is being managed along State-controlled roads (which includes the Tollroad), TMR shall provide the Franchisees with a copy of its standard responses for appropriate use by the Franchisees.

The Franchisees shall comply with the following timelines for written responses to the media, Community or Road Users:

- (a) 20 Business Days for general Complaints.
- (b) As reasonably specified by TMR for Complaints which TMR considers to be urgent Complaints.

4.6 Remediating Backlog of road traffic noise Defects

At the start of the Concession Period, some sections of the Tollroad won't comply with the road traffic noise levels specified in the Noise Code. These sections are hereafter defined as the '**Noise Backlog Sections**'.

For all Noise Backlog Sections the Franchisees must:

- (a) develop a Noise Backlog Program that includes details of the proposed noise attenuation treatments required, including the estimated cost of these treatments to rectify all Noise Backlog Sections;
- (b) submit the Noise Backlog Program to TMR for review by 1 March 2013; and
- (c) between 1 July 2013 and 30 June 2018, implement the Noise Backlog Program such that 20% of this program of works (measured in monetary value) is delivered every 12 months from 1 July 2013 onwards.

TMR may require the Franchisees' to amend the proposed sequencing of the noise attenuation treatments in the Noise Backlog Program to:

- (d) address State priorities;
- (e) address emerging issues;
- (f) take advantage of future Upgrades or Modifications to the Tollroad or Non-Tollroad Infrastructure works/activities; or
- (g) for any other reason; but

unless agreed otherwise by the Franchisees, any amendment to the Noise Backlog Program must:

- i. not require more than 20% of the Noise Backlog Program (in monetary value) to be delivered in any one Financial Year; or
- ii. not impose a greater cost on the Franchisees than the originally scheduled work program (unless the State agrees to meet the additional cost arising from the proposed reschedule).

4.7 Road traffic noise attenuation treatments for new developments

During the Concession Period a Development Approval may require a Developer to construct noise attenuation treatments within or on the boundary of the Leased Area.

In these cases the design of the noise attenuation treatments and access to the Leased Area will need to be approved by TMR, and the Franchisees must take all reasonable measures/actions to facilitate construction of these Developer Works by the Developer including negotiating an Access Agreement with the Developer.

4.8 Changes to the Noise Code

During the Concession Period it is expected that TMR will update the Noise Code to keep it abreast of changes in good practice, community values and Law.

When an update occurs, the Franchisees must implement a noise attenuation works program to ensure the Tollroad complies with the updated Noise Code within the same timeframe that TMR adopts for compliance on the Reference Motorways.

TMR shall provide the Franchisees with as much prior warning of a change to the Noise Code as it is reasonably able to provide, to allow the Franchisees to adjust its noise attenuation works program accordingly.

4.9 Design, construction and maintenance of noise attenuation treatments

Noise attenuation treatments can include earth mounds, noise barriers and noise reducing road surfaces. Any other treatments proposed by the Franchisees will require the approval of TMR.

All treatments must be designed, constructed and maintained in accordance with the Noise Code and other relevant TMR Standards. In particular, the construction of noise barriers must comply with:

- (a) the Noise Code's requirement for noise barrier design and construction; and
- (b) TMR specifications and drawings for noise barrier design and construction.

4.10 Records

The Franchisees must develop, maintain and update a road traffic noise register to record all documentation for all matters pertaining to this clause 4 including:

- (a) the RTN models;
- (b) as-constructed drawings of all noise attenuation treatments;
- (c) for treatments constructed by third parties, any Access Agreements and Interface Agreements, and any conditions that apply; and
- (d) Complaints received and responses made.

The Franchisees shall give the State prompt access to any details about any matter in the register when requested to do so by the State.

4.11 TMR Standards for road traffic noise management

Unless approved or required otherwise by TMR, all work undertaken by the Franchisees must comply with TMR Standards which include the following:

- Noise Code
- TMR Standard Specifications Roads MRS15 Noise Fences
- MRS03 Drainage, Retaining Structures and Protective Treatments
- MRS04 General Earth Works
- MRS16 General Requirements Landscape and Revegetation Works

5 Dealing with applications for PUP, AWE and Developer Works within the Leased Area

5.1 Introduction

Access to the Leased Area and Tollroad, and especially across the Leased Area, for the installation, operation and maintenance of Non-Tollroad Infrastructure is essential to the economic performance of the State, and contributes towards important community outcomes such as safety, wellbeing and liveability. For example:

- PUP is essential to urban and economic growth;
- Developer Works contribute to Community wellbeing and liveability; and
- AWE such as fixed speed cameras or fire threat management contribute to the safety of the Community including Road Users.

This clause 5 deals with Third Party Works.

Under Law, such as the Transport Infrastructure Act and *the Sustainable Planning Act 2009 (Qld)*, TMR can (to the limits of its powers):

- require or approve or conditionally approve Third Party Works within the Leased Area; and
- approve access to the Leased Area by the State or a third party.

In addition to obtaining TMR approval to access the Leased Area, and unless permitted otherwise under the RFA (for example, Proximate Work under clause 13.3 of the RFA) or under Law, TMR will require (as much as its powers will allow) the applicant (be it the State or a third party) to negotiate an Access Agreement or Interface Agreement with the Franchisees prior to entering the Leased Area.

Any Third Party Works approved by the State to be located within the Leased Area shall:

- (a) not compromise the safety of Road Users;
- (b) not compromise the structural integrity of Tollroad Infrastructure;
- (c) include reasonable measures to minimize any adverse impacts on Tollroad Traffic, Tollroad Operations or Activities; and
- (d) be conducted in a manner consistent with the requirements of clause 13.3 (b) of the RFA.

5.2 Processing PUP and AWE applications

The Franchisees must direct all PUP and AWE applications to TMR for assessment and processing.

TMR will assess PUP or AWE applications that seek access to the Leased Area, and may refuse, approve or conditionally approve these applications or provide advice to applicants, at its discretion and to the limits of its powers, and provide a copy to the Franchisees.

Where requested to do so by TMR, the Franchisees must, within 10 Business Days for a PUP and 15 Business Days for an AWE (or other reasonable timeframes specified by TMR):

- (a) consider PUP or AWE applications referred to the Franchisees by TMR, and provide relevant advice and draft conditions to TMR for possible inclusion in any TMR decision;
- (b) provide a draft Access Agreement or draft Interface Agreement to TMR; and

- (c) provide TMR with an estimate of any costs the Franchisees will likely incur as a result of dealing with the proposed PUP or AWE works or activities, and this estimate must be a genuine and reasonable estimate of the costs that the Franchisees will incur and seek to charge for in accordance with clause 5.4 below.

Where TMR provides a PUP or AWE approval or approval with conditions or advice to an applicant, TMR shall:

- (d) provide a copy of the response to the Franchisees; and
- (e) request the PUP or AWE applicant to obtain an Access Agreement or Interface Agreement from the Franchisees.

Unless stated otherwise in TMR's approval of the PUP or AWE application, the Franchisees must comply with TMR Standards and any relevant memorandum of understanding requirements that TMR may have with PUP Owners such as Energex and Telstra.

5.3 Processing Developer Works applications

The Franchisees must direct all applications for Developer Works within the Leased Area to TMR for processing.

On referral of a Development Application by TMR, the Franchisees must:

- (a) respond to TMR with any information request within 5 Business Days should the Franchisees wish to request further information from the applicant; and
- (b) provide TMR within 15 Business Days, or another time if TMR agrees or reasonably specifies, advice and any draft conditions the Franchisees are seeking, including any conditions it seeks to have incorporated into a future Access Agreement, and an estimate of any costs likely to be incurred by the Franchisees to protect the Leased Area and the Tollroad if the application was to proceed.

TMR will, and at its sole discretion, provide its decision and any conditions (if applicable) to the Assessment Manager, including that TMR's approval is subject to the applicant obtaining the following approvals prior to constructing any Developer Works within the Leased Area:

- (c) TMR's approval of the design of the Developer Works.
- (d) TMR's approval to gain access to the Leased Area.
- (e) An Access Agreement or Interface Agreement with the Franchisees.

Where requested to do so by TMR, and in accordance with timeframes specified by TMR, the Franchisees must also:

- (f) assess the proposed design of the Developer Works referred to the Franchisees by TMR, and provide relevant advice and draft conditions to TMR for possible inclusion in any TMR decision;
- (g) provide a draft Access Agreement or draft Interface Agreement to TMR; and
- (h) provide TMR with an estimate of any costs the Franchisees will likely incur as a result of dealing with the proposed Developer Works, and this estimate must be a genuine and reasonable estimate of the costs that the Franchisees will incur and seek to charge for in accordance with clause 5.4 below.

The draft conditions referred to above may need to address a range of impacts including road traffic noise, landscaping, drainage, walking/cycling paths, fencing, retaining walls, additional road infrastructure, and placement of PUP to service the Development Approval.

Where TMR provides a Developer Works approval to a Developer (in terms of design and access to the Leased Area), TMR shall:

- (i) provide a copy of the response to the Franchisees (including any proposed conditions to be imposed on the Developer Works); and
- (j) require the Developer to obtain an Access Agreement or Interface Agreement from the Franchisees.

5.4 Cost sharing arrangements for Third Party Works

As between the State and the Franchisees, the Franchisees shall be responsible for all costs associated with assessing Third Party Works applications for TMR, and for negotiating and establishing all relevant Access Agreements and Interface Agreements.

The Franchisees shall be responsible for the cost of inspections of the relevant Third Party Works or activities where it can be reasonably monitored by its normal systems and Activities (for example, CCTV coverage or its regular inspections of the Tollroad).

Where the approved Third Party Works or activities reasonably require the Franchisees to undertake works or activities directly as a result of the approved Third Party Works or activities occurring (for example, road crews implementing traffic control on the Tollroad), then the Franchisees can charge reasonable, direct and unavoidable costs for these works or activities (where legally possible). These reasonable costs must reflect current practices and prices experienced by the road construction industry in SEQ at the time.

Except where specified otherwise in the RFA, where construction of the Third Party Works impacts on the Franchisees ability to undertake the Activities such as asset maintenance, the Franchisees can also charge the reasonable cost incurred as a result of this impact, provided:

- the Franchisees have taken all reasonable measures (including re-sequencing or re-scheduling of Activities) to minimize these impacts; and
- these measures do not have a material adverse cost impact on the Franchisees.

5.5 Following TMR approval of the application

Following a Third Party Works approval being issued by TMR, the Franchisees must use their best endeavours to negotiate an Access Agreement or Interface Agreement with the Third Party Works applicant. If no agreement is reached between the Franchisees and the Third Party Works applicant, either party may contact TMR who then can specify reasonable conditions (which must not be inconsistent with this agreement) that the Franchisees must incorporate into the Access Agreement or Interface Agreement.

The Franchisees must ensure that any access to the Tollroad and the Leased Area by the Third Party Works applicant is in accordance with TMR Standards and TMR's conditions of approval for the Third Party Works.

The Franchisees shall use their best endeavours to facilitate the Third Party Works or activities. This may include reprogramming Activities to avoid any overlap or conflict with the Third Party Works or activities, provided that these measures do not have a material adverse cost impact on the Franchisees.

Any Third Party Works or activities affecting Tollroad Traffic or Tollroad Operations must comply with Part 3.

5.6 Existing Third Party Works in the Leased Area

The Franchisees must accommodate any existing Third Party Works approved by the State in accordance with the approved conditions.

5.7 PUP required by the Franchisees for Activities

The Franchisees may seek to install a PUP to carry out Activities under the RFA, for example providing electricity to road lighting on a part of the Tollroad. The Franchisees must seek TMR's approval for this PUP, and properly keep records of the PUP, as for all PUP. To improve processing efficiency, both parties may agree a protocol for the placement and installation of small PUPs (for example, providing electricity to the many traffic flow detectors) and thereby avoid the need for individual applications being sent to TMR for approval.

5.8 Future maintenance, operation and replacement of Third Party Works

- (a) Unless agreed otherwise by the PUP Owner and the Franchisees, the Franchisees shall not be responsible for the maintenance, operation or replacement of PUP installed by PUP Owners.
- (b) Unless agreed otherwise by the State, all Developer Works that are required to mitigate road traffic noise emanating from the Tollroad, shall form part of Tollroad Infrastructure, and the Franchisees shall be responsible for the future maintenance and replacement of these works.
- (c) Where the State wants the Franchisees to be responsible for the maintenance and replacement of Developer Works other than those that are required to mitigate road traffic noise emanating from the Tollroad as described in (b) above, the State must incorporate this requirement into the Activities by a
- (d) Unless agreed otherwise by the State, the Franchisees shall be fully responsible for the installation, operation and maintenance of all advertising approved to be located on the Leased Area in accordance with Clause 9 below.
- (e) Unless agreed otherwise by the State, all AWEs (apart from that specified in (d) above) shall be maintained and operated by each AWE applicant (or other party that formally agrees to maintain and operate that AWE).

5.9 Records

The Franchisees must develop, update and maintain a register containing all information associated with Third Party Works in the Leased Area including:

- (a) the names and contact details of the owner of the Third Party Works;
- (b) description and location of the Third Party Works;
- (c) any conditions to apply to the Third Party Works;
- (d) copies of all agreements with Other Asset Owners; and
- (e) all Access Agreements and Interface Agreements.

5.10 Compliance with TMR Standards

When facilitating Third Party Works, and unless approved or required otherwise by TMR, the Franchisees must comply with TMR Standards including the following:

- IDAS manual.
- Service Centre Policy.
- Access Policy for Roadside Service Centre Facilities on Limited Access Roads.
- Road Planning and Design Manual.
- Road Landscape Manual.
- Traffic and Road Use Management manual.
- Manual of Uniform Traffic Control Devices.

6 Access to the Leased Area by the State or a third party

The Franchisees must manage all State and third party access to the Leased Area in accordance with:

- the RFA and the Performance Specification;
- relevant Access Agreements or Interface Agreements; and
- any relevant Approval issued by the State for Third Party Works.

Except where provided for otherwise in the RFA or in Law, the Franchisees shall use their best endeavours to establish Access Agreements or Interface Agreements with all parties seeking to access the Leased Area. All Access Agreements shall comply with clause 7 below, and all Interface Agreements shall comply with clause 8 below.

7 Access Agreements

7.1 Terms of any Access Agreement

Unless approved otherwise by the State, the terms of an Access Agreement must be reasonable and comply with:

- any relevant Approval issued by the State;
- relevant TMR Standards;
- the minimum requirements defined in this clause 7: and
- the requirements of the RFA and the Performance Specification.

7.2 Minimum Requirements for Access Agreements

The conditions attached to any Access Agreement must be appropriate for the level of risk of the proposed works/activity and address at least the following minimum requirements:

- (a) Access Agreement Number (as determined by the Franchisees).
- (b) Parties to the agreement and type and description of works/activities.
- (c) Details of any relevant Approval issued by the State.
- (d) Proposed access arrangements to the site (including Traffic Management Plan/s).
- (e) Agreed principal contractor arrangements, induction requirements and safety management plans required under Law.
- (f) Insurances and indemnities.
- (g) Work method statements.
- (h) Notification and communication protocols including emergency communications.
- (i) Agreement on the extent of works or activities to be undertaken by the Franchisees, and the cost of the same to be paid by the other party.
- (j) Arrangements for regular inspections and maintenance and potential emergency situations.
- (k) Agreement on future ownership, operation and maintenance of the works/activities (for example; PUP will be owned, maintained and operated by the PUP Owner; Developer Works that are required to mitigate road traffic noise emanating from the Tollroad or are otherwise incorporated into the Activities by a Modification will be maintained by the Franchisees, subject to agreement between the Franchisees and the developer on cost and terms).
- (l) Confidentiality (including that the Access Agreement can be viewed by the State).
- (m) Dispute resolution.
- (n) Termination of the Access Agreement (including if the RFA is terminated).

7.3 Cost sharing arrangements

The cost sharing arrangements in relation to Access Agreements are described in clause 5.4 above.

7.4 Parties to cooperate

It is in the interests of all parties that any overlap or conflict between the Franchisees' Activities and Non-Tollroad Infrastructure works or activities is minimized as much as possible.

It is also recognized that the parties will incur some additional costs or inconvenience as a result of the need to rearrange the timing or method of undertaking their respective works or activities. Except as detailed in clauses 5.4, 5.5 and 7.3, each party shall bear their own costs in this regard.

7.5 Franchisees must act reasonably

The Franchisees must always act reasonably when negotiating the terms of an Access Agreement. If the State considers that the Franchisees are acting unreasonably, this can become the basis of a Dispute under the RFA.

7.6 Register for Access Agreements

All Access Agreements must be recorded and placed in a register by the Franchisees so that at any time during the Concession Period the State is able to view any Access Agreement subject to giving the Franchisees reasonable notice.

8 Interface Agreements

8.1 Introduction

The Franchisees may need to gain access through land or via infrastructure partly/fully controlled by Other Asset Owners to maintain or Upgrade the Tollroad. Similarly, Other Asset Owners may need to gain access through the Leased Area or via Tollroad Infrastructure to construct, operate or maintain Non-Tollroad Infrastructure or other infrastructure. This occurrence of access can often be regular, periodic or on an emergency basis. Therefore it is in the interests of all relevant Authorities, Other Asset Owners and the Franchisees to:

- (a) remain aware of each other's planning and programming of activities so that all parties can optimize the coordination of their respective work; and
- (b) streamline their processes for permitting access to each other's land/infrastructure.

In these cases the Franchisees shall use their best endeavours to negotiate Interface Agreements with Other Asset Owners (including TMR) as soon as possible during the Concession Period to provide for long term, periodic or emergency access.

8.2 Other relevant parties

The Franchisees must use their best endeavours to initiate and negotiate Interface Agreements with at least the following:

- (a) Affected Road operators that have road infrastructure located within or near the Leased Area, including TMR, Local Government and BAC.
- (b) Rail operators that have railway corridors or railway infrastructure near or within the Leased Area.
- (c) PUP Owners that have PUP located within or near the Leased Area.

8.3 Minimum requirements of Interface Agreements

Any Interface Agreement shall include the following minimum requirements:

- (a) Interface Agreement number (as determined by the Franchisees)
- (b) Parties to the agreement.
- (c) Objectives.
- (d) Roles, responsibilities and agreement on cost sharing arrangements where one party must undertake some works or activity for the other party (such as train traffic management where a railway corridor is involved).
- (e) Types of works or activities covered by the agreement (including any conditions of Approval issued by the State).
- (f) Agreed principal contractor arrangements, induction requirements and safety management plans required under Law.
- (g) Agreed procedures (for access, traffic management and undertaking works) and required licences, certifications and qualifications.
- (h) Notification and communication protocols including emergency communication.
- (i) Insurances and indemnities.
- (j) Confidentiality (including specifying that this Interface Agreement can be viewed by the State).
- (k) Agreement on future ownership, operation and maintenance of any works or activities implemented.
- (l) Dispute resolution.

(m) Termination of the Interface Agreement (including if the RFA is terminated).

Any Interface Agreement must deal with access to the Leased Area by the third party in accordance with: the Access Agreement requirements defined in clause 7 above; this clause 8; the RFA; and the Performance Specification.

8.4 Franchisees must act reasonably

The Franchisees must always act reasonably when negotiating the terms of an Interface Agreement. If the State considers that the Franchisees are acting unreasonably, this can become a Dispute under the RFA.

8.5 Not bind the State

Apart from Interface Agreements that the State is a party to, no Interface Agreement shall bind the State, and each Interface Agreement must be drafted so that at Handover or in the event of early termination of the RFA, the State can terminate any Interface Agreement at no cost to the State.

8.6 Register for Interface Agreements

All Interface Agreements must be recorded and placed in a register by the Franchisees so that at any time during the Concession Period the State is able to view any Interface Agreement subject to giving the Franchisees reasonable notice.

9 Commercial Advertising in the Leased Area

9.1 Introduction

Clause 11.10 of the RFA and the Outdoor Displays Portfolio Master Plan describe the advertising that the Franchisees can implement within the Leased Area.

The State may review any updates of the Outdoor Displays Portfolio Master Plan in accordance with clause 9 of the RFA. Any review of an Outdoor Displays Portfolio Master Plan must:

- (a) have safety as its primary focus;
- (b) include a high emphasis on quality, including the structural design, placement and landscaping of advertising infrastructure;
- (c) comply with high Community standards in terms of advertising content;
- (d) be developed through a master planning process;
- (e) be developed with appropriate stakeholder and Community engagement;
- (f) encompass contemporary urban design;
- (g) include a detailed assessment of the proposed sites; and
- (h) be cognizant of existing outdoor displays.

9.2 Records

The Franchisees must develop, update and maintain a register containing all information associated with advertising in the Leased Area including:

- (a) copies of all agreements with third parties; and
- (b) all Access Agreements and Interface Agreements.

9.3 References

Unless approved or required otherwise by TMR, all advertising must comply with TMR Standards including the following:

- (a) Roadside Advertising Guide.
- (b) Road Landscape Manual.
- (c) Traffic and Road Use Management manual.
- (d) Manual of Uniform Traffic Control Devices.

10 Service Centres

The Franchisees acknowledge that any new access to or from a Mainline Carriageway of the Tollroad and a TMR designated “Service Centre” (in accordance with “roadside facilities” under clause 76 of the Transport Infrastructure Act) requires the approval of TMR and must be developed in accordance with TMR’s requirements, TMR Standards, the RFA and the Performance Specification.

11 Monitoring of the Leased Area

The Franchisees shall be responsible for the monitoring of all activities within the Leased Area including:

- a) for all third party works or activities (including all Third Party Works) within the Leased Area that have not been approved by TMR, the Franchisees must notify TMR of the works or activities as soon as possible, and unless directed otherwise by TMR, take all reasonable measures to prevent these works or activities from continuing; and
- b) for abandoned vehicles located within the Leased Area, unless approved otherwise by TMR, the Franchisees must:
 - i. notify TMR of the abandoned vehicle as soon as possible; and
 - ii. if TMR delegates the necessary legal powers to the Franchisees, remove these vehicles from the Leased Area and dispose of them in accordance with TMR Standards.