



Ballaarat Tramways.

BALLAARAT TRAMWAYS.

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ACTS OF PARLIAMENT AND ORDERS IN COUNCIL.

- 1.—“Local Government Act 1874 Amendment No. 786.”
- 2.—“Local Government Act 1874 Amendment No. 831.”
- 3.—“Municipal Tramways (Delegation of Powers) No. 919.”
- 4.—Regulations—Government Gazette, 21st August, 1885, page 2337.
- 5.—Notice of intention to apply for Order to Construct—
Government Gazette, 18th September, 1885, page 2663.
- 6.—Order to Construct issued—
Government Gazette, 20th September, 1886, page 2722.
- 7.—Notice of intention to Delegate Order—
Government Gazette, 1st October, 1886, page 2840.
- 8.—Delegation approved—
Government Gazette, 16th December, 1887, page 3799.
9. Re-Delegation approved—
Government Gazette, 20th January, 1888, page 135.

CONDITIONS UNDER WHICH TENDERS WILL BE RECEIVED BY THE
COUNCIL OF THE CITY OF BALLAARAT FOR CONCESSION FOR
CONSTRUCTION, MAINTENANCE, AND WORKING OF TRAMWAYS
WITHIN THE CITY.

Route.—1. Commencing at the bottom of Sturt street, near Grenville street, or at Lydiard street (at option), and thence with a line on each side of the Central Plantation as far as Ripon street; thence by a single line on south side of Sturt street as far as the street by the Convent ground to Wendouree Parade and the Botanic Gardens, to a point near the Rotunda.

2. Commencing at junction of Lydiard and Sturt streets, and going north along Lydiard street to Macarthur street; thence to Wendouree Parade and round the north part thereof to Botanic Gardens to the point before mentioned, near the Rotunda.

3. Commencing at a point in Sturt street, at junction with Ripon street, and thence north along Ripon and Fraser streets to Wendouree Parade, going north as far as Macarthur street.

4. Commencing at junction of Armstrong street south and Sturt street; thence along Armstrong street and Skipton street to the City boundary.

5. (And when deemed necessary). From intersection of Skipton and Drummond streets, along the latter to Sturt street.

All as marked *red* on plan.

Tenderers, Promoters.—For the purposes of these Conditions, the successful Tenderer shall be known throughout as “The Promoter.”

Term of Concession.—The Term of Concession will be for not less than 21 years, nor exceed 30 years from date of signing contract.

Tenders.—Tender must state clearly:—

1. The term of concession during which the Promoter will construct, maintain, and work the Tramways.
2. Whether separate routes or the whole are tendered for. The route to the Lake must be first constructed.
3. The consideration to be given by the Promoter to the Council for the concession after payment of interest of 8 per cent. on the capital to shareholders.
4. Mode of construction, pattern and weight of rail, mode of traction and style of car that the Promoter may use.
5. On what terms the Promoter is willing to give the Council the option of purchase, at any time during or at end of concession.
6. The period of time required by the Promoter for complete construction of each route tendered for.

Commencement.—The work shall be commenced within three months of the concession being granted, and shall be continued without any intermission until completion within the time allowed.

Hours of Running.—The tram cars shall commence running not later than eight o'clock a.m., and shall continue running until eleven o'clock p.m., at intervals of minutes; cars may run earlier or later than above, at such times and fares as may from time to time be arranged between the Council and the Promoter.

Speed.—The rate of speed shall be at not less than five, nor more than at seven miles per hour.

Fares.—The fares to be charged shall not exceed threepence for three miles, and for shorter distances at the basis of one penny per mile between certain points to be tabulated and agreed on between the Council and the Promoter.

Exclusive Right.—The Promoter shall have the exclusive right to run the cars on the lines during the term granted in the concession.

Rates.—The City Council shall charge Municipal Rates on buildings required for shelter of fixed or rolling plant.

Gauge.—The gauge of the Tramways shall be four feet eight and one-half inches (4ft. 8½ in.) The rails in Sturt street, between Grenville street and Ripon street, shall be laid on the water table on each side of the central plantation; and thence to Pleasant street on the water table south of the plantation, and in all other streets on the crown of the roadway.

Maintenance.—The Promoter shall during the term of the concession keep the streets between the rails of the Tramways and for eighteen inches on each outer side thereof in good and substantial repair, to the satisfaction of the Council's Officer who may be appointed for that purpose; and shall also keep all rails, motors, cars, and other necessary machinery and plant in good working order. So far as possible, all repairs and maintenance shall be effected during the night, and no material shall be allowed to encumber the public streets during daylight.

Steam Motor.—No travelling steam motor shall be used.

Order for construction, Surveys, &c.—The Promoter shall, at his own expense, make all surveys, plans, sections, and working drawings that may be required by the Governor-in-Council prior to granting the order for construction, and shall also provide a duplicate set of such plans, sections, and working drawings, to be the property of the City Council, and shall comply with all requirements of the Railway Department at level crossings.

Sub-letting.—The Promoter shall have no right to sub-let or assign the concession of the routes or the working of the Tramways without written consent of the Council first being obtained.

Passing Places.—All passing places on the single lines shall be appointed by the City Council.

13th Schedule to L.G.A.—All tram cars, horses, motors, drivers, and conductors, shall be subject to the City By-Laws and Regulations for the regulation of traffic.

Promoter's By-Laws.—Subject to the sanction of the City Council, the Promoter shall adopt and enforce a code of By-Laws for the following purposes:—

1. To prevent any drunken or disorderly person riding in the tram cars.
2. To prohibit smoking in the tram cars by passengers, conductors, or drivers.
3. To ensure sobriety, civility, and courtesy to the public by all the employees of the Promoter.
4. To provide for and maintain vigilance in order to prevent accidents to persons or vehicles in the public streets.
5. To prevent the use or playing of musical instruments in the cars.
6. To prevent the use of obscene or offensive language in the cars, or any other nuisance.
7. To protect the cars and other property of the Promoter from wilful damage.
8. Generally, to provide for the proper regulation of the Tramway traffic, and the comfort and safety of the Public.
9. To provide penalties for the breach of any of the said By-Laws.

Liability for Accidents.—The Promoter alone shall be responsible for all injury to persons, animals, vehicles, and goods, and for all interruption to public traffic occasioned by making or using the Tramway, machinery, and plant, whether such be in proper working order or otherwise.

Corporation Works.—No compensation shall be paid by the Council to the Promoter for any stoppage of traffic, partial or complete, or any damage that may arise to the Tramway or Plant occasioned by any of the following causes; but all such injury or damage shall be made good at the Promoter's own expense:—

1. Alterations of levels of streets.
2. Construction or repairs to drains and water channels.
3. Laying or repairing gas or water mains or household services.
4. Laying or repairing footcrossing and water tables.
5. Any other City works executed in the public thoroughfares during execution of such works.
6. Interruption to Tramway traffic arising from any of the above or other causes, or subsidence of the surface of the streets from any cause whatsoever.

Construction.—The whole of the work and construction below the levels of the streets shall be constructed in strict accordance with the plans and specifications and drawings approved by the City Council and submitted to the Governor-in-Council, and shall be completed to the full satisfaction of the Council's Officer.

Tenements interfered with.—The Promoter shall settle all claims for compensation (if any) made or to be made by occupants or owners of property in any part of the City whose holdings may be interfered with, and the Promoters shall save harmless and keep the Corporation indemnified against any such claims.

Constant Working.—If the Promoter should, without permission from the City Council, fail to work the Tramways as provided for in these conditions, the Promoter shall be liable to a fine of £10 for any day or part of a day, unless such stoppage takes place with consent of the Council.

Contract.—The Promoter shall pay all costs incidental to the preparation, perusal, and completion of the contract for the concession.

Bond.—The Promoter will be required to give a bond in two approved sureties for the sum of £1000, to be paid to the City Council of Ballarat in default of the contract being completed in terms of these conditions, and shall enter into contract with the City Council to carry out the provisions of the concession; the deed of contract to contain the usual provisions, and in the event of the Promoter failing to fulfil the terms of the concession, the work so far done may (at the option of the City Council) be forfeited to the Corporation without compensation for the permanent way. And the contract shall contain any other clauses the Council or its legal adviser may deem necessary toward assuring proper completion.

Acceptance of Tenders.—The lowest or any tender will not necessarily be accepted. The Council reserves the right to vary the details of these terms by negotiation.

Deposit.—Each Promoter tendering shall lodge with the City Treasurer a cash deposit of £100, as a guarantee that his tender is *bona fide*, the same to be forfeited to the City Council if the terms of tender are not fully carried out.

Tenders will be received at the Town Hall, Ballarat, until noon on Monday, 3rd May, 1886.

By order,

GEORGE PERRY,

Town Hall, Ballarat.

TOWN CLERK.

This Memorandum of Agreement

made and entered into this 28th day of September One thousand eight hundred and eighty six **Between** THE MAYOR COUNCILLORS AND CITIZENS OF THE CITY OF BALLAARAT (hereinafter called the Council) of the one part and EDWARD THOMSON OF THE CITY OF ADELAIDE in the province of South Australia Contractor of the other part.

Witnesseth that in exercise of the power conferred on the Council by Statute and every other power enabling them in that behalf and in consideration of the rent hereinafter reserved and of the covenants by the said Edward Thomson hereinafter contained the Council so far as it lawfully can but not further or otherwise **Doth** hereby give and grant unto the said Edward Thomson his executors administrators and assigns full power license and authority to enter upon and under the public highways streets and roads of which the Council has the care management or control within the City of Ballaarat in the Parish of Ballaarat in the County of Grenville particularly described in the first schedule hereto therein and thereon to construct and during the term hereby granted to maintain and manage Tramways and also power to break dig and take up such parts of the same public highways streets and roads as may be necessary or convenient for such construction or maintenance or for examining relaying or repairing the same during the term hereby granted and so far as the Council can lawfully give authority to enclose the said parts of the said public highways streets and roads during such construction relaying or repairing aforesaid. **And** also power license and authority to run Tramcars on such Tramways or any part or parts section or sections thereof when the same or any part or parts section or sections thereof shall have been completed or shall be in a fit state and condition for the running of Tramcars thereon and generally full power to do all acts or things necessary or convenient for the purposes aforesaid. **And** also all other powers rights privileges licenses and authorities contained in the hereinafter mentioned order for construction of Tramways hereinafter specified within the said City of Ballaarat. To have and to hold the powers licenses authorities and premises hereinbefore expressed to be hereby given and granted unto the said Edward Thomson his executors administrators and assigns for the term of Thirty years from the Sixth day of May One thousand eight hundred and eighty seven subject to the agreement existing between the Council and the Phoenix Foundry Company Limited. Yielding and paying unto the Council (subject as hereinafter appears) pending and prior to the completion of the whole of the works contemplated by this contract a rental at the rate of One hundred and fifty pounds per annum for every mile of completed portions or sections of the said works and in the same proportion for any fractional part of a mile over which Tramcars are hereby authorised to run (but so that the length of turnouts for passing be not computed in such mileage) such rental to be computed from the time when any Tramcar shall pursuant to such authority commence to run over such completed portions or sections of the said works such rent to be paid half yearly from time to time when Tramcars shall have commenced to run on any part or parts of the said line and after the completion of the whole of the works contemplated by this contract. Yielding and paying to the Council the sum of One thousand five hundred and seventy five pounds per annum to be paid by half yearly payments the first to be made at the expiration of six months after the time when the whole of the said works shall be completed and Tramcars shall be allowed to run thereon. **And** also yielding and paying in the event of and immediately upon the said term being determined by re-entry under the proviso hereinafter contained a proportionate part of the said rent for the fraction of the current half year up to the day of such re-entry. Provided always and it is hereby declared and agreed that if and whenever any part of the rent hereinbefore reserved shall be in arrear for twenty eight days after the same shall have been legally demanded the Council may distrain not only upon so much of the said Tramways to be made and upon any freehold lands occupied by the said Edward Thomson his executors administrators or assigns at Ballaarat aforesaid and used in connection with the said Tramways but also upon all or any Tramcars motors waggons trucks carriages and plant belonging to the said Edward Thomson his executors or administrators or assigns and all or any horses and cattle belonging to the said Edward Thomson and used in connection with the said Tramways his executors administrators or assigns and the goods and other things belonging to the said Edward Thomson his executors administrators or assigns found thereon and may deal with such distress and distresses in such a manner as a landlord distraining for rent reserved upon a lease of land by law authorised to do and by means thereof recover payment of all arrears of rent and all expenses attending such distress or otherwise occasioned by such non-payment of rent. **And** the said Edward Thomson doth hereby for himself his heirs executors and administrators covenant with the said Council—

1. That the said Edward Thomson his executors administrators and assigns will (subject as hereinafter appears) construct Tramways over and upon the said public highways streets and roads in accordance with the plans sections and working drawings mentioned in the next following covenant and will construct the line to Lake Wendouree before any other.

2. That the said Edward Thomson his executors administrators and assigns will at his or their own expense make all surveys plans sections and working drawings that may be required by the Governor-in-Council prior to his granting the hereinafter mentioned order for construction of the said Tramways within the City of Ballaarat and will also at his and their own expense provide and deliver to the Council for its own use and as its own property a duplicate set of such plans sections and working drawings.

3. That the gauge of the Tramways shall be four feet eight and one half inches.

4. That the rails in Sturt Street between Grenville Street and Ripon Street shall be laid on the water-table on each side of the plantation and plantations in the said streets and thence to Pleasant Street on the water-table South of the said plantation in the said Sturt Street and in all other streets on the crown of the roadway.

5. That the bodies of all Tramcars required for the present use of the said Tramways shall be made and constructed by the said Edward Thomson his executors administrators and assigns in the City of Ballaarat.

6. That all passing places on single lines of Tramways shall be constructed and made at such places as the said Council shall direct and appoint.

7. That when any Tramway crosses any Railway the said Edward Thomson his executors administrators and assigns shall conform to and comply with all the requirements of the Commissioner for Railways of Victoria with respect to level crossings as to the construction working and otherwise and the construction working and repairing of the lines across any Railway and shall not interfere with the line of Railway or Tramway laid down by the Phoenix Company Limited.

8. The said Edward Thomson his executors administrators or assigns shall commence the construction of the Tramways within three months from the date of the delegation of the Order of the Governor-in-Council for construction of Tramways by the Council to the said Edward Thomson and shall complete the whole of the lines within twelve months from the date of such delegation aforesaid.

9. That the said Edward Thomson his executors administrators or assigns will complete to the satisfaction of the Officer or Officers for the time being appointed by the Council in that behalf the whole of the works contemplated by this contract to be made below the levels of the said highways roads and streets in accordance with the said plans specifications and drawings.

10. That the said Edward Thomson his executors administrators or assigns will during the said term keep the Tramways plant motors rails cars and machinery in connection therewith in good working order and condition.

11. The said Edward Thomson his executors administrators and assigns shall during the said term keep that part of the public highway road or street between the rails over which the Tramcars pass and for eighteen inches on each outer side thereof in good and substantial repair and to the satisfaction of the Officer or Officers for the time being appointed by the Council for inspecting the same and will as far as possible effect all repairs during the night-time and will as far as practicable prevent the accumulation of material used in effecting such repairs in the streets during the daytime.

12. That after the completion of the whole of the works contemplated by this contract or prior thereto after Tramcars shall commence to run over any completed portion of the said works Tramcars shall commence running not later than Eight o'clock in the morning and shall continue running until Eleven o'clock at night at the following intervals:—

(A) On the route commencing at the terminus in Sturt Street and thence along Sturt Street to the Botanic Gardens and Lake Wendouree a Car shall start each way every quarter of an hour at the least.

(B) On all other routes a Car shall start each way every half hour at the least.

13. That the speed for travelling the Cars shall be not less than six nor more than seven miles per hour.

14. That all Tramcars horses motors drivers and conductors used or employed by the said Edward Thomson his executors administrators or assigns shall be subject to the Council's by-laws and Regulations for the regulation of the traffic for the time being in force in the City of Ballaarat but shall not be subject to any license fee other than one shilling for every driver.

15. That the said Edward Thomson his executors administrators and assigns will adopt and enforce a code of by-laws to be approved of by the Council as may from time to time be made for the purpose of preventing any drunken or disorderly person riding in the Tramcars and for preventing smoking in the Tramcars and for preventing the playing of musical instruments and the use of obscene or offensive language in the Tramcars or any other nuisance and for ensuring civility and courtesy to the public by and sobriety in all the employees of the said Edward Thomson his executors administrators or assigns and for providing for and maintaining vigilance in order to prevent accidents to persons or vehicles in consequence of the Tramway traffic and to protect the Cars and other property of the said Edward Thomson his executors administrators or assigns from wilful damage and generally for providing for the proper regulation of the Tramway traffic.

16. That the said Edward Thomson his executors administrators or assigns will indemnify the Council from any responsibility or damages caused by any injury to persons animals vehicles or goods or for any interruption to public traffic occasioned by making or using any Tramway authorised hereby or any machinery or plant in connection therewith whether such be in proper working order or otherwise.

17. That the Council shall not be liable to render any compensation to the said Edward Thomson his executors administrators or assigns for any stoppage of traffic partial or complete or any damages that may arise to the Tramway or plant occasioned by any of the following causes :—

- (A) Alteration of level of streets.
- (B) Construction or repairs to drains and water channels.
- (C) Laying or repairing gas or water mains or household services.
- (D) Laying or repairing foot crossings and water tables.
- (E) Laying down other Tramways if the option of laying down same shall not have been accepted by the said Edward Thomson his executors administrators or assigns as hereinafter provided.
- (F) Any other City works executed in the public thoroughfares during execution of such works.
- (G) Interruption to Tramway traffic arising from any of the above causes or from subsidence of the surface of the streets from any cause whatsoever or from any cause matter or thing not directly occasioned by the said Council.

18. That the said Edward Thomson his executors administrators or assigns will keep the Council indemnified against all actions suits proceedings costs and damages to be brought or recovered by occupants or owners in respect of any property or buildings which may be interfered with by any Tramway to be constructed in pursuance of this contract.

19. That the said Edward Thomson his executors administrators and assigns will not use any travelling steam motor on any Tramway to be constructed in pursuance of this contract except by the consent and approval of the Council under authority under seal on the necessary permission or authority being obtained from the Governor-in-Council.

20. That the said Edward Thomson his executors administrators or assigns shall and will by way of liquidated damages pay to the Council the sum of Ten Pounds for every day or any part of a day during which the said Edward Thomson his executors administrators or assigns shall fail to work any Tramway as provided by this contract unless the stoppage be made with the consent of the Council. Provided always that the said Edward Thomson his executors administrators or assigns shall not be liable to pay any damages as aforesaid in the event of such stoppage being occasioned by the execution of necessary repairs or by any of the causes mentioned in clause seventeen or by the happening of any act or event over which the said Edward Thomson his executors administrators or assigns shall not have control or could not prevent by the exercise of reasonable precaution on his or their part taken.

21. That the said Edward Thomson his executors administrators or assigns shall not sublet or assign this contract or any powers rights or privileges derivable hereunder without the consent of the Governor-in-Council thereto being first obtained.

22. That the said Edward Thomson his executors administrators or assigns will at the expiration or other sooner determination of the said term deliver up to the Council the Tramways and rolling stock used under or by virtue of this contract in such working order state and condition as shall be consistent with the due performance of the several covenants hereinbefore contained without any claim or charge therefor.

23. That the said Edward Thomson his executors administrators or assigns will cause the sum of One thousand pounds to be deposited in some bank approved of by the Council in the joint names of the said Edward Thomson and the Council. And it is hereby agreed that such sum of One thousand pounds shall be forfeited and paid as liquidated damages to the Council in default of the Tramways contemplated by this contract being completed in accordance with the terms hereof but so that until such forfeiture the interest of such sum belong to the said Edward Thomson his executors administrators or assigns and after completion of the said Tramways in accordance with the terms hereof the same sum shall be paid to the said Edward Thomson his executors administrators or assigns.

And the said Council hereby for itself and its successors covenants with the said Edward Thomson his executors administrators and assigns.

24. That the said Edward Thomson his executors administrators and assigns shall during the said term unless the option of purchase hereinafter contained be exercised have the exclusive right to run Tramcars on the lines to be constructed in pursuance of this Agreement and on all other lines at any time hereafter to be constructed by the said Edward Thomson his executors administrators or assigns within the City of Ballarat.

25. That the said Edward Thomson his executors administrators or assigns paying the rent and observing and performing the covenants on his part herein contained may quietly hold exercise use and enjoy the said powers licenses authorities and premises hereby given and granted at all times during the said term or until the option of purchase hereinafter contained be exercised by the Council without any interruption or disturbance by the Council or any person claiming under or in trust for the Council.

26. That the Council will not during the continuance of this contract grant or delegate any other power authority license or lease to any Corporation or to any person or persons other than the said Edward Thomson his executors administrators or assigns other than a renewal of or extension of the licenses powers and authorities now granted under agreement now existing between the said Council and the said Phoenix Foundry Company Limited for tramway or traffic purposes over any public highways streets or roads within the said City of Ballarat of which the Council have the care management or control until the Council shall have first given the said Edward Thomson his executors administrators or assigns the option of constructing and working for tramway and traffic purposes any proposed Tramway at a similar rental per annum per mile and upon the like terms and conditions in all respects as are contained in these presents and the same shall have been refused by him or them or he or they shall for a period of three months after such option being given to him or them neglect to accept the same but should any proposed Tramway be deemed by the said Edward Thomson his executors administrators or assigns unnecessary or inexpedient then the questions as to whether such Tramway shall be constructed or not shall be referred to two arbitrators or their umpire pursuant to and so as with regard to the mode and consequence of the reference and in all respects to conform to the Act of the Parliament of Victoria called the "Common Law Procedure Statute 1865" or any then subsisting statutory modification thereof and in the event of its being decided that such Tramway shall be constructed and the said Edward Thomson his executors administrators or assigns declining or neglecting for such period as aforesaid to accept the option of constructing the same then the Council may enter into such contract as they may think fit for the construction of such Tramway with any other person or persons.

27. And it is hereby agreed and declared that if the said Edward Thomson his executors administrators and assigns shall decline or neglect to accept within the time aforesaid the option to construct such Tramway and in the event of the said Council constructing or delegating the authority or authorities rights powers and privileges conferred or vested in it on that behalf to any person or persons Company or Companies the said Council or such person or persons Company or Companies shall and may from time to time at their own expense lay down make and construct Tramways across and intersecting all or any of the Tramways or lines to be made by the said Edward Thomson his executors administrators or assigns under or by virtue of these presents and may run tramcars motors and other vehicles and horses over and may cross and re-cross the same when requisite and necessary.

28. PROVIDED that nothing herein contained shall be deemed to preclude the right of the Council to charge rates on the buildings belonging to or used by the said Edward Thomson his executors administrators or assigns for the purpose of shelter for fixed or rolling plant.

29. And it is hereby mutually agreed and declared by and between the parties hereto that the said Edward Thomson his executors administrators or assigns shall be entitled to charge the following fares for the journeys and between the points hereunder specified :—

Between the eastern terminus in Sturt street and Drummond street along Sturt street one penny.

Between Drummond street and Pleasant street along Sturt street one penny.

Between Pleasant street and the Rotunda (southern route) one penny.

Between the eastern terminus in Sturt street and Macarthur street along Lydiard street one penny.

Between Lydiard street and the intersection of the Wendouree Parade and Macarthur street along the latter street one penny.

Between the intersection of Macarthur street and Wendouree Parade and the Rotunda along the Parade (northern route) one penny.

Between Sturt street and South street along Armstrong street and Skipton street one penny.

Between South street and the junction of Drummond and Skipton streets along the latter street one penny.

Between the City boundary and the junction of Skipton and Drummond streets one penny.

Between Sturt street and Skipton street along Drummond street one penny.

Between the intersection of Sturt street and Drummond street and the Boat Sheds along Sturt and Fraser streets one penny.

Between the Boat Sheds and the intersection of Macarthur street and Wendouree Parade one penny.

30. That if at any time during the first ten years of the said term the Council shall be desirous of purchasing the Tramways to be constructed under this contract and horses rolling stock material and everything thereto appertaining or belonging but not including any freeholds of the said Edward Thomson his executors administrators or assigns which freeholds may be purchased by the Council at the price and in the manner hereinafter appearing at or for the price of Seventy thousand pounds and shall at any time during the said period of ten years give to the said Edward Thomson his executors administrators or assigns personally or leave at his or their last known place of business or abode in the Colony of Victoria not less than six months previous notice of such desire then the said Edward Thomson his executors administrators and assigns shall and will sell transfer and assign the premises above mentioned to the said Council at or for the said sum of Seventy thousand pounds and the said freeholds at or for the price fixed as hereinafter appears.

31. In the event of the Council desiring to purchase the premises mentioned in the foregoing conditions together with the freehold property belonging to the said Edward Thomson his executors administrators or assigns and used by him or them in connection with the concern the price to be paid by the Council for the same shall be fixed by a valuation to be made by two persons or valuers one to be named by the said Edward Thomson his executors administrators or assigns and the other by the Council or in case of their disagreement by an umpire to be appointed by the valuers and if either party shall refuse or neglect to name a valuer or to notify it in writing to the other party within fourteen days after notification of the Council's desire to purchase the Tramways and premises hereinbefore mentioned or if the valuer named by either party shall neglect or refuse to act then the valuation shall be made by valuers appointed by the other party alone.

32. And the Council hereby for itself and its successors covenants with the said Edward Thomson his executors administrators and assigns that in the event of the said notice being given or served as aforesaid the said Council shall and will within six months after the expiration of the said notice complete the purchase of the said premises and freeholds and pay the purchase money therefor.

33. And the Council hereby for itself and its successors further covenants with the said Edward Thomson his executors administrators and assigns that it shall and will immediately on the execution of these presents duly make application to the Governor-in-Council for an Order authorising the construction of the Tramways contemplated by this contract within the City of Ballaarat and in making such application shall conform to and comply with the provisions of the "Local Government Act Amendment Act 1883" and to the regulations contained in the second schedule thereto in respect of the same and shall and will when such order shall have been granted by the Governor-in-Council forthwith so far as it lawfully can and unless forbidden by the votes of the Ratepayers of the Municipality as provided by the Act of the Parliament of Victoria number 831 delegate the authority or authorities thereby conferred subject to the provisions of the said Act number 831 and all the rights powers and privileges therein contained to the said Edward Thomson his executors administrators or assigns to the intent that the said Edward Thomson his executors administrators or assigns may have and possess all the rights powers privileges licenses and authorities possessed or to be possessed by the Council under and in respect of the grant to it of the said Order for construction of Tramways herein contemplated to be made.

PROVIDED ALWAYS and it is hereby agreed and declared that the liabilities and obligations or any of them on the said Edward Thomson his executors administrators or assigns imposed by these presents or the covenants or any of the covenants on his part herein contained shall not be deemed to arise and shall not be enforceable against the said Edward Thomson his executors administrators or assigns at law or in equity until the hereinbefore mentioned delegation by the said Council of the authorities rights powers and privileges contained in the said Order for construction of Tramways shall have been made and fully executed. PROVIDED ALWAYS and it is hereby agreed that in the event of the Governor-in-Council refusing to make an Order authorising the construction of Tramways contemplated by this contract within the City of Ballaarat these presents shall be null and void.

PROVIDED ALWAYS and these presents are upon this express condition that if and whenever any part of the said yearly rent shall be in arrear for twenty eight days after the same shall have been legally demanded or if and whenever there shall be a breach of any of the covenants or agreements by the said Edward Thomson his executors administrators or assigns herein contained the said Council may by notice in writing under its seal or signed by its agent and given to the said Edward Thomson his executors administrators or assigns or left at his or their last known place of abode in the Colony of Victoria aforesaid determine and put an end to the grant and demise hereinbefore contained and take possession of the Tramways to be made for its own use and benefit. In Witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

The Schedule hereinbefore referred to.

ALL THAT PIECE OF LAND commencing at a point in Sturt street thence comprising so much of the streets or land hereinafter mentioned as shall be required to construct in accordance with the plans specifications and drawings hereinbefore referred to a Tramway on each side of the central plantation in Sturt street from the said commencing point as far as Ripon street and thence along the south side of Sturt street as far as the street by the Convent ground

thence to Wendouree Parade and thence along Wendouree Parade to the Botanic Gardens thence through the said Gardens to a point near the Rotunda.

ALL THAT PIECE OF LAND commencing at the junction of Lydiard street and Sturt street thence comprising as much of the streets and lands hereinafter mentioned as shall be required to construct according to the said plans specifications and drawings a Tramway along Lydiard street to Macarthur street thence along MacArthur street to Wendouree Parade thence along Wendouree Parade and round the north part thereof to the Botanic Gardens and thence through the Botanic Gardens to the point before mentioned near the Rotunda.

ALL THAT PIECE OF LAND commencing at the junction of Sturt and Ripon streets thence comprising as much of the streets and land hereinafter mentioned as shall be required to construct according to the said plans specifications and drawings a Tramway along Ripon street and Fraser street to Wendouree Parade and thence along Wendouree Parade to Macarthur street.

ALL THAT PIECE OF LAND commencing at the junction of Armstrong street and Sturt street thence comprising so much of the streets hereinafter mentioned as shall be required to construct according to the said plans specifications and drawings a Tramway along Armstrong and Skipton streets to the City boundary.

ALL THAT PIECE OF LAND commencing at the intersection of Skipton and Drummond streets thence comprising so much of Drummond street as shall be required to construct according to the plans specifications and drawings a Tramway along Drummond street to the Tramway in Sturt street the whole of the land and routes above mentioned being shown on the plan hereunto annexed and therein colored red.

The Common Seal of the Corporation styled THE MAYOR }
COUNCILLORS AND CITIZENS OF THE CITY OF BALLAARAT }
was affixed hereto in the presence of }
T. H. THOMPSON, MAYOR. }
FRED. M. CLAXTON, COUNCILLOR. }



GEORGE PERRY, TOWN CLERK.

Signed Sealed and Delibered by the said EDWARD }
THOMSON in the presence of }
AGAR WYNNE, SOLICITOR, }
BALLAARAT. }

EDWARD THOMSON.



Specifications of the Ballarat Tramways.

CONSTRUCTION.

CLAUSE 1.—The whole of the Tramway line to be constructed according to plans and specifications supplied by the Promoter.

CLAUSE 2.—The rails to be of steel 24 feet long and 40 lbs. per yard fished with plates 16 inches long and $\frac{3}{8}$ of an inch thick with 4 bolts 9-16ths of an inch diameter the rails the lead of which not to exceed 4 inches and with proper allowance for expansion to be laid on cross sleepers except at the junction of Lydiard and Armstrong streets. The cross sleepers to be sawn timber of red gum blue gum or box wood 6 feet 6 inches 7 inches by 4 inches notched 3-16ths of an inch deep. The rails to be spiked down with 4 dog spikes in each sleeper 4 inches long of $\frac{5}{8}$ of an inch square iron spikes and rails to be iron to iron and gauge 4 feet 8 $\frac{1}{2}$ inches as per drawing No. 4.

CLAUSE 3.—The Excavation for line to be 7 inches deep and of sufficient width to admit of packing the sleepers if the macadam is not of sufficient depth for a good foundation gravel or mine tailings to be added to give a good foundation for the sleepers without excavating the sleepers to be 2 feet 5 inches apart centre to centre at the joints and 3 feet 1 inch between other sleepers centre to centre as per drawing No. 4.

CLAUSE 4.—The Excavation at the junction of Lydiard and Armstrong streets to be 19 inches deep by 21 inches wide with 6 inches cement concrete (1 part cement to 8 parts of sand and gravel or metal broken to gauge 1 $\frac{1}{2}$ inches) under the level of bottom of cross sleepers as shown on drawing No. 3 and 12 inches wide by 3 inches deep under longitudinal sleepers and between cross sleepers as also shown on drawing No. 3 with $\frac{3}{4}$ of an inch of sand or tailings between longitudinal sleepers and cement concrete cross sleepers to be notched $\frac{1}{4}$ of an inch deep to receive longitudinal sleeper the longitudinal sleeper to be spiked to each cross sleeper with 4 dog spikes of $\frac{3}{4}$ of an inch square iron and 9 inches long. The spikes and rails to be iron to iron. The longitudinal sleepers to be stringy bark 7 inches by 6 inches and 18 feet 6 inches long and bent by steam for curves only at the junction of Lydiard and Armstrong streets where longitudinal sleepers are to be laid shall tie rods be used. The tie rods to be of $\frac{3}{4}$ of an inch round iron with screwed ends nuts inside and outside of rails these tie rods to be 4 feet 9 inches apart as per drawing No. 3.

CLAUSE 5.—18 inches of bluestone pitching on each side of line for whole width of street at junction of Lydiard and Armstrong streets to be set on two inches of sand or tailings and to be grouted with same. The pitches to be 12 inches by 6 inches and 6 inches by 6 inches by 8 inches as per drawing No. 3.

CLAUSE 6.—The whole of the lines between the rails to be filled above the sleepers with the excavated macadam or quartz gravel blinded and well rolled with a 3 ton roller along the sides of streets where the water table is low to be made up with gravel or mine tailings forming ballast on which sleepers are to be laid and the present level of streets to be maintained as far as practicable and grades flush with metal or macadam as per drawing No. 2.

CLAUSE 7.—The Tramway lines at railway crossings to be to the satisfaction of the Railway Authorities.

CLAUSE 8.—The whole of the work to be completed in a workmanlike manner according to plans and specifications supplied by the Promoter.

Ballaarat, 3rd August, 1886.

EDWARD THOMSON.

NOTE.—Plans Nos. 1, 2, 3, 4, are lodged at the Office of Public Works Department, Melbourne, and Duplicates at the Town Hall, Sturt Street, Ballaarat.

Agreement under seal made and entered into on the first day of August One thousand eight hundred and eighty seven Between THE MAYOR COUNCILLORS AND CITIZENS OF THE CITY OF BALLAARAT (hereinafter called the Council) of the one part and EDWARD THOMSON OF THE CITY OF ADELAIDE of the Province of South Australia Contractor of the other part. Whereas the Governor of the Colony of Victoria acting by and with the advice of the Executive Council and in pursuance of the provisions of the "Local Government Act Amendment Act 1883" on the 20th September 1886 made the Order following that is to say:—

That the Council of the Municipality of the City of Ballaarat shall be and is hereby authorised to construct a Tramway in the Municipal District of the City of Ballaarat.

Routes.—That the routes of such Tramway shall be as follows:—

Sturt street on each side of the central plantation from Grenville street to Ripon street thence by a single line on the south side to and by Morrison street to and along Wendouree Parade through the Botanic Gardens to Wendouree Parade north around Lake Wendouree to Fraser street and by Ripon street to Sturt street.

Lydiard street from Sturt street to Macarthur street and along the last named to Wendouree Parade. Drummond street from Sturt to Skipton streets.

Skipton street from Rubicon street to and along Armstrong street to Sturt street.

Tramway where crosses Railway to be under control of Commissioners of Railways.—That the Tramway to be constructed upon so much of the said route as crosses the Victorian Railway line in Lydiard street shall be under the absolute control of and be subject to all such regulations and orders as may from time to time be made by the Commissioners of Railways who shall not however be in anyway liable in respect of any damage or injurious consequences which may in any manner occur to any person or to any property in consequence of the said route crossing the Railway line.

Gauge.—That the gauge of such Tramway shall be four feet eight and a half inches (4 ft. 8 $\frac{1}{2}$ in.) and that the said Tramway shall be constructed in the manner set out and described in the working plans and specifications numbered from one (1) to seven (7) inclusive now deposited in the Public Works Department and which said plans and specifications are endorsed with a memorandum of the Minister of Public Works identifying the said plans and specifications so deposited as the plans and specifications referred to in this Order and which plans and specifications are to be deemed to be incorporated in this Order and to be deemed as much part of the same as if they were set out in detail in this Order and in addition to the works prescribed in the said plans and specifications it is hereby ordered that the said Council of the Municipality of the City of Ballaarat shall whenever it shall seem to them necessary to do so pave the entire streets at the several crossings in a similar manner to the crossings specified for Armstrong street and Lydiard street in Sturt street.

Motive power.—That the motive power to be used upon the said Tramway shall be horses.

Maximum speed.—That the maximum speed of the progression of the Cars upon the said Tramway shall be seven miles in the hour.

Time of Completion.—That the Tramway shall be completed and open for traffic throughout its entire length within the period of five years from the date of this Order.

Passenger Traffic only.—That such Tramway shall be used for Passenger traffic only.

Necessary Precautions for safety of Passengers and Public to be observed.—That every precaution necessary to secure the safety of the passengers upon the said Tramway and also to secure the safety of passengers passing along the streets upon the routes of such Tramway shall be taken and ordered by the said Council of the said Municipality.

Stoppages for taking up and setting down Passengers.—That for the convenience of the Public the Cars shall stop for the purpose of taking up and setting down passengers at the intersections of all streets and at such other points upon the several routes as may be convenient and in such manner as not to interfere with or endanger the general traffic of the streets or the safety of the passengers in the Cars.

Tolls and Charges.—That the charges to be made for every passenger on the said Tramway may be but shall not exceed the following that is to say for each passenger:—

From Grenville street to the Botanic Gardens *via* Sturt street or any lesser distance between threepence.

From Grenville street to the Botanic Gardens *via* Lydiard and Macarthur streets or any lesser distance between threepence.

From Grenville street to Lake Wendouree *via* Sturt street and Fraser street or any lesser distance between threepence.

From Grenville street to Rubicon street *via* Sturt Armstrong and Skipton streets or Sturt, Drummond and Skipton streets or any lesser distance between threepence.

From Rubicon street to Botanic Gardens *via* Skipton street (as far as intersection of Darling street) thence along Drummond and Sturt streets or to Lake Wendouree by the same route and Fraser street or any lesser distance between threepence.

And *vice versa* on each route.

Governor-in-Council to be sole judge of breach of Order.—That the Governor-in-Council shall be the sole judge of the compliance with or of the breach of any of the requirements contained in this Order and for the purpose of enabling the Governor-in-Council to arrive at a just decision an enquiry into the facts of each case shall be conducted in the manner provided in clause twenty six of the regulations contained in the second schedule to the said Act before an Officer to be appointed in that behalf by the Governor-in-Council as provided in the regulations in the said schedule.

If upon the report to the Governor-in-Council by the referee made under the said clause twenty six of the regulations in the second schedule of the said Act the Governor-in-Council shall as such sole judge determine that there has been any failure of compliance with or that any breach of any of the requirements contained in this Order has occurred by way either of commission or omission then the powers conferred by this Order shall be forfeited or shall cease and determine or shall be suspended as the Governor-in-Council shall direct and in the case of the Governor-in-Council ordering a suspension only of such powers then the Governor-in-Council shall in his adjudication state for what period such suspension shall take effect.

If in such adjudication the Governor-in-Council shall determine that the powers conferred by this Order shall be forfeited or shall wholly cease and determine then the Council of the said Municipality of the City of Ballarat shall forthwith proceed to restore the streets along which the said route is laid out to their condition previous to the construction of such Tramway unless the Governor-in-Council otherwise order.

That in the event of the Council of the said Municipality finding it necessary to provide work of a more substantial or expensive character than the work provided for in this Order the Council of the said Municipality shall take upon itself all such additional expenditure and no claim whatever shall be made upon the Government or upon the Board of Land and Works for any pecuniary assistance or aid in respect of such expenditure or to provide funds therefor.

And *Whereas* the said Council having proposed in exercise of the powers conferred in that behalf by the Act number 831 to delegate to the said Edward Thomson the authority conferred by the said recited Order to construct maintain and manage such Tramway published the necessary notice in that behalf in the *Government Gazette* on the First of October last and in the *Ballaarat Star* newspaper upon September the Thirtieth and also on the First of October last and no objection to the proposed delegation or demand by ratepayers that the question whether or not the delegation of authority should be made should be submitted to the election of the ratepayers having been made the said Council on the Third day of November adopted the proposition to delegate such authority in compliance with the provisions of the said Act.

And *Whereas* the period to which such delegation is to extend and the terms and conditions as between the said Council and the said Edward Thomson upon which such delegation is to be made are set out in an Agreement under seal made between the said Council and the said Edward Thomson on the Twenty-eighth day of September last.

Now this Agreement Witnesseth that in consideration of the terms conditions and covenants on the part of the said Edward Thomson in the said Agreement of the Twenty-eighth day of September last and of the covenant on the part of the said Edward Thomson herein contained The said Council in exercise of the powers conferred by the said recited Act *Both hereby delegate* to the said Edward Thomson the authority conferred upon the said Council by the said recited Order in Council of the Twentieth day of September One thousand eight hundred and eighty six to construct maintain and manage the Tramway in the Municipal District of the City of Ballarat described in such Order subject to the observance and performance by the said Edward Thomson of all the provisions conditions and stipulations contained in the said Order in Council and subject also to all the terms conditions and stipulations not inconsistent with any of the conditions and stipulations in such Order as are contained in the said Agreement of the Twenty-eighth day of September One thousand eight hundred and eighty six between the said Council and the said Edward Thomson. And it is hereby agreed that such delegation shall take effect immediately upon the approval thereof by the Governor-in-Council as provided by the said Act and shall continue for a period of Thirty years to be computed from the Sixth day of May One thousand eight hundred and eighty seven subject to an earlier determination

under the provisions for forfeiture suspension and cesser of the powers conferred by the said recited Order as provided in the said Order and also subject to the several provisions for the determination of the said term contained in the said Agreement of the Twenty-eighth day of September One thousand eight hundred and eighty six and subject also to the rights of purchase by the said Council of the interests of the said Edward Thomson in the said Tramway and all property used in connection therewith as provided in the said Agreement.

And the said Edward Thomson doth hereby covenant with the said Council for himself his executors and administrators that he will observe and perform all the several provisions conditions and stipulations contained in the said recited Order-in-Council of the Twentieth day of September One thousand eight hundred and eighty six and that he will pay all the several monies and observe all the terms conditions covenants and stipulations promised to be paid observed and performed in the said recited Agreement between himself and the said Council of the Twenty-eighth day of September One thousand eight hundred and eighty six.

And the said Council and the said Edward Thomson do hereby ratify and confirm the said Agreement of the said Twenty-eighth day of September One thousand eight hundred and eighty six so far as the same is not inconsistent with any of the provisions contained in the said recited Order.

In Witness whereof the said Corporation hath hereunto set its common seal and the said Edward Thomson hath hereunto set his hand and seal the first day of August One thousand eight hundred and eighty seven.

The Common Seal of the Corporation styled THE MAYOR
COUNCILLORS AND CITIZENS OF THE CITY OF BALLAARAT
was affixed hereto in the presence of
T. H. THOMPSON, MAYOR.
FRED. M. CLAXTON, COUNCILLOR.



GEORGE PERRY, TOWN CLERK.

Signed Sealed and Delibered by the said EDWARD
THOMPSON in the presence of
R. T. MOORE.

EDWARD THOMPSON.



THE WITHIN AGREEMENT under the seals of the respective parties thereto by which Agreement under seal the authority of the Council of the City of Ballarat to construct and maintain Tramways in the Municipal District of the City of Ballarat conferred by Order-in-Council of the twentieth day of September One thousand eight hundred and eighty six is delegated under the provisions of the Act number 831 to the within named Edward Thomson for the term therein mentioned and determinable as therein expressed is approved by His Excellency the Governor-in-Council under the provisions of the said Act subject to the observance from time to time by the said Council and the said Edward Thomson respectively of all the conditions and stipulations contained in the said Order.

HENRY B. LOCH.



This Indenture

made the Third day of October One thousand eight hundred and eighty seven

Between EDWARD THOMSON OF ADELAIDE in the Province of South Australia Engineer of the first part THE MAYOR COUNCILLORS AND CITIZENS OF THE CITY OF BALLAARAT (hereinafter called the said Council) of the second part and THE BALLAARAT TRAMWAY COMPANY LIMITED a Company incorporated in the Colony of Victoria under the provisions of the "Companies Statute 1864" and having its registered office at number 20 Temple Court Little Collins Street West Melbourne (hereinafter called the Company) of the third part. Whereas the Governor of the Colony of Victoria acting by and with the advice of the Executive Council and in pursuance of the provisions of the "Local Government Act Amendment Act 1883" on the Twentieth day of September One thousand eight hundred and eighty six made an Order that the Council of the Municipality of the City of Ballaarat should be and was thereby authorised to construct a Tramway in the Municipal District of the City of Ballaarat in the manner and upon the terms and subject to the conditions contained in such Order. And Whereas the said Council by an Agreement dated the Twenty-eighth day of September One thousand eight hundred and eighty six agreed to delegate to the said EDWARD THOMSON the authority conferred by the said Order to construct maintain and manage for thirty years the said Tramways subject to the rental and on the terms and conditions contained in the said Agreement. And Whereas the said Council has in exercise of the powers conferred by the said recited Act by an Agreement dated the First day of August One thousand eight hundred and eighty seven delegated to the said EDWARD THOMSON the authority conferred upon the said Council by the said recited Order-in-Council of the Twenty-sixth day of September One thousand eight hundred and eighty six to construct maintain and manage the said Tramway subject to the observance and performance by the said EDWARD THOMSON of all the powers conditions obligations and stipulations contained in the said Order-in-Council and subject also to all the terms conditions and stipulations not inconsistent with any of the conditions and stipulations in such order as are contained in the said Agreement dated the Twenty-eighth day of September One thousand eight hundred and eighty six made between the said Council and the said EDWARD THOMSON. And Whereas the Company has contracted with the said EDWARD THOMSON for the purchase of all his right title and interest property claim and demand in and to the concession conferred on him by and all privileges rights and benefits derivable under the aforesaid Agreements of the Twenty-eighth day of September One thousand eight hundred and eighty six and the First day of August One thousand eight hundred and eighty seven the terms and conditions of such sale being set out and contained in an Agreement bearing date the Twenty-third day of February One thousand eight hundred and eighty seven and made between the said EDWARD THOMSON of the one part and EDWARD NATHAN BROWN a Trustee for and on behalf of the Company of the other part. And Whereas the said parties hereto of the first and third parts have agreed to ratify and confirm the said Agreement of the Twenty-third day of February One thousand eight hundred and eighty seven in manner hereinafter appearing. And Whereas by the said Agreement of the Twenty-third day of February One thousand eight hundred and eighty seven it was amongst other things agreed that on the assignment of the aforesaid concession and the privileges and rights intended to be conferred by the aforesaid Agreement of the Twenty-eighth day of September One thousand eight hundred and eighty six the Company should pay to the said EDWARD THOMSON the sum of Two thousand five hundred pounds and issue to him Six thousand Two pound shares of the Company paid up to Thirty shillings each.

Now this Indenture Witnesseth that in the consideration of the premises each of them the said parties hereto of the first and third parts the said EDWARD THOMSON for himself his heirs executors and administrators and the Company for itself and its assigns doth hereby covenant and agree the one with the other that the said Agreement of the Twenty-third day of February One thousand eight hundred and eighty seven shall be and the same is hereby ratified and confirmed and as between the said EDWARD THOMSON his heirs executors and administrators and the Company and its assigns the said Agreement shall be read and construed and the said parties hereto of the first and third parts shall be bound as though the said Agreement had been originally entered into by and between the said EDWARD THOMSON and the Company direct without the intervention of a trustee. And this Indenture further Witnesseth that in pursuance of the said Agreement and

in consideration of the sum of Two thousand five hundred pounds paid by the Company to the said EDWARD THOMSON on the execution hereof and of the aforesaid Six thousand shares the receipt of which sum and shares is respectively acknowledged The said EDWARD THOMSON so far as he lawfully can but not further or otherwise doth hereby with the consent and concurrence of the said Council so far as it can lawfully give the same and of the said Governor give grant and assign unto the Company and its authorised assigns the like full power license and authority as was and is conferred on him by the said Council under the aforesaid Agreement of the Twenty-eighth day of September One thousand eight hundred and eighty six to enter into upon and under the public highways streets and roads of which the said Council has the care management or control within the City of Ballaarat aforesaid particularly described in the first Schedule to the said Agreement of the Twenty-eighth day of September One thousand eight hundred and eighty six and therein and thereon to construct and during the term granted by the aforesaid Agreement to maintain and manage Tramways with the like power and subject to the like obligations and provisions as was and is conferred or imposed on the said EDWARD THOMSON by the Council under the said Agreement to break dig and take up such parts of the same public highways streets and roads as may be necessary or convenient for such construction or maintenance or for examining relaying or repairing the same during the said term and to enclose the said parts of the said public highways streets and roads during such construction relaying or repairing as aforesaid. And also power license and authority to run tramcars on such Tramways or any part or parts section or sections thereof when the same or any part or parts section or sections shall have been completed or shall be in a fit state and condition for the running of tramcars thereon and generally full power to do all acts or things necessary or convenient for the purposes aforesaid. And also all other powers rights privileges licenses and authorities contained in the hereinbefore mentioned Order-in-Council of the Twenty-sixth day of September One thousand eight hundred and eighty six for the construction of Tramways within the said City of Ballaarat. To have and to hold the powers licenses and authorities and premises hereinbefore expressed to be hereby given granted or assigned unto the Company and its authorised assigns for the term of Thirty years to be computed from the Sixth day of May One thousand eight hundred and eighty seven subject to the Agreement existing between the said Council and the Phoenix Foundry Company Limited at the rentals reserved by and subject to the covenants by the said EDWARD THOMSON his executors administrators and assigns and the provisions conditions agreements and stipulations contained in the said Agreement of the Twenty-eighth day of September One thousand eight hundred and eighty six and the conditions stipulations and provisions contained in the said Order in Council of the Twenty-sixth day of September One thousand eight hundred and eighty six and henceforth respectively to be performed and observed. And the Company doth hereby for itself its successors and authorised assigns covenant with the Council and its successors that the Company shall and will perform and observe all and every the covenants contained in the said Agreement of the Twenty-eighth day of September One thousand eight hundred and eighty six and on the part of the said EDWARD THOMSON and henceforth to be performed and observed in all respects as if the Company had been a party to such Agreement but it is agreed between the said parties hereto that the Sum of One thousand pounds referred to in Clause Twenty-three of the said Agreement of the Twenty-eighth day of September One thousand eight hundred and eighty six shall remain deposit by the said EDWARD THOMSON as therein provided and in default of the Tramways being completed in accordance with the terms of the last mentioned Agreement the said sum of One thousand pounds shall be forfeited by the said EDWARD THOMSON his executors or administrators as provided by the said Twenty-third Clause and not by the said Company or its assigns. And the said EDWARD THOMSON doth hereby for himself his heirs executors and administrators covenant with the Company and its assigns that notwithstanding anything by him the said EDWARD THOMSON done omitted or knowingly suffered the hereinbefore recited Agreement of the Twenty-eighth day of September One thousand eight hundred and eighty six is in nowise void or voidable. And that it shall be lawful for the Company and its authorised assigns during the said term quietly to enter into and upon and to hold and enjoy the same premises and receive profits derivable thereby without any interruption or disturbance by the said EDWARD THOMSON his executors administrators or assigns or any person claiming through or in trust for him. And that free and discharged from or otherwise by the said EDWARD THOMSON his heirs executors or administrators sufficiently indemnified against all estates incumbrances claims and demands whatsoever created occasioned or made by the said EDWARD THOMSON or any person claiming through or in trust for him.

And further that the said EDWARD THOMSON and every person having or claiming any estate right title or interest in or to the said premises through or in trust for him will at all times during the said term at the cost of the Company and

its assigns execute and do every such assurance and thing for the further or more perfectly assuring all or any of the said premises unto the Company or its authorised assigns for the then residue of the said term as by it or them shall be reasonably required. And the Company doth hereby for itself and its assigns covenant with the said EDWARD THOMSON his executors and administrators that the Company and its assigns will henceforth pay the rents reserved by and will henceforth perform all the covenants by the said EDWARD THOMSON contained in the said recited Agreement of the Twenty-eighth day of September One thousand eight hundred and eighty six and keep the said EDWARD THOMSON his executors and administrators indemnified against all proceedings costs damages claims demands and liabilities for non-payment of the said rent or breach or non-performance of the said covenants or agreements or any of them henceforth to be observed or performed. In Witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first before written.

Signed Sealed and Delibered by the said EDWARD THOMSON in the presence of R. T. MOORE.

EDWARD THOMSON.



The Common Seal of the Corporation styled THE MAYOR COUNCILLORS AND CITIZENS OF THE CITY OF BALLAARAT was affixed hereto in the presence of W. COLLARD SMITH, MAYOR. C. C. SHOPPEE, COUNCILLOR.

The Seal of the BALLAARAT TRAMWAY COMPANY LIMITED was hereto affixed by the authority of the Board of Directors of the said Company in the presence of W. SMITH HENRY GORE E. N. BROWN, SECRETARY.

THE WITHIN WRITTEN DEED under the hand and seal of Edward Thomson and the common seals of the Mayor and Councillors of the City of Ballaarat and of the Ballaarat Tramway Company Limited parties thereto by which Deed the rights powers privileges and obligations therein mentioned and described were assigned to the Ballaarat Tramway Company Limited upon the terms and subject to the conditions and stipulations therein contained is this day consented to and approved by His Excellency the Governor of Victoria by and with the advice and consent of the Executive Council under the provisions of the Act 919 subject to the observance from time to time of the conditions and stipulations contained in the Order-in-Council of the Twentieth day of September 1886 authorising the Council of the Municipality of the City of Ballaarat to construct a Tramway in the Municipal District of the City of Ballaarat.

Dated the seventeenth day of January 1888.

HENRY B. LOCH.

J. Anderson & Co., Printers, 7 Armstrong Street North, Ballaarat.



