

THIS AGREEMENT made the 21st day of June

One thousand nine hundred and forty-four B e t w e e n the  
MELBOURNE AND METROPOLITAN TRAMWAYS BOARD a body corporate  
under Section 4 of the Melbourne and Metropolitan Tramways Act  
1928 of the State of Victoria (hereinafter called "the Board"  
which expression shall include the successors and permitted  
assigns of the Board) of the one part and THE COMMONWEALTH OF  
AUSTRALIA (hereinafter called "the Commonwealth") of the other  
part:

W H E R E A S for the more efficient operation of the  
factories engaged in construction maintenance and repair of  
aircraft at Essendon Aerodrome in the State of Victoria it is  
essential that additional tramway facilities be provided for the  
transport of employees of such factories:

AND WHEREAS the Commonwealth has requested the Board to  
construct the Tramway described in Schedule "A" hereto (herein-  
after called "the said tramway"):

AND WHEREAS the Board has been authorised to construct the  
said tramway and with the consent of the Governor in Council of  
the State of Victoria to enter into this Agreement:

AND WHEREAS the Governor in Council of the State of  
Victoria has consented to the Board entering into this Agreement:

AND WHEREAS in consideration of the grant of financial  
assistance by the Commonwealth the Board has agreed to construct  
the said tramway and to enter into this Agreement:

AND WHEREAS in consideration of the Board agreeing to  
construct the said tramway and to enter into this Agreement the  
Commonwealth has agreed to make the advances to the Board herein-  
after referred to subject to the terms and conditions hereinafter  
contained:

NOW THIS AGREEMENT WITNESSETH as follows:-

1. THE Board will with all expedition construct and shall  
until the Thirtieth day of June One thousand nine hundred and  
fifty-three and thereafter at the discretion of the Board main-

2. THE Commonwealth shall (for the purpose of the construction maintenance and operation of the said tramway) grant to the Board -

(a) An exclusive right of user over the land shown coloured green on the plan hereto annexed and marked "G".

(b) The right to use the land shown coloured yellow on the said plan.

3. THE Board shall effectually fence the land referred to in Clause 2(a) hereof and the cost of and occasioned by the said fencing shall be deemed to be a matter incidental to the construction of the said tramway in accordance with Clause 6(1) hereof.

4. THE Commonwealth hereby agrees to keep the Board indemnified against any moneys which the Board may be lawfully required to pay in respect of the construction of any private street abutting on any portion of the land set apart for the said tramway and of any drainage or works connected with the construction of any such private street.

5. THE Commonwealth hereby agrees that the Omnibus Services now being operated pursuant to National Security (Land Transport) Regulations between Essendon Railway Station and Essendon Aerodrome for the transport primarily of employees of the Aerodrome shall be discontinued when the said tramway commences to operate and that no other special services to the Aerodrome will be authorised under National Security (Land Transport) Regulations without the consent of the Board.

6. (1) THE Commonwealth shall with the consent of the Governor in Council of the State of Victoria advance to the Board the reasonable cost actually incurred by the Board in the construction of the said tramway including the Sub-station and other matters incidental thereto up to a maximum of Fifty-five thousand pounds (255,000).

(2) THE amount of the said cost shall be advanced by

tramway proceeds in such amounts as may be certified by the Board's auditors from time to time as having been expended by the Board in the construction of the said tramway and matters incidental thereto.

7. THE Commonwealth shall not require the repayment by the Board of one-half of the total amount advanced to the Board pursuant to Clause 6 hereof.

8. (1) THE Board hereby covenants to repay to the Commonwealth one half of the said total amount advanced not exceeding (£27,500) Twenty-seven thousand five hundred pounds without interest on -

(i) the First day of January One thousand nine hundred and forty-nine if the said tramway is shown to be making a surplus of revenue over expenditure during the year ending the Thirtieth day of June One thousand nine hundred and forty-eight; or

(ii) if the said tramway is not making a surplus of revenue over expenditure for the year ending the Thirtieth day of June One thousand nine hundred and forty-eight the first day of January following the year ending the Thirtieth day of June in which the said tramway shows a surplus of revenue over expenditure the said sum becoming due and payable not later than the Thirtieth day of June One thousand nine hundred and fifty-three in any case.

(2) The Board shall during the year ending the Thirtieth day of June One thousand nine hundred and forty-eight and during the succeeding years ending the Thirtieth day of June until one half of the said total sum advanced not exceeding Twenty-seven thousand five hundred pounds (£27,500) is paid to the Commonwealth pursuant to sub-clause (1) of this clause keep

the operation of the said tramway.

(3) For the purpose of keeping and maintaining the accounts of revenue and expenditure referred to in sub-clause (2) of this clause the revenue derived by the Board from the operation of the said tramway shall be determined in accordance with a method to be agreed upon between the Commonwealth and the Board not later than the First day of January One thousand nine hundred and forty-seven and in the event of such agreement not having been reached by the said First day of January One thousand nine hundred and forty-seven or by a subsequent date agreed upon between the Commonwealth and the Board shall be determined by arbitration pursuant to the provisions of the Arbitration Act 1928 of the State of Victoria. The expenditure in relation to the operation of the said tramway shall be determined according to the method set out in Schedule "B" to this Agreement.

9. FOR the better securing of the repayment by the Board of one half of the said total amount advanced not exceeding Twenty-seven thousand five hundred pounds (£27,500) in accordance with Clause 8 hereof the Board hereby charges all its revenue (including all rates authorised to be made or levied by it within the metropolis of the City of Melbourne) and all the works and undertakings of the Board with repayment of the said amount.

10. THE Board hereby agrees that in the operation of the said tramway the fare charged for the carriage of passengers between Essendon Railway Station and the Aerodrome terminus of the said tramway shall not exceed the sum of threepence.

#### SCHEDULE "A"

THE route of the Tramway to which this Agreement refers commences at the terminus of the existing electric tramway operated by the Board at the intersection of the eastern building line of Birdwood Street with Kellor Road and continues north-westerly along Kellor Road within the municipalities of Essendon and Kellor as closed paved track for a distance of

approximately thirty-four chains thence northerly along a strip of land forty-eight feet in width or more on curves whose western boundary is in direct alignment with or adjacent to the eastern boundary of Matthews Avenue for a distance of approximately sixty-eight chains thence easterly along a strip of land forty-eight feet in width or more on curves the northern boundary line of which is in direct alignment with or adjacent to the southern boundary of Vaughan Street for a distance of approximately twenty-one chains.

The tramway shall be constructed of double track for the whole distance of approximately 1.54 miles. From the northern boundary of Keilor Road to the terminus at the Aerodrome the tramway shall be of open ballast track construction except across those sections of the land shown coloured yellow on the said plan hereto annexed marked "C" on which sections the tramway shall be of closed paved track.

#### SCHEDULE "B"

THE expenditure in relation to the operation of the said tramway shall be arrived at as follows:-

1. The average cost per car mile in respect of all tramways operated by the Board under the headings referred to in paragraph 3 of the schedule shall be the cost per car mile charged on the said tramway during the relevant period.

2. The mileage run on the said tramway shall be kept according to the formula now used in computing mileage run on other tramways operated by the Board.

3. The expenditure in connection with the following items shall be the average cost per car mile as set out in paragraph 1 of the Schedule multiplied by the mileage run on the said tramway, viz:

- (1) Traffic Expenses
- (2) Maintenance (except Permanent Way Maintenance)
- (3) Power Expenses

- (4) General Expenses (except special charges)
- (5) Standing Charges:-
  - (a) Rates
  - (b) Employees' Benefit Society Contributions
  - (c) Sick Pay Allowances - Gratuities
  - (d) Pay Roll Tax
  - (e) War Damage Insurance
  - (f) Transfer to Renewals Reserve Account
  - (g) Payments to Consolidated Revenue pursuant to Section 77 Act No. 3732 of the State of Victoria.
  - (h) Any subsequent Statutory Charges for which the Board may become liable.

4. Permanent Way Expenditure shall be the actual cost incurred in respect of maintenance of the permanent way on the said tramway.

5. Sinking Fund to amortize the liability of the Board under Clause 8 of this Agreement shall be an annual amount based on four per centum (4%) of one half of the total amount advanced pursuant to clause 6 of this Agreement but not exceeding One thousand one hundred pounds (£1,100) per annum.

6. The sum of the amounts determined under paragraphs 3, 4 and 5 hereof shall be the total expenditure in relation to the operation of the said tramway pursuant to Clause 8(3) of this Agreement.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written.

SIGNED by the Minister of Transport )  
 of the Commonwealth of Australia ) (Sgd.) E. J. Ward  
 for and on behalf of the Commonwealth )  
 of Australia in the presence of - )

(Sgd.) - Murphy

THE COMMON SEAL of the MELBOURNE )  
AND METROPOLITAN TRAMWAYS BOARD was )  
 hereunto affixed in the presence of - )

(Sgd.) H.H. Bell Chairman

(Sgd.) R.A. Spencer Secretary

THIS AGREEMENT made the ..... day of.....  
One thousand nine hundred and fifty..... between MELBOURNE  
AND METROPOLITAN TRAMWAYS BOARD a body corporate under  
Section 4 of Melbourne and Metropolitan Tramways Act 1928  
No. 3732 of the State of Victoria (hereinafter called "the  
Board" which expression shall include the successors and  
permitted assigns of the Board) of the one part and THE  
COMMONWEALTH OF AUSTRALIA (hereinafter called "the Commonwealth")  
of the other part:

WHEREAS the Commonwealth for the more efficient  
operation of the Commonwealth Munitions Factories and other  
essential works in Victoria requested the Board to construct  
the tramways set out in the Schedule hereto (hereinafter  
called "the said tramways"):

AND WHEREAS in consideration of financial assistance  
given to the Board by the Commonwealth (with the consent of  
the Governor-in-Council of the State of Victoria) including  
interest free loans to the sum of Seventy-seven thousand  
six hundred and twenty-seven pounds five shillings and  
sixpence (£77,627/5/6) and grants to the sum of Seventy-  
eight thousand seven hundred and eighty-six pounds nine  
shillings and eightpence (£78,786/9/8) particulars of  
which are set out in the Schedule hereto the board has  
constructed the said tramways (with the exception of  
tramway D (1) in the Schedule hereto) and has managed and  
operated the said tramways from the respective dates set  
out in the Schedule hereto:

AND WHEREAS the Commonwealth and the Board have entered  
into agreements as set out in Clause 2 hereof or have  
given undertakings by letter in respect of the said tramways:

AND WHEREAS the Commonwealth had constructed at its  
own expense the superstructure of the timber trestle bridge

across Maribyrnong River in line with Maribyrnong Road and Raleigh's Road and such superstructures are now carrying tramways A(1) and D(11) in the Schedule hereto and the cost of the maintenance of such superstructures has been borne by the Board since the opening dates for tramways A(1) and D(11) shown in the Schedule hereto.

AND WHEREAS the Commonwealth has granted to John Danks and Son Proprietary Limited (with the consent of the Board) a right of drainage over portion of the land on which is situated tramway B(11) as set out in the Schedule hereto and notice of the granting of such drainage easement was published in the Commonwealth of Australia Gazette No. 58 dated 11th August, 1949.

AND WHEREAS the Board has repaid to the Commonwealth the said interest free loans totalling Seventy-seven thousand six hundred and twenty-seven pounds five shillings and sixpence (£77,627/5/6).

NOW THIS AGREEMENT WITNESSETH as follows:-

1. THE Commonwealth hereby agrees and declares that the Board having repaid the interest free loans referred to in the recitals hereof shall not be required to repay the sum of Seventy-eight thousand seven hundred and eighty-six pounds nine shillings and eightpence (£78,786/9/8) granted to it as aforesaid and further agrees and declares as follows:-

(a) that the Board shall not be required to keep separate accounts for the operation of any of the said tramways or any part of them and the Commonwealth hereby declares that it has waived any rights it may have to participation in profits (if any) made by the Board in respect of the said tramways as stipulated in any of the Agreements arrangements or undertakings referred to in Clause 2 hereof;

(b) that the Board is deemed to be the sole owner of the said tramways and all permanent way tracks

overhead lines buildings and other gear whatsoever constructed (or in the case of tramway D (1) when constructed) by the Board pursuant to the said Agreements arrangements and undertakings and that the same are deemed to be vested in the Board and the Board shall have the right to manage and operate the said tramways on its own account as part of its tramway undertakings and that the Commonwealth hereby declares it has waived all rights of control over or participation in them since the 29th October 1945 being the date on which the balance of the said Seventy-seven thousand six hundred and twenty-seven pounds five shillings and sixpence (£77,627/5/6) was repaid by the Board.

(c) that the Commonwealth (for the purpose of the construction maintenance and operation of the tramways described in the Schedule hereto) hereby grants to the Board without payment of any fees or rents or other consideration or compensation.

(1) the right of user for tramway purposes over the lands shown coloured green on the plans hereto annexed and marked "A" and "B"; but subject to such easement as has been granted to John Danks and Son Proprietary Limited and notified in the Commonwealth of Australia Gazette No. 58 dated 11th August 1949 and subject to the rights of the persons or corporations having the ownership or control of such pipes drains or easements as subsist over or along or under the said lands shown coloured green at the date of signing this Agreement and subject to any easement which may be granted under Clauses 1 (i) and 1 (j) hereof.

- (ii) the right to use the land shown coloured yellow on the said plans "A" and "B" for tramway purposes.
- (iii) the right of user (for tramway purposes) of the existing timber trestle bridge across the Maribyrnong River in line with Maribyrnong Road and Raleigh's Road and over the approaches to such bridge as are shown coloured red and green respectively on the plan hereto annexed and marked "C".
- (iv) the right to erect standards and fix rosettes to buildings in such places outside the said land coloured green and yellow as the Board shall require for the purpose of supporting overhead wires with free access thereto for the maintenance and renewal thereof.
- (v) the right to discharge drainage water from the tramway tracks into any drains or channels on under or through the said lands coloured green and yellow on the said plans A and B or onto any other land owned or held by the Commonwealth outside the said land coloured green and yellow and for that purpose to construct outside the said land coloured green and yellow such outlet drains as the Board shall require with free access thereto for the purpose of cleaning maintenance and renewal of same.
- (d) that the Commonwealth shall keep the Board indemnified against any moneys which the Board may be lawfully required to pay in respect of the construction of any private street abutting on any portion of the Commonwealth land set apart for the said tramways described in the Schedule hereto and of any drainage

private streets; and

- (e) that neither the Commonwealth nor any authority under the Commonwealth will without the consent of the Board authorise under the National Security (Land Transport) Regulations or otherwise any other omnibus services between Essendon Railway Station and the Essendon Aerodrome for the transport primarily of persons employed at the said Aerodrome.
- (f) that the Board shall construct and operate tramway D (i) described in the schedule hereto as soon as the requisite resumptions and alterations to existing buildings on the south-western corner of Union Road and Maribyrnong Road have been carried out.
- (g) that the Board shall pay the cost of maintaining the superstructure of the existing timber trestle bridge across the Maribyrnong River in line with Maribyrnong Road and Raleigh's Road also of the tram tracks and all other tramway apparatus thereon including the maintenance of the approaches to such bridge and all abutments wingwalls and embankments as may extend beyond the bridge and of the approaches thereto for so long as the existing tramway on such bridge continues to be operated by the Board.
- (h) that the Commonwealth shall not authorise the superstructure of the existing timber trestle bridge to be modified added to extended widened removed or replaced without first having sought and obtained the written approval of the Board thereto.
- (i) that the Board shall at its own expense keep effectually fenced with a sufficient fence the lands referred to in Clause 1 (c) (i) hereof and the bridge referred to in Clause 1 (c) (iii) hereof provided however provision may be made for all openings required for

pedestrian access to and egress from the tramway and provided further that no new cross thoroughfare for vehicular traffic shall be carried out except with the consent and written approval of both the Commonwealth and the Board and provided further that all "man proof fences" on the boundaries of the said lands shall be erected and maintained by and at the expense of the Commonwealth.

- (j) that the Commonwealth shall not grant or authorise any easement for drainage or for any other purpose along or across the lands referred to in Clause 1 (c) (i) nor along or across the bridge or land referred to in Clause 1 (c) (iii) hereof without first having sought and obtained in writing the approval of the Board thereto.
- (k) that the Board shall notify the Commonwealth when it proposes to abandon any part of its tramway to which this grant applies and upon abandoning any such tramway pursuant to sub-sections (1) to (5) of Section 68 of Melbourne and Metropolitan Tramways Act 1928 the Board shall at its own expense remove all tramway material and apparatus to the satisfaction of the Commonwealth.

2. IT IS MUTUALLY AGREED AND DECLARED that the undermentioned Agreements arrangements and undertakings entered into between the parties hereto shall be cancelled as from and after the date of execution of this Agreement -

- (a) Agreement dated 22nd July 1941 for the construction and duplication of tramways as set out in items "A" and "B" of the Schedule hereto and for the undertaking given therein for the repayment of money advanced by way of loan therefor;
- (b) the arrangements made by letters sent and received by both parties and in respect of which no formal Agreement has been entered into for the construction

and duplication of tramways as set out in item "C" of the Schedule hereto and for the undertaking given therein for the repayment of money advanced by way of loan;

(c) the arrangements made by letters sent and received by both parties and in respect of which no formal Agreement has been entered into for the construction of the four duplicate tracks as set out in item "D" of the Schedule hereto and for the undertaking given therein for the repayment of money advanced by way of loan therefor; and

(d) Agreement made between the Commonwealth and the Board dated 21st June 1944 for the construction of a tramway as set out in item "E" of the Schedule hereto and for the undertaking given therein for the repayment of money advanced by way of loan therefor.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written.

THE COMMON SEAL OF MELBOURNE )

AND METROPOLITAN TRAMWAYS )

BOARD was hereunto affixed )

in the presence of - )

Chairman

Secretary

SIGNED by the Minister of )  
 Transport of the Commonwealth )  
 of Australia for and on behalf )  
 of the Commonwealth of )  
 Australia in the presence of )

| TRAMWAY   | Authority for Tramway                            | Extent of Loan | Extent of Grant | Common-wealth land first occupied | Tramway opened for Traffic |
|---|--|----------------|-----------------|-----------------------------------|----------------------------|
| (A) (1) Single track from old terminus in Maribyrnong Rd. on East side of Maribyrnong River to Cordite Munition Factory the new terminus being adjacent to and on the north side of Cordite Avenue. | C-in-C<br>8.10.40<br>Act No.<br>3732             |                | £477.5.7        | 8.10.40                           | 22.12.40                   |
| (B) (1) Double track in Gordon St. Footscray from Ballarat Rd. to River St.   | N.S.Reg.<br>22.5.41<br>Act No.<br>3732 &<br>5073 |                |                 |                                   | 9.11.41                    |
| (11) Double track east of and parallel to West Rd. from Raleigh's Rd. to Williamson Rd.   | N.S.Reg.<br>22.5.41<br>Act No.<br>3732 &<br>5073 |                |                 |                                   | 6.7.41                     |
| (111) Duplication of single track in Raleigh's Rd. from Maribyrnong River to Park Rd.   | Act. No.<br>3732                                 |                | £25,000.0.0     | 25,000.0.0                        |                            |
| (iv) Duplication of single track in Raleigh's Rd. from Park Rd. to the tramway junction east of West Rd.  | N.S.Reg.<br>22.5.41<br>Act.No.<br>3732 &<br>5073 |                |                 |                                   | 28.5.42                    |
| (v) Essendon Depot Extension and tracks.  |  |                |                 |                                   | 19.11.41                   |
| (C) (1) Double track in Maribyrnong Rd. and Ascot Vale Rd. Essendon from Union Rd. to Puckle St.  | N.S.Reg.<br>21.3.42<br>Act No.<br>3732 &<br>5073 |                |                 |                                   | 24.5.42                    |
| (11) Duplication of portion of original single track laid in 1940 adjacent to and on the north side of Cordite Ave. from the tramway junction east of West Rd. to the terminus                      |  |                | £20,265.8.4.    | 20,265.8.4.                       | 23.7.42                    |

Forward

£45,265.8.4 45,742.13.11

| TRAMWAY  | Authority for Tramway                              | Extent of Loan                       | Extent of Grant | Common-wealth land first occupied | Tramway opened for Traffic                                    |
|--|--|--------------------------------------|-----------------|-----------------------------------|---|
|  | Forward  |                                      | £45,265.8.4     | 45,742.13.11                      |   |
| (D) (i) Duplication of curve around the south-western corner of Union Road and Maribyrnong Road.                             | N.S.Reg.)<br>9.8.43<br>Act No.<br>3732 &<br>5073.  |                                      |                 |                                   | Not constructed at date of signing this Agreement.<br>22.8.43 |
| (ii) Duplication of track across Maribyrnong River   | N.S.Reg.)<br>9.8.43<br>Act No.<br>3732 &<br>5073   |                                      |                 |                                   |   |
| (iii) Duplication of original single track, laid in 1940, at tramway junction, east of West Rd.                              | N.S.Reg.)<br>9.8.43<br>Act No.<br>3732 &<br>5073   | 4,861.17.2                           | 5,543.15.9      |                                   | 23.7.42   |
| (iv) Duplication of curve around the south-eastern corner from Raleigh's Rd, to the tramway east of and parallel to West Rd. | N.S.Reg.)<br>9.8.43<br>Act No.<br>3732 &<br>5073   |                                      |                 |                                   | 7.10.43   |
| (E) (1) Double track from the old terminus in Keilor Rd. at Birdwood St. to the new entrance to Essendon Aerodrome.          | N.S.Reg.)<br>21.12.42<br>Act No.<br>3732 &<br>5073 |                                      | 27,500.0.0      | 27,500.0.0                        | 21.12.42 16.5.43  |
|  |  | <u>£77,627.5.6</u> <u>78,786.9.8</u> |                 |                                   |   |