

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

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

or works connected with the construction of any such 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. IF 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) (i) 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.	0-in-0 8.10.40 Act No. 3732		£477.5.7	8.10.40	22.12.40
(B) (i) Double track in Gordon St. Footscray from Ballarat Rd. to River St.	N.S.Reg. 22.5.41 Act No. 3732 & 5073				9.11.41
(ii) Double track east of and parallel to West Rd. from Raleigh's Rd. to Williamson Rd.	N.S.Reg. 22.5.41 Act No. 3732 & 5073				6.7.41
(iii) Duplication of single track in Raleigh's Rd. from Maribyrnong River to Park Rd.	Act. No. 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. 22.5.41 Act.No. 3732 & 5073				28.5.42
(v) Essendon Depot Extension and tracks.					19.11.41
(C) (i) Double track in Maribyrnong Rd. and Ascot Vale Rd. Essendon from Union Rd. to Puckle St.	N.S.Reg. 21.3.42 Act No. 3732 & 5073				24.5.42
(ii) 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



TRAMWAY	Authority for Tramway	Extent of Loan	Extent of Grant	Commonwealth 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.) 9.8.43 Act No. 3732 & 5073.				Not constructed at date of signing this Agreement. 22.8.43
(ii) Duplication of track across Maribyrnong River	N.S.Reg.) 9.8.43 Act No. 3732 & 5073				
(iii) Duplication of original single track, laid in 1940, at tramway junction, east of West Rd.	N.S.Reg.) 9.8.43 Act No. 3732 & 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.) 9.8.43 Act No. 3732 & 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.) 21.12.42 Act No. 3732 & 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>	