

Receivables Purchase Deed

WA Schools PPP Project

The State of Western Australia

and

The Minister for Works, a body corporate constituted under Section 5 of the Public Works Act 1902 (WA) on behalf of the Crown in the Right of the State of Western Australia (Minister for Works)

and

The Minister for Education, a body corporate constituted under Section 214 of the Schools Education Act 1999 (WA) on behalf of The Crown in the Right of the State of Western Australia (Minister for Education)

and

EduWest Project Co Pty Limited in its personal capacity and as trustee of EduWest Project Trust

and

EduWest Finance Company Pty Ltd

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Receivables Purchase Deed

Date

Parties

The State of Western Australia

The Minister for Works a body corporate constituted under Section 5 of the Public Works Act 1902 (WA) on behalf of the Crown in the Right of the State of Western Australia)

(Minister for Works)

The Minister for Education a body corporate constituted under Section 214 of the Schools Education Act 1999 (WA) on behalf of the Crown in the Right of the State of Western Australia)

(Minister for Education)

EduWest Project Co Pty Limited in its personal capacity and as trustee of EduWest Project Trust

ACN 608 027 434 of [*Not disclosed*]

(Project Trustee)

EduWest Finance Company Pty Ltd

ACN 608 038 320 of [*Not disclosed*]

(Borrower)

Recitals

- A. The State has agreed to license each Site to the Project Trustee pursuant to an Operating Phase Licence.
 - B. The Project Trustee has agreed to pay a fee for the licence of each Site pursuant to the relevant Operating Phase Licence.
 - C. The Borrower has agreed to purchase the State's right to receive the licence fees under each Operating Phase Licence for the price and upon the terms and conditions set out in this deed.
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1. Interpretation

1.1 Definitions

Unless the context otherwise requires, capitalised expressions that are not defined in this deed have the meaning given to them in the Project Deed, and:

- | | |
|----------------------------------|--|
| Additional Purchase Date | means each date occurring after the Initial Purchase Date on which the State is required to pay any CCE Amount to, or as directed by the Project Trustee under the Project Deed. |
| Additional Receivables | <p>means, in relation to an Operating Phase Licence or the Site licensed pursuant thereto, all of the State's right, title to, and interest in any amount which satisfies the following criteria:</p> <ul style="list-style-type: none"> (a) it is payable by the Project Trustee to the State by way of increased Licence Payments under that Operating Phase Licence in accordance with clause 22A.1(d) of the Project Deed; (b) it is not an Initial Receivable payable in respect of that Operating Phase Licence; (c) it is an amount that the Borrower has agreed in writing may be offered to the Borrower under this deed; and (d) it is not an amount payable in respect of GST. |
| Authorised Representative | <p>means:</p> <ul style="list-style-type: none"> (a) in respect of the State, any person nominated by or on behalf of the State as an Authorised Representative by notice to the Project Trustee, the notice being accompanied by and certifying the correctness of a copy of the signature of any person so appointed; and (b) in respect of the Borrower and the Project Trustee: <ul style="list-style-type: none"> (i) any company secretary or director of the Borrower or the Project Trustee, respectively; or (ii) any person nominated by or on behalf of the Borrower or the Project Trustee, respectively, as an Authorised Representative by notice to the State, the notice being accompanied by and certifying the correctness of a copy of the signature of any person so appointed. |

CCE Amount	means any amount payable by the State to the Project Trustee in respect of a Change Compensation Event calculated in accordance with the Change Compensation Principles in respect of which finance has been provided under the Financing Documents.
Initial Purchase Date	means the date on which Financial Close occurs.
Initial Receivables	means, in relation to an Operating Phase Licence, all of the State's right, title to, and interest in each Licence Payment (excluding GST) payable under that Operating Phase Licence for the Site.
Initial Receivables Refund Payment	means the amount calculated in accordance with Schedule 2 to this deed.
Payment Directions Deed	means the deed so entitled dated on or about the date of this deed between, amongst others, the State, the Project Trustee, the Senior Agent and the Borrower.
Project Deed	means the agreement entitled "WA Schools PPP Project Deed" dated on or about the date of this deed between the State and the Project Trustee.
Purchase Date	means in relation to the Receivables or Additional Receivables payable in respect of an Operating Phase Licence: (a) the Initial Purchase Date; or (b) each relevant Additional Purchase Date.
Receivables	means in relation to an Operating Phase Licence: (a) the Initial Receivables; and (b) the Additional Receivables, payable pursuant to or with respect to that Operating Phase Licence.
Receivables Purchase	means for a Receivables Purchase Payment Date the 'Receivables Purchase Deed Receivables Purchase Payment' which the Borrower must pay to the State on that date specified

Payment	in the Model Output Schedule, adjusted (if at all) as contemplated by clause 22A.1(c) of the Project Deed.
Receivables Purchase Payment Date	means each 'Receivables Purchase Deed Receivables Purchase Payment Date' on which the Borrower must make a Receivables Purchase Payment to the State specified in the Model Output Schedule.
Receivables Purchase Price	means in relation to an Operating Phase Licence: <ul style="list-style-type: none"> (a) the total of the Receivables Purchase Payments specified in Schedule 4 paid for the Initial Receivables payable under that Operating Phase Licence; and (b) in relation to any Additional Receivables, the amount calculated using the same methodology (but with the variables used in this calculation to be determined at the time) as was used to determine the amount referred to in paragraph (a) above and notified to the State in accordance with clause 2.4(b).
Receivables Refund Payment	means an amount equal to the Initial Receivables Refund Payment as adjusted (if at all) in accordance with clause 6(e).
Security Interest	includes any mortgage, pledge, hypothecation, lien or charge or anything analogist to any of the foregoing or any security interest or arrangement of any kind.
Site	means, in relation to an Operating Phase Licence, the land for the relevant site as shown in Part A of Schedule 8 (Site Matters) of the Project Deed, and includes each building or buildings constructed or to be constructed thereon, all other improvements on the land, and includes each item of plant and equipment acquired in relation to the building or buildings from the date of this agreement including any accessory or fitting to any such item.

1.2 Interpretation

In this deed unless a contrary intention is expressed:

- (a) headings and italicised, highlighted or bold type do not affect the interpretation of this deed;
- (b) the singular includes the plural and the plural includes the singular;

- (c) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (d) a reference to a clause, party or schedule is a reference to a clause of, and a party and schedule to, this deed and a reference to this deed includes any clause and schedule;
- (e) a reference to a document (including this deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (f) a reference to a party to any document includes that party's successors and permitted assigns;
- (g) a reference to time is to Perth time;
- (h) in this deed a reference to any legislation includes all delegated legislation made under it and includes all amendments, consolidations, replacements or re-enactments of any of them, from time to time;
- (i) a reference to an agreement other than this deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (j) a reference to a document includes any agreement or contract in writing, or any certificate, notice, deed, instrument or other document of any kind; and
- (k) a provision of this deed may not be construed adversely to a party solely on the ground that the party was responsible for the preparation of this deed or the preparation or proposal of that provision.

1.3 **Business Day**

If anything under this deed is required to be done by or on a day that is not a Business Day that thing must be done by or on the next Business Day.

1.4 **Document or agreement**

In this deed, references to an 'agreement' include any Security Interest, undertaking, deed, agreement or arrangement whether or not in writing, and references to a 'document' include any agreement (as so defined), notice, instrument or document of any kind.

1.5 **Project Trust Deed**

Notwithstanding the terms of the Project Trust Deed, the Project Trustee agrees that after the date of this deed:

- (a) the Project Trustee shall not have or exercise (or purport to do the same) any power in relation to the Trust otherwise than as contemplated by, or incidental to, this deed;
- (b) the Project Trustee will ensure that the Project Trust Deed is not amended or revoked without the consent of the Borrower;
- (c) the Project Trustee will ensure that there will be no resettlement, setting aside or transfer to any other trust or person of any of the property of the Project Trust;
- (d) the Project Trustee will duly and punctually comply with its obligations under the Project Trust Deed;
- (e) the Project Trustee will ensure that no other person is appointed as trustee of the Project Trust without the consent of the Borrower; and
- (f) the Project Trustee will ensure that it is not removed or does not retire as trustee of the Project Trust without the consent of the Borrower.

2. Offer to sell

2.1 Offer

The State irrevocably offers, on the terms set out in this deed, to sell:

- (a) the Initial Receivables payable in respect of each Operating Phase Licence to the Borrower on the Initial Purchase Date; and
- (b) the Additional Receivables payable in respect of the relevant Operating Phase Licence to the Borrower on each Additional Purchase Date,

for the Receivables Purchase Price payable for those Receivables.

2.2 Method of acceptance

- (a) The Borrower may only accept the offer in clause 2.1 by paying the relevant Receivables Purchase Price on the relevant Purchase Date (or the first instalment of the Receivables Purchase Price on the Initial Purchase Date in the case of the Initial Receivables) for those Receivables in accordance with clause 2.7.
- (b) If the Borrower pays the Receivables Purchase Price on the relevant Purchase Date (or the first instalment of the Receivables Purchase Price on the Initial Purchase Date in the case of the Initial Receivables) for the Receivables payable in respect of an Operating Phase Licence in accordance with clause 2.7, the Borrower will be deemed to have accepted the offer in clause 2.1 in respect of those Receivables.

2.3 Receivables Purchase Price

- (a) The Receivables Purchase Price for:
 - (i) the Initial Receivables payable in respect of an Operating Phase Licence is payable by the Borrower to the State in instalments on each relevant Receivables Purchase Payment Date (with the first instalment payable on the Initial Purchase Date) in consideration for the sale of the Initial Receivables payable in respect of that Operating Phase Licence; and
 - (ii) the Additional Receivables payable in respect of that Operating Phase Licence is payable by the Borrower to the State on each relevant Additional Purchase Date in consideration for the sale of those Additional Receivables.
- (b) Receipt by the State (including by way of payment in accordance with the State's payment direction) of the relevant Receivables Purchase Price (or any instalment) for the relevant Receivables is conclusive evidence that the State has sold the relevant Receivables to the Borrower.

2.4 Additional Receivables

- (a) If the Licence Payments payable under an Operating Phase Licence are, or will be, increased, after the Initial Purchase Date, as contemplated by clause 22A.1(d) and clause 22A.2(f) of the Project Deed, the Borrower must, if it wants that increased amount to be an Additional Receivable, give written notice to the State that the increased amount is to be an Additional Receivable.
- (b) In the written notice to the State under clause 2.4(a), the Borrower must also specify the Receivables Purchase Price applicable to those Additional Receivables which must be at least equal to any CCE Amount agreed to be payable by the State under the Project Deed at the relevant time.

2.5 Assignment

Subject to clause 2.6, in respect of any Receivables payable in respect of an Operating Phase Licence on the relevant Purchase Date:

- (a) the State assigns to the Borrower all of its right, title and interest in those Receivables, free of any Security Interest, other than an interest that arises under the Project Documents, on the terms set out in this deed;
- (b) the Borrower accepts that assignment; and
- (c) the Project Trustee consents to that assignment.

2.6 Obligations on a Purchase Date

On the relevant Purchase Date, subject to the Borrower accepting the offer in clause 2.1 and complying with its obligations under 2.4(a) (if applicable):

- (a) the State must execute and deliver to the Project Trustee a notice in the form set out in Schedule 1 to this deed; and
- (b) the Project Trustee must acknowledge the notice of assignment by executing and delivering a form of acknowledgement in the form set out in Schedule 1 to this deed.

2.7 **Payment of Receivables Purchase Price**

- (a) The relevant Receivables Purchase Price must be paid by the Borrower to, or as directed by, the State by way of the Receivables Purchase Payments in full when due on the relevant Receivables Purchase Payment Date or Purchase Date in cleared funds, without any set-off or counterclaim and (to the maximum extent permitted by law) free and clear of, and without deduction or withholding for or on account of, any Taxes.
- (b) The relevant Receivables Purchase Price for any Additional Receivables must be paid by the Borrower to, or as directed by, the State in full when due in cleared funds, without any set-off or counterclaim and (to the maximum extent permitted by law) free and clear of, and without deduction or withholding for or on account of, any Taxes.
- (c) The parties acknowledge that, subject to the Borrower accepting the offer in clause 2.1, the payments of the Receivables Purchase Price to be made by the Borrower to the State will be made in accordance with the Payment Directions Deed.

2.8 **Obligation to satisfy conditions**

Subject to the Borrower accepting the offer in clause 2.1, the parties must:

- (a) use reasonable endeavours to ensure that the obligations referred to in this clause 2 are satisfied on or before the relevant Receivables Purchase Payment Date or Purchase Date; and
- (b) keep each other informed of any circumstance that may result in any of those conditions not being satisfied in accordance with its terms.

2.9 **No liability**

The State will not be liable for any failure or delay in the performance of the Project Trustee's obligations to pay the Borrower in full the amount of any Receivables purchased by the Borrower pursuant to this deed.

2.10 **No change in Risk Allocation**

- (a) The parties acknowledge and agree that the Securitised Licence Structure is not intended to result in an Increased State Risk Allocation.

- (b) If the State believes (on reasonable grounds supported by external advice) that the Securitised Licence Structure results or is likely to result in an Increased State Risk Allocation, then it may give the Project Trustee a notice stating that the Securitised Licence Structure is to be amended to the extent necessary to ensure there is no Increased State Risk Allocation.
- (c) The Project Trustee agrees to do anything reasonably requested by the State in a notice given by the State in accordance with clause 2.10(b) to modify the Securitised Licence Structure to ensure there is no Increased State Risk Allocation.
- (d) The Borrower and the Project Trustee undertake not to make any Claim inconsistent with the acknowledgement in clause 2.10(a).
- (e) The Borrower and the Project Trustee acknowledge and agree that:
 - (i) damages may not be an adequate remedy for the State for any failure by the Borrower or the Project Trustee to comply with the undertakings in this clause 2.10; and
 - (ii) if there is a breach or purported breach by the Borrower or the Project Trustee of their obligations in this clause 2.10, the State may seek and is entitled to injunctive or declaratory relief.
- (f) The Borrower and the Project Trustee indemnify the State for:
 - (i) all costs or loss incurred by the State as a result of any Increased Risk Allocation to the extent that it is not removed or remedied by changes to the Securitised Licence Structure in accordance with clause 2.10(c); and
 - (ii) any Claim brought against the State by any Related Body Corporate of the Project Trustee or the Borrower which is inconsistent with the acknowledgement in clause 2.10(a).

3. Undertaking by the State

If, notwithstanding the assignment under clause 2.5, the State receives an amount in respect of any Receivables purchased by the Borrower after the Purchase Date for those Receivables, the State must immediately pay such amount to, or as directed by, the Borrower.

4. Representations and warranties

4.1 State's representations and warranties

The State represents and warrants for the benefit of the Borrower:

- (a) **power to execute:** it has the power to execute, deliver and perform its obligations under this deed and all necessary action has been taken to authorise that execution, delivery and performance;
- (b) **validity:** this deed constitutes a valid and legally binding obligation on it in accordance with its terms;
- (c) **legality:** the execution, delivery and performance of this deed does not violate any Law to which the State is subject

4.2 Borrower's representations and warranties

The Borrower represents and warrants for the benefit of the State:

- (a) **corporation:** it is a corporation duly and validly incorporated and existing under the laws of the place of its incorporation, has the power to own its property and carry on business as now being conducted, and is duly registered and authorised to do business in any place in which the nature of its business and properties make such registration and authorisation necessary;
- (b) **corporate power:** it has full corporate power and authority to enter into and perform its obligations under this deed;
- (c) **corporation action:** all corporate action on its part necessary for the authorisation, execution and performance of this deed and any other instrument required under this deed has been duly taken; and
- (d) **documents binding:** this deed is a legal, valid and binding obligation of it enforceable against it in accordance with its terms, and any other document or agreement required under it has been so authorised and, when executed and, if applicable, delivered will be similarly valid and binding and enforceable; and
- (e) **not a trustee:** it does not enter into this deed as a trustee of any trust.

4.3 Project Trustee representations and warranties

The Project Trustee (both in its own right and as trustee of the Project Trust) warrants and represents that:

- (a) **trust power:** it has power as trustee of the Project Trust to execute this deed;
- (b) **due performance:** in executing this deed and entering into the transactions referred to in this deed, it has properly performed its obligations to the Trust Beneficiaries;
- (c) **trust action taken:** all necessary action required by the Project Trust Deed to authorise the Project Trustee's unconditional execution and delivery of, and compliance with its obligations under, this deed has been taken;
- (d) **sole trustee:** the Project Trustee is the only trustee of the Project Trust;

- (e) **no removal action:** to the best of its knowledge and belief, no action has been taken to remove the Project Trustee as trustee of the Project Trust or to appoint an additional trustee of the Project Trust;
- (f) **right of indemnity:**
 - (i) the Project Trustee has a right to be fully indemnified out of the Trust Property;
 - (ii) the Project Trustee has not released or disposed of its equitable lien over the Trust Property which secures that indemnity;
 - (iii) the Project Trustee has not committed any breach of trust or done or omitted to do anything which has prejudiced or limited its rights of indemnity or equitable lien; and
 - (iv) the Trust Property is sufficient to satisfy that indemnity;
- (g) **no trust default:** the Project Trustee has not defaulted in the performance and observance of its obligations as trustee of the Project Trust in any material respect;
- (h) **no trust termination:** to the best of its knowledge and belief, no action has been taken to terminate the Project Trust;
- (i) **full trustee disclosure:** the Project Trustee has disclosed to the State full details of:
 - (i) the Project Trust and any other trust or fiduciary relationship affecting the Trust Property and, without limitation, has given to the State copies of any instruments creating or evidencing the Project Trust; and
 - (ii) its other trusteeships (if any);
- (j) **trust duly constituted:** the Project Trust is duly constituted and is not void, voidable or otherwise unenforceable; and
- (k) **Trust Beneficiaries' rights:** the rights of the Trust Beneficiaries in relation to, and their interest in, the Trust Property are subject to:
 - (i) the rights of the State in relation to, and its interest in, the Trust Property created by this document; and
 - (ii) any rights or interests in the Trust Property to which the State may from time to time be subrogated.

4.4 Repetition of representations and warranties

The representations and warranties in clauses 4.1, 4.2 and 4.3 are taken to be repeated on each Purchase Date on the basis of the facts and circumstances existing at that date.

4.5 **Reliance on representations and warranties**

- (a) The State acknowledges that the Borrower has entered into this deed in reliance on the representations and warranties in clause 4.1.
- (b) The Project Trustee and the Borrower acknowledge that the State has entered into this deed in reliance on the representations and warranties made or repeated in clauses 4.2 and 4.3.

5. **Power of attorney**

5.1 **Appointment of attorneys**

The State irrevocably appoints the Borrower and each Authorised Representative of the Borrower (each an **Attorney**) severally as its attorney to:

- (a) demand, receive and give discharges for the Receivables; and
- (b) conduct any legal proceedings in relation to the Receivables.

5.2 **General**

- (a) An Attorney may do anything contemplated by this clause even if the Attorney is affected by an actual or potential conflict of interest or duty, or might benefit from doing it.
- (b) An Attorney may do anything contemplated by this clause in its name, in the name of the State or in the name of both of them.
- (c) The State must ratify anything done by an Attorney under this clause.
- (d) The State gives the power of attorney in this clause:
 - (i) to secure performance by the State of its obligations to the Borrower under this deed and any property interest of the Borrower under this deed; and
 - (ii) for valuable consideration, receipt of which is acknowledged by the State.

5.3 **Assignee's indemnity**

The Borrower must indemnify the State against, and must pay the State on demand the amount of, all losses, liabilities, expenses incurred by the State as a result of anything done by the Borrower or any of its Authorised Representatives as the attorney of the State under this clause 5.

5.4 Borrower's warranty

The Borrower warrants to the State that it will comply with its obligations to the Project Trustee under the Finance Documents to which it is a party.

6. Termination of Project Deed

- (a) If the Project Deed is terminated in accordance with clause 41 of the Project Deed, the State must pay to the Borrower the Receivables Refund Payment on or before the date on which the State is required to pay the Termination Payment in accordance with clause 41.7(a) of the Project Deed.
- (b) The State may rely on the Project Trustee's notification of the Initial Receivables Refund Payment in accordance with Schedule 2 to this deed and is not bound to enquire as to the validity of or basis for the Initial Receivables Refund Payment so notified.
- (c) Interest shall accrue on any unpaid element of the Receivables Refund Payment on and from the date and at the rate specified in section 7 of Schedule 7 of the Project Deed on the basis of a 365 day year and for the actual number of days elapsed from and including the date specified for the commencement of interest accruing under section 7 of schedule 7 of the Project Deed to but excluding the date of payment.
- (d) The Borrower agrees that the Receivables Refund Payment can never exceed the relevant Termination Payment (disregarding for this purpose only any deductions within the Termination Payment calculation relating to the Receivables Refund Payment), and the State will be entitled under the Project Deed to deduct the Receivables Refund Payment payable by the State to the Borrower under this deed from the Termination Payment following termination of the Project Deed.
- (e) If the Initial Receivables Refund Payment is a negative amount the Receivables Refund Payment under this deed will be deemed for all purposes to be zero.

7. Notices

7.1 Notice requirements

Any notice, demand, approval, consent or other communication under this deed (**Notice**) must be in writing and must be delivered:

- (a) personally;
- (b) by facsimile; or
- (c) by prepaid registered post,

to a party at:

- (d) the address of the party set out in clause 7.3 (**Nominated Contact Details**); or
- (e) such other contact details as the party may from time to time notify to the other party for the purposes of, and in accordance with, this clause.

7.2 **When Notices considered given and received**

A Notice given in accordance with clause 7.1 takes effect when received (or such later time as specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, two Business Days after the date of posting (or five Business Days after the date of posting if posted to or from outside Australia);
or
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the Notice, unless within four business hours (being a period of time between 9.00 am and 5.00 pm on a Business Day) after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00 pm on a Business Day, the Notice is taken to be received at 9.00 am on the Business Day after that delivery, receipt or transmission.

7.3 **Nominated Contact Details**

For the purposes of this clause 7, the Nominated Contact Details of the parties are as follows:

- (a) State Representative

[Not disclosed]
- (b) EduWest Project Co Pty Limited in its personal capacity and as trustee of EduWest Project Trust

[Not disclosed]
- (c) EduWest Finance Company Pty Ltd

[Not disclosed]

8. GST

8.1 Interpretation

In this clause 8:

- (a) words and expressions which are not defined in this deed but which have a defined meaning in GST Law have the same meaning as in the GST Law;
- (b) **GST Law** has the meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999*; and
- (c) **Taxable Supply** has the meaning given in the GST Law, excluding sections 84-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

8.2 Consideration GST - exclusive

- (a) **(Payment)**: Any amount payable or consideration to be provided in accordance with any other provision of this deed for a Taxable Supply is exclusive of GST. In addition to any other consideration, the recipient of a Taxable Supply made under or in connection with this deed (which recipients may include, for the avoidance of doubt, State Associates under a Project Document) (the **Recipient**) must pay to the party making the Taxable Supply (the **Supplier**) an amount equal to the amount of GST payable in respect of the Taxable Supply. This subclause does not apply if the consideration specified for the Taxable Supply is expressly agreed to be GST inclusive.
- (b) **(Excess or deficiency)**: If the amount paid by the Recipient to the Supplier in respect of GST (whether because of an adjustment (within the meaning of the GST Law) or otherwise):
 - (i) is more than the GST on the relevant Supply, then the Supplier will refund the excess to the Recipient; or
 - (ii) is less than the GST on the relevant Supply, then the Recipient will pay the deficiency to the Supplier.

Any refund, credit or further amount, as applicable, will be calculated by the Supplier in accordance with GST Law and the Supplier or Recipient as applicable, must pay the refund, credit or further amount within 14 days after becoming aware of the variation in the amount of GST payable. If an adjustment (within the meaning of the GST Law) has occurred, the Recipient is not obliged to pay any amount under paragraph 8.2(b)(ii) of this clause unless and until it receives an adjustment note (within the meaning of the GST Law).

- (c) **(GST Documentation)**: The Recipient is not obliged to pay any amount in respect of GST to the Supplier unless and until the Supplier issues a Tax Invoice to the Recipient in respect of the Taxable Supply. If an adjustment (within the meaning of the GST Law) has occurred, the Supplier must issue an Adjustment Note to the Recipient.

- (d) **(Revenue net of GST):** Any reference in this deed to price, value, sales, revenue, profit or a similar amount (**Revenue**), will be a reference to the GST exclusive component of that Revenue unless the contrary intention is expressed.
- (e) **(Cost net of GST):** Any reference in this deed to cost, expense, liability or other similar amount (**Cost**), will be a reference to that Cost reduced by the Input Tax Credits in respect of such Cost.
- (f) **(GST Group):** Any reference in this deed to GST that is payable by an entity includes any GST that is payable by the representative member of any GST Group of which that entity is a member and input tax credits to which an entity is entitled include input tax credits to which the representative member of the entity's GST Group is entitled.
- (g) **(State Associate):** Any reference in this clause to a Recipient of a Taxable Supply includes, where relevant, any State Associate and this clause so applies to such Recipients.

8.3 Receivables are GST-exclusive

The parties acknowledge that the Receivables are GST exclusive. Notwithstanding the assignment of the Receivables or anything else in this deed, the Project Trustee will continue to pay the GST component (if any) of amounts payable by the Project Trustee to the State in respect of Licence Payments to the State.

9. General

9.1 Assignment

- (a) A party may not assign other than to a Related Body Corporate or otherwise deal with any of its rights under this deed, without the prior written consent of the other party (which consent must not be unreasonably withheld or delayed).
- (b) An assignment in breach of clause 9.1(a) is intended by the parties to be void and of no force and effect.

9.2 Variation

A variation of any term of this deed will be of no force or effect unless it is in writing and signed by each of the parties.

9.3 Costs and expenses

Each party must pay its own costs (including legal costs) and expenses in connection with the negotiation, preparation, execution and delivery of this deed.

9.4 Stamp duty

- (a) The Project Trustee as between the parties is liable for and must pay all stamp duty (including any fine or penalty except where it arises from default by the other party) on or relating to this document, any document executed under it or any dutiable transaction evidenced or effected by it.
- (b) If a party other than the Project Trustee pays any stamp duty (including any fine or penalty) on or relating to this document, any document executed under it or any dutiable transaction evidenced or effected by it, the Project Trustee must pay that amount to the paying party on demand.

9.5 Waiver

- (a) A waiver of a right, remedy or power must be in writing and signed by the party giving the waiver.
- (b) A party does not waive a right, remedy or power if it delays in exercising, fails to exercise or only partially exercises that right, remedy or power.
- (c) A waiver given by a party in accordance with clause 9.5(a):
 - (i) is only effective in relation to the particular obligation or breach in respect of which it is given and is not to be construed as a waiver of that obligation or breach on any other occasion; and
 - (ii) does not preclude that party from enforcing or exercising any other right, remedy or power under this deed nor is it to be construed as a waiver of any other obligation or breach.

9.6 Severance

If a provision in this deed is wholly or partly void, illegal or unenforceable in any relevant jurisdiction that provision or part must, to that extent, be treated as deleted from this deed for the purposes of that jurisdiction. This does not affect the validity or enforceability of the remainder of the provision or any other provision of this deed.

9.7 Governing law and jurisdiction

- (a) This deed is governed by and is to be construed under the laws in force in Western Australia.
- (b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Western Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

9.8 Further assurances

Each party must, at its own expense, do all things and execute all further documents necessary to give full effect to this deed and the transactions contemplated by it.

9.9 No reliance

Neither party has relied on any statement by the other party which has not been expressly included in this deed.

9.10 Entire agreement

This deed states all of the express terms of the agreement between the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.

9.11 Counterparts

- (a) This deed may be executed in any number of counterparts, each signed by one or more parties. Each counterpart when so executed is deemed to be an original and all such counterparts taken together constitute one document.
- (b) A party that has executed a counterpart of this deed may exchange that counterpart with another party by faxing it to the other party or the other party's legal representative.

9.12 Relationship of parties

- (a) The parties are not and are not to be taken to be in a partnership, joint venture, employment or fiduciary relationship.
- (b) Nothing in this deed gives a party authority to bind any other party in any way.

9.13 Exercise of rights

- (a) Unless expressly required by the terms of this deed, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this deed.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this deed. Any conditions must be complied with by the party relying on the consent, approval or waiver.

9.14 **Remedies cumulative**

Except as provided in this deed and permitted by law, the rights, powers and remedies provided in this deed are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this deed.

Schedule 1 Notice of Assignment

Notice

To: EduWest Project Co Pty Limited in its personal capacity and as trustee of the EduWest Project Trust
[Not disclosed]

We refer to the Receivables Purchase Deed dated [] between The Minister for Works, a body corporate constituted under Section 5 of the *Public Works Act 1902* (WA) and the Minister for Education, a body corporate constituted under Section 214 of the *Schools Education Act 1999* (WA) on behalf of the Crown in the right of State of Western Australia (**the State**), EduWest Project Co Pty Ltd in its personal capacity and as trustee of the EduWest Project Trust and EduWest Finance Company Pty Ltd (**Borrower**) (**Receivables Purchase Deed**). Terms used in this Notice that are defined in the Receivables Purchase Deed have the same meaning in this Notice.

The State gives you irrevocable notice that the State has assigned all of its respective right, title and interest in the Receivables described in the schedule to this notice (**Receivables**) in relation to each Operating Phase Licence specified in the schedule to this notice (**Site**) to the Borrower in accordance with an offer made under the Receivables Purchase Deed.

The State gives you irrevocable notice that you must pay the Receivables to, or at the direction of, the Borrower. For the avoidance of doubt, any GST (as defined in clause 8.1 of the Receivables Purchase Deed) referable to the Receivables must continue to be paid to the State.

Please acknowledge receipt of this notice by signing the acknowledgment that is attached to the enclosed copy of this notice, and send the acknowledgment to the Borrower at the address set out below:

[Not disclosed]

Dated #[Insert]#.

Executed by the **State** in the presence of:

Signature of Witness

Signature

Full name of Witness (print)

Schedule to Notice

Site 1

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Schedule to Notice

Site 2

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Schedule to Notice

Site 3

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Schedule to Notice

Site 4

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Schedule to Notice

Site 5

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Schedule to Notice

Site 6

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Schedule to Notice

Site 7

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Schedule to Notice

Site 8

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Schedule to Notice

Site 9

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Schedule to Notice

Site 10

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Schedule to Notice

Site 11

#*[Insert details of Receivables sold]*#

[Insert description of relevant Site]

Acknowledgment of Notice

To: EduWest Finance Company Pty Ltd (**Borrower**)
[Not disclosed]

CC: The State of Western Australia (**State**)
[Not disclosed]

EduWest Project Co Pty Limited in its personal capacity and as trustee of the EduWest Project Trust (**Project Trustee**) acknowledges receiving a copy of the attached notice dated **#[Insert]#** (**Notice**).

Unless otherwise defined in this acknowledgment, terms defined in the Notice have the same meaning when used in this acknowledgment.

Project Trustee confirms that:

- (a) it must pay the Licence Payment (exclusive of GST) to the Borrower in accordance with the Notice;
- (b) it must pay the GST payable in respect of the Licence Payment to the State;
- (c) it is not entitled to raise any set-off, counterclaim or other right that may affect the right of the Borrower to recover the full amount of the Receivables in accordance with its terms;
- (d) it has not previously received a notice of assignment of all or any part of the Receivables; and
- (e) the assignment referred to in the Notice does not affect its obligations to the State in respect of the Licence Payments.

Dated **#[Insert]#**.

Signed

For and on behalf of

EduWest Project Co Pty Ltd in its personal capacity and as trustee of the EduWest Project Trust (**Project Trustee**)

.....

Print Name

Schedule 2 Initial Receivables Refund Payment

Initial Receivables Refund Payment means the amount notified by the Project Trustee to the State as being equal to the lesser of:

- (a) the amount equal to the Termination Payment otherwise payable by the State to the Project Trustee pursuant to the Project Deed before any reduction under clause 41.7 of the Project Deed and disregarding any deduction from the Termination Payment for the Receivables Refund Payment contemplated under Schedule 7 of the Project Deed and provided that where the Termination Payment is a negative number, it will be deemed to be zero; and
- (b) the amount calculated as follows:

$$\mathbf{RRP = A +/- B - C}$$

Where:

RRP = the Receivables Refund Payment

A = the Project Debt as at the Termination Date together with interest which accrues on the Debt (at the rate provided in the relevant Finance Documents after taking into account any applicable interest rate hedging (but excluding any default or penalty interest)) from the Termination Date to the date of payment of the Receivables Refund Payment;

B = the amount of costs incurred or gains realised by the Borrower (acting reasonably) as a direct result of terminating the Finance Documents, including as a result of terminating or reversing any derivative position. If the net amount is a gain, it should be a deduction, if it is a cost, it should be a payment; and

C = to the extent not included in B, all sums due and payable to the Borrower from the Financiers as a result of any prepayment of debt or interest or termination.

Schedule 3 Receivables Payment Schedule

Signing page

Executed as a deed

Executed by THE HONOURABLE DR MIKE NAHAN MLA Treasurer for the time being, on behalf of the State of Western Australia, and as delegate of the Minister for Works pursuant to section 5A of the *Public Works Act 1902* (WA), in the presence of:

Signature of Witness

The Hon. Dr Mike Nahan MLA

Witness name

Witness address

Witness occupation

THE COMMON SEAL of the MINISTER FOR
EDUCATION was hereunto affixed in the presence
of THE HON PETER CHARLES COLLIER MLC
Minister for Education for the time being,
in the presence of:

Signature of Witness

Hon Peter Charles Collier MLC

Witness name

Witness address

Witness occupation

Project Trustee

Signed, sealed and delivered for and on)
behalf of **EduWest Project Co Pty Ltd**)
(ACN 608 027 424) in its personal)
capacity and as trustee for the EduWest)
Project Trust by its attorneys pursuant to)
power of attorney dated)
who each states that no notice of)
revocation of the power of attorney has)
been received in the presence of:

.....
Witness

.....
Name of Witness (print)

.....
Witness

.....
Name of Witness (print)

.....
Attorney

.....
Name of Attorney (print)

.....
Attorney

.....
Name of Attorney (print)

The Borrower

Signed, sealed and delivered for and on)
behalf of **EduWest Finance Company**)
Pty Ltd (ACN 608 038 320) by its)
attorneys pursuant to power of attorney)
dated _____ who)
each states that no notice of revocation of)
the power of attorney has been received)
in the presence of:)

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Witness

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Name of Witness (print)

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Witness

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Name of Witness (print)

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Attorney

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Name of Attorney (print)

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Attorney

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Name of Attorney (print)