

CHAPTER 145

MAMARA-TASIVARONGO-MAVO DEVELOPMENT AGREEMENT

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CHAPTER 145

MAMARA-TASIVARONGO-MAVO DEVELOPMENT AGREEMENT

AN ACT TO RATIFY AN AGREEMENT BETWEEN THE GOVERNMENT OF SOLOMON ISLANDS,
THE COMMISSIONER OF LANDS AND METROPOLIS PACIFIC PTE LTD; TO FACILITATE
THE DEVELOPMENT OF THE AREA KNOWN AS MAMARA-TASIVARONGO-MAVO; TO
ESTABLISH THE MAMARA-TASIVARONGO-MAVO DEVELOPMENT COUNCIL AND
DEFINE ITS FUNCTIONS AND POWERS; AND FOR RELATED PURPOSES

17 of 1995

[1st March 1996]

1. This Act may be cited as the Mamara-Tasivarongo-Mavo Development Agreement Act. Short title

2.-(1) In this Act-

Interpretation

"Administrative Fund" has the same meaning as in the Agreement;

"Agreement" means the Agreement a copy of which is set out in the First Schedule and includes that Agreement as varied from time to time in accordance with its provisions;

"Council" means the Mamara-Tasivarongo-Mavo Development Council established under section 4;

"Developer" has the same meaning as in the Agreement;

"Development" has the same meaning as in the Agreement;

"Development Area" has the same meaning as in the Agreement;

"Governmental Agency" has the same meaning as in the Agreement;

"member" means a member of the Council;

"Minister" means the Minister for the time being charged with responsibility for the administration of the Land and Titles Act; and

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"regulation" means a regulation made under this Act.

(2) If the Agreement is varied by a further agreement in accordance with its provisions, the Minister may, by order published in the Gazette, amend this Act to such extent as is necessary to insert in this Act a schedule setting out a copy of the further agreement.

3. (1) The Agreement is hereby ratified.

Ratification of Agreement

(2) The implementation of the Agreement is authorised.

(3) The Agreement shall operate and take effect according to its terms.

4. (1) There is hereby established a council to be known as the Mamara-Tasivarongo-Mavo Development Council.

(2) The Council shall consist of seven members appointed by the Minister.

(3) Of the members appointed by the Minister under subsection (2)-

(a) three shall be persons who are nominated by the Developer;

(b) one shall be the Minister for the time being charged with responsibility for investment, labour and immigration;

(c) one shall be the Minister for the time being charged with responsibility for the administration of the Provincial Government Act;

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(d) one shall be the Minister for the time being charged with responsibility for finance; and

(e) one shall be the Premier for the time being of Guadalcanal Province.

5. (1) The functions of the Council shall be-

Functions of the Council

(a) to consider the proposals submitted to the Minister by the Developer under clause 7 of the Agreement and to advise the Minister in relation to the determination of the proposals;

(b) to monitor the implementation by the Developer of any proposals approved by the Minister under clause 8 of the Agreement;

(c) to advise the Minister on any requirements to be imposed in respect of the Development whether by regulation or otherwise;

(d) to advise the Minister on matters relating to the planning, zoning, use and development of the Development Area;

(e) to monitor the Developer's compliance with the provisions of the Agreement and any requirements pertaining to the Development;

(f) to direct and control any future development of the Development Area;

(g) to approve the grant, transfer or conveyance of, or other dealing in, any estate or interest in the Development Area;

(h) to create employment opportunities for Solomon Islands citizens by promoting, encouraging and assisting in the establishment of industrial and investment activity in the Development Area;

(i) to facilitate the grant of all the necessary approvals, authorisations, certificates, clearances, consents, licences and permits which are required to be granted by any Governmental Agency to any person who acquires an estate or interest in the Development Area or any part thereof; and

(j) to inquire into and to advise the Minister on any matter relating to the Development Area on which the advice of the Council is sought by the Minister.

(2) The Council shall have and may exercise such powers as are necessary for or incidental to the performance of its functions.

6. The Minister in exercising powers under this Act and the Agreement shall act in accordance with the advice of the Council.

Exercise of powers by
the Minister

7. (1) The Minister shall appoint from among the members a person to be chairman of the Council and a person to be deputy chairman of the Council.

Chairman

(2) During any vacancy in the office of chairman, or while the chairman is unable to act by reason of illness, absence or other cause, the deputy chairman shall perform the functions of the chairman.

8. The Minister shall arrange for the Council to be provided with such services, staff and facilities as are necessary to enable the Council to perform its functions.

Service, staff and
facilities

9. There shall be paid to the chairman, deputy chairman and other members of the Council such remuneration and such allowances as the Minister may from time to time determine.

Remuneration

10. The Council may appoint and employ at such remuneration and on such terms

Power to appoint officers
and employees

and conditions as it thinks fit a chief administrative officer of the Council and such other officers, agents and employees as it deems necessary for the proper carrying out of its functions.

11. The expenses of the Council (including remuneration of the chairman, deputy chairman, members and staff of the Council) shall be defrayed out of the Administrative Fund established under the Agreement. Such expenses shall be accounted for and a report shall be laid before Parliament.

Expenses of the Council

12. The Council and a member shall not be liable for anything done or omitted to be done in good faith for the purposes of this Act by the Council or a member.

Protection of the Council and members

13. The provisions of the Second Schedule shall have effect with respect to the constitution and proceedings of the Council.

Constitution and proceedings of the Council

14. The provisions of the Town and Country Planning Act (as amended) and any regulations made pursuant thereto shall not apply in relation to the Development or the Development Area.

Town and Country Planning Act not to apply Cap. 154

15. The Minister may, in consultation with the Council, make regulations, not inconsistent with this Act or the Agreement for or with respect to-

Regulations

(a) the planning, zoning, use and development of the Development Area;

(b) the Development; or

(c) any matter or thing which by this Act or the Agreement is required or permitted to be prescribed or is necessary or convenient to be prescribed for carrying out or giving effect to any provision of this Act or the Agreement.

FIRST SCHEDULE

(Section 2)

The Agreement

DATED November 20th, 1995

MAMARA-TASIVARONGO-MAVO DEVELOPMENT PROJECT

BETWEEN

GOVERNMENT OF SOLOMON ISLANDS

("the Government")

AND

COMMISSIONER OF LANDS

("the Commissioner")

AND

METROPOLIS PACIFIC PTE LTD

("the Developer")

DEVELOPMENT AGREEMENT

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THIS AGREEMENT is made the 20th day of November, 1995.

BETWEEN

GOVERNMENT OF SOLOMON ISLANDS, represented by and acting through the Minister of Finance of P O Box 26, Honiara, Solomon Islands and the Minister of Lands of P O Box G13, Honiara, Solomon Islands (hereinafter referred to as "the Government")

AND

COMMISSIONER OF LANDS of P O Box G38, Honiara, Solomon Islands (hereinafter referred to as "the Commissioner")

AND

METROPOLIS PACIFIC PTE LTD, a company duly incorporated under the laws of Singapore and having its registered office at 02-06, United House, 20 Kramat Lane, Singapore 0922 (hereinafter referred to as "the Developer")

WHEREAS:

- A. The Commissioner holds the perpetual estates in the parcels of land more particularly described in the First Schedule hereto (including all crops, plants, trees, fruits and produce growing or standing thereon; all buildings erected thereon and all other improvements thereupon) (hereinafter referred to collectively as "the Properties").
- B. The Developer has agreed to acquire from the Commissioner and the Commissioner has agreed to grant the Developer fixed-term estates in the Properties for a period of seventy-five (75) years upon the terms and conditions, and subject to payment to the Commissioner of the amount, hereinafter specified.
- C. The Developer wishes to undertake the Development (as defined hereinafter) upon the Development Area (as defined hereinafter) in accordance with concept plans outlined to the Government and subject to the approval of the Developer's detailed proposals in accordance with the provisions of this Agreement and for the purposes of providing employment opportunity and promoting development in Solomon Islands, the Government has agreed to facilitate the Development by the Developer upon and subject to the terms and conditions hereinafter set out.

NOW THIS AGREEMENT WITNESSETH that in consideration of the premises, terms, conditions, covenants, stipulations and provisions herein contained, the Parties hereby agree with each other as follows:

1. DEFINITIONS

In this Agreement:

"Administrative Fund" means the Administrative Fund established under clause 11;

"advise", "agree", "apply", "approve", "authorise", "certify", "consent", "direct", "inform", "nominate", "notice", "notify", "request", "require", or "specify", means advise, agree, apply, approve, authorise, certify, consent, direct, inform, nominate, notice, notify, request, require, or specify in writing as the case may be and any inflexion or derivation of any of those words has a corresponding meaning;

"Approved Proposals" means proposals submitted to the Minister under clause 7 which have been approved by the Minister with or without alteration or have been otherwise agreed upon between the Minister and the Developer as provided in clause 8(3);

"Business Day" means a day (other than a Saturday) on which commercial banks are open for business in Solomon Islands;

"Council" means the Mamara-Tasivarongo-Mavo Development Council established under clause 6;

"Development" means:

- (a) the planning and subdivision of the Development Area;
- (b) the design and construction of roads and thoroughfares within the Development Area;
- (c) the laying down or erection of any pipes, poles, wires, cables or ducts for the provision of the Services within the Development Area;
- (d) the design and construction or erection upon or within the Development Area of:
 - (i) a tourist resort comprising an international standard hotel with at least 200 guest suites; licensed bars; restaurants; coffee lounge; boutique shops; nightclub; casino; swimming pool; golf course; tennis and squash courts; carparks; etc including all structures, facilities and amenities in connection therewith;
 - (ii) a marina including all structures, installations, facilities and amenities in connection

therewith;

- (iii) commercial precincts comprising shopping complexes; office complexes; commercial premises; service stations; car parks; etc including all structures, facilities and amenities in connection therewith;
 - (iv) industrial precincts comprising industrial estates; parks; factories; warehouses; etc including all structures, facilities and amenities in connection therewith;
 - (v) residential precincts comprising dwelling houses; townhouses; villas; apartments; etc including all structures, facilities and amenities in connection therewith;
 - (vi) recreational areas; sporting fields; open spaces; gardens; nature reserves and parks; playgrounds; stadiums; etc including all structures, facilities and amenities in connection therewith;
 - (vii) educational establishments; entertainment complexes; community, cultural, exhibition and convention centres; public amenities and conveniences; etc; and
 - (viii) such other buildings; structures; installations; facilities and amenities which the Minister may approve;
- (e) the design, construction, maintenance and operation of buildings, structures, works, installations, plant, machinery, apparatus and facilities for:
- (i) the generation, transmission and distribution of electricity;
 - (ii) the damming, storage, treatment, transmission, reticulation and supply of water;
 - (iii) the provision of telecommunications services; and
 - (iv) the Services;
- (f) the design, construction, establishment, maintenance and operation of transport facilities to, from and within the Development Area; and
- (g) the carrying out of any work in, on, over or under the Development Area or waters adjacent thereto;

"Development Area" means the Properties and includes any other parcels of land adjoining the Properties which the Developer may acquire from the Commissioner for the purposes of the Development;

"Government Agency" includes any government, whether national, provincial, municipal, or local; any ministry, department, division, office, delegate, director, executive, commissioner, registrar, officer, instrumentality, agency, board, corporation, commission, council, authority or organisation thereof, whether statutory or otherwise;

"Minister" means the Minister in the Government of Solomon Islands for the time being responsible (under whatever title) for the administration of the ratifying Act and pending the passing of the ratifying Act means the Minister of Lands;

"month" means calendar month;

"National Parliament" means the National Parliament of Solomon Islands;

"Parties" means the parties to this Agreement and "Party" means any party to this Agreement;

"Premium" means the sum of five million three hundred thousand United States dollars (US\$5,300,000.00);

"ratifying Act" means the Bill referred to in clause 3 when that Bill is passed and comes into operation as an Act as contemplated by that clause;

"Services" means services for:

- (a) water, sewerage or drainage;
- (b) electricity;
- (c) gas;
- (d) the storage or disposal of trade or industrial waste or garbage;
- (e) telecommunications or data transmission, including telephone and television.

"subdivision" means the division of a lot or parcel of land or any portion thereof for sale, conveyance, transfer, lease, sublease, mortgage, partition or other dealing;

"this Agreement" means this Agreement (including its recitals and schedules) whether in its original form or as from time to time added to, varied or amended; and

"year" means any period of twelve (12) consecutive months;

2. INTERPRETATION

In this Agreement, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include every gender;
- (c) references to any person shall include references to any individual, company, body corporate, association, partnership, firm, joint venture, trust, body politic and Governmental Agency;
- (d) references to any document (including this Agreement) are references to that document as amended, consolidated, supplemented, novated or replaced from time to time;
- (e) references to Parties or to any Party shall include references to their or its respective successors and permitted assigns;
- (f) references to any law are references to that law as amended, consolidated, supplemented or replaced from time to time;
- (g) references to clauses, subclauses, paragraphs, recitals and schedules are references to clauses, subclauses and paragraphs of, and recitals and schedules to, this Agreement;
- (h) headings are inserted for convenience only and shall not affect the construction of this Agreement; and
- (i) all warranties, representations, covenants, liabilities, obligations and agreements given or entered into by more than one person are given or entered into jointly and by each of them severally.

3. RATIFICATION AND OPERATION

- (1) The Government shall introduce and sponsor a Bill in the National Parliament to ratify this Agreement and endeavour to secure its passage as an Act prior to November 29, 1995 or such later date as the Parties may agree.
- (2) The provisions of this Agreement other than this clause shall not come into operation until the Bill referred to in subclause (1) has been passed by the National Parliament and the provisions of that Bill ratifying this Agreement come into operation as an Act.
- (3) If before November 29, 1995 or such later date as may be agreed pursuant to subclause (1) the

provisions of the Bill referred to in that subclause ratifying this Agreement have not commenced to operate as an Act then unless the parties otherwise agree this Agreement shall be deemed to be terminated by the Government and the Government shall be liable to pay the Developer damages for breach of this Agreement.

- (4) On the Bill referred to in subclause (1) ratifying this Agreement commencing to operate as an Act all of this Agreement shall operate and take effect

4. ACQUISITION OF THE PROPERTIES

In consideration of the payment of the Premium by the Developer, the Commissioner shall grant the Developer fixed-term estates in the Properties for a period of seventy-five (75) years from the date specified in the instruments of grant.

5. THE DEVELOPMENT

Notwithstanding the provisions of any other law, the Developer is hereby authorised to and shall undertake and carry out or cause to be undertaken and carried out the Development of and upon the Development Area subject to the provisions hereinafter contained.

6. ESTABLISHMENT, COMPOSITION AND FUNCTIONS OF THE COUNCIL

- (1) The Government and the Developer hereby agree to establish a council to be known as the Mamara-Tasivarongo-Mavo Development Council.
- (2) The Council shall consist of seven (7) members appointed by the Minister.
- (3) Of the members appointed by the Minister under subclause (2):
- (a) three (3) shall be persons who are nominated by the Developer;
 - (b) one (1) shall be the Minister to whom responsibility for the administration of the InvestmentCap. 112 Act, Labour Act and Immigration Act are for the time being allocated;
 - (c) one (1) shall be the Minister to whom responsibility for administration of the ProvincialCap. 118 Government Act is for the time being allocated;
 - (d) one (1) shall be the Minister to whom responsibility for finance is for the time being allocated; and
 - (e) one (1) shall be the Premier for the time being of Guadalcanal Province.

Cap. 73
Cap. 60

- (4) The functions of the Council shall be as follows:
- (a) to consider and determine proposals submitted to the Minister by the Developer under clause 7 of this Agreement and to advise the Minister in relation to the determination of the proposals;
 - (b) to monitor the implementation by the Developer of the Approved Proposals;
 - (c) to advise the Minister on any requirements to be imposed in respect of the Development whether by regulation or otherwise;
 - (d) to advise the Minister on matters relating to the planning, zoning, use and development of the Development Area;
 - (e) to monitor the Developer's compliance with the provisions of this Agreement and any requirements pertaining to the Development;
 - (f) to direct and control any future development of the Development Area;
 - (g) to approve the grant, transfer or conveyance of, or other dealing in, any estate or interest in the Development Area or any part thereof;
 - (h) to create employment opportunities for Solomon Islands citizens by promoting, encouraging and assisting in the establishment of industrial and investment activity in the Development Area;
 - (i) to facilitate the grant of all the necessary approvals, authorisations, certificates, clearances, consents, licences and permits which are required to be granted by any Governmental Agency to any person who acquires an estate or interest in the Development Area or any part thereof; and
 - (j) to inquire into and to advise the Minister on any matter relating to the Development Area on which the advice of the Council is sought by the Minister.
- (5) The Council shall have and may exercise such powers as are necessary for or incidental to the performance of its functions.
- (6) The constitution and proceedings of the Council shall be regulated in accordance with the provisions of the ratifying Act.

7. SUBMISSION OF PROPOSALS

The Developer shall within six (6) months from the date of commencement of the ratifying Act submit to the Minister to the fullest extent reasonably practicable its detailed proposals for and in respect of:

- (a) the Development, which proposals shall include plans and specifications and detailed particulars as to the location, area, layout, design, number, materials to be used in and time programme for the commencement and completion of the construction or provision (as the case may be) of each of the matters to which they relate; and
- (b) measures relating to the protection, preservation, monitoring and management of the environment (including groundwater) within the Development Area and adjoining areas to the extent that it or they may be materially affected by the implementation of the proposals.

8. CONSIDERATION OF PROPOSALS

- (1) Within two (2) months of receipt of the Developer's proposals submitted pursuant to clause 7, the Minister shall:
 - (a) approve the proposals either wholly or in part without qualification or reservation; or
 - (b) defer consideration of or decision upon the same until such time as the Developer submits a further proposal or proposals in respect of some matter not covered by the proposals and in such case the Minister shall disclose to the Developer the reasons therefor and specify the further proposal or proposals required; or
 - (c) approve the proposals subject to the Developer making such alteration thereto or complying with such conditions as the Minister thinks reasonable and in such case the Minister shall disclose his reasons for requiring such alterations or imposing such conditions.
- (2) If the decision of the Minister is as mentioned in either of clause 8 (1) (b) or (c) the Minister shall afford the Developer full opportunity to consult with him and, should the Developer so desire, to submit new proposals either generally or in respect of some particular matter.
- (3) Any proposals approved by the Minister, whether following their initial submission or following consultation between the Minister and the Developer and any proposals otherwise agreed to between the Minister and the Developer shall be Approved Proposals for the purposes of this Agreement.
- (4) The Developer shall implement the Approved Proposals in accordance with the terms thereof.

9. ADDITIONAL PROPOSALS

- (1) If the Developer at any time during the continuance of this Agreement desires to modify, expand or otherwise vary its activities carried on pursuant to this Agreement beyond those specified in any Approved Proposals, it shall give notice of such desire to the Minister and within two (2) months thereafter shall submit to the Minister detailed proposals in respect of all matters covered by such notice and such other matters as the Minister may require.
- (2) The provisions of clauses 7 and 8 including (for the avoidance of doubt) clause 8(4) shall *mutatis mutandis* apply to proposals submitted pursuant to this clause.

10. ENVIRONMENTAL PROTECTION

Nothing in this Agreement shall be construed to exempt the Developer from compliance with any requirements in connectin with the protection of the environment arising out of or incidental to its activities hereunder that may be made by any Government Agency pursuant to any Act from time to time in force.

11. THE ADMINISTRATIVE FUND

- (1) The Government and the Developer hereby agree to establish a fund to be called "the Administrative Fund" for the purposes set out in subclause (3) of this clause.
- (2) The Government and the Developer hereby appoint the Commissioner to be the trustee of the Administrative Fund.
- (3) The Administrative Fund shall be applied for the purpose of meeting the expenses of the Council.

12. PAYMENT AND APPLICATION OF ANNUAL RENT

Any rent due and payable to the Commissioner under section 135 of the Land and Titles Act on or in Cap. 133 respect of the Development Area or any part thereof shall be collected by the Commissioner and applied from time to time as follows:

- (a) fifty percent (50%) of the total annual rent collected by the Commissioner shall be paid to the Government;
- (b) thirty per cent (30%) of the total annual rent collected by the Commissioner shall be paid to the Guadalcanal Province; and
- (c) twenty per cent (20%) of the total annual rent collected by the Commissioner shall be paid into the Administrative Fund.

13. CONSENT TO SUBDIVISION

For the purposes of section 135 (4) of the Land and Titles Act, the Development Area is hereby declared and designated as town land and accordingly the Commissioner hereby grants consent to the subdivision of the Development Area or any part thereof by the Developer in accordance with any Approved Proposals.

14. CONSENT TO TRANSFER, LEASE AND OTHER DEALINGS

The Commissioner shall, upon approval of the Council, grant consent to the transfer or lease of, or other dealing in, any estate or interest in the Development Area by the Developer.

15. EASEMENTS, LICENCES, ETC

(1) The Government shall in accordance with the Approved Proposals grant the Developer or cause any person or Governmental Agency to grant the Developer for such period and upon such reasonable terms and conditions (including licence fees and renewal rights) as the person or Governmental Agency who or which makes the grant requires:

- (a) licences to construct and operate a marina in the waters adjacent to the Development Area;
- (b) mooring licences;
- (c) jetty licences; and
- (d) such easements (if any) over any part of the land within the Development Area which the Minister considers reasonable and appropriate.

(2) The Developer may, for the purposes of the provision of the Services to be enjoyed in connection with any parcel of land within the Development Area and consistently with the good management of such land, from time to time grant easements through, upon or in any parcel of land within the Development Area:

- (a) for the construction of pipelines, the laying or relaying of cables or the construction of any apparatus to be used in connection with those pipelines or cables;
- (b) for the purpose of providing access to any buildings situated on or within any parcel of land; or
- (c) for any other purpose that the Developer may consider necessary.

16. SURVEYS

Any surveys of land required for the purposes of this Agreement within the Development Area shall be carried out at the expense of the Developer.

17. TOWN AND COUNTRY PLANNING ACT

The provisions of the Town and Country Planning Act (as amended) shall not apply in relation to the Cap. 154 Development or the Development Area.

18. RESUMPTION

Subject to the performance by the Developer of its obligation under this Agreement, the Government shall not:

- (a) resume or suffer or permit to be resumed by any Governmental Agency any land within the Development Area; nor
- (b) create or grant or permit or suffer to be created or granted by any Governmental Agency any right-of-way or easement of any nature or kind whatsoever over or in respect of any land within the Development Area;

without first consulting with the Developer as to any such proposal and giving to the Developer full opportunity to make representations to the Government with regard thereto and using reasonable endeavours to avoid undue prejudice to or interference with the carrying out of the Development by the Developer.

19. USE OF LOCAL LABOUR, PROFESSIONAL SERVICES AND MATERIALS

- (1) The Developer shall, for the purposes of this Agreement, as far as it is reasonable and economically practicable so to do:
 - (a) use labour available within Solomon Islands;
 - (b) use the services of engineers, surveyors, architects and other professional consultants, project managers, manufacturers, suppliers and contractors resident and available within Solomon Islands;
 - (c) during design and when preparing specifications calling for tenders and letting contracts for works, materials, plant, equipment and supplies ensure that suitably qualified suppliers, manufacturers and contractors established in Solomon Islands are given fair and reasonable opportunity to tender or quote;
 - (d) give proper consideration and, where possible, preference to suppliers, manufacturers and contractors established in Solomon Islands when letting contracts or placing orders for works, materials, plant, equipment and supplies where price, quality, delivery and

service are equal to or better than that obtainable elsewhere.

- (2) Except as otherwise agreed by the Minister, the Developer shall in every contract entered into with a third party for the supply of services, labour, works, materials, plant, equipment and supplies for the purposes of this Agreement, require as a condition of such contract that such third party shall undertake the same obligations as are referred to in subclause (1) of this clause and shall report to the Developer concerning such third party's implementation of that condition.
- (3) The Developer shall submit a report to the Minister at quarterly intervals or such long period as the Minister determines commencing from the date of commencement of the ratifying Act concerning the Developer's implementation of the provisions of this clause together with a copy of any report received by the Developer pursuant to subclause (2) of this clause during that quarter or longer period as the case may be, but the Minister may agree that any such reports need not be provided in respect of contracts of such kind or value as the Minister may from time to time determine.

20. POWER TO EXTEND PERIODS

Notwithstanding any provision of this Agreement, the Minister may at the request of the Developer from time to time extend or further extend any period or vary or further vary any date referred to in this Agreement or in any Approved Proposal for such period or to such later date as the Minister thinks fit whether or not the period to be extended has expired or the date to be varied has passed.

21. INDEMNITY

The Developer shall indemnify and keep indemnified the Government and its employees, agents and contractors in respect of all actions, suits, claims, demands or costs of third parties arising out of or in connection with any work carried out by or on behalf of the Developer pursuant to this Agreement or relating to its operations or arising out of or in connection with the construction, maintenance, operation or use by the Developer or its employees, agents, contractors or assignees of the Developer's works or Services the subject of or contemplated by this Agreement or the plant, apparatus or equipment installed in connection therewith.

22. ASSIGNMENT

- (1) Subject to the provisions of this clause, the Developer may at any time with the consent of the Council assign, mortgage, charge, sub-let or dispose of the whole or any part of the rights of the Developer under this Agreement and of the obligations of the Developer under this Agreement subject however in the case of an assignment, sub-letting or disposition to the assignee, sub-lessee or disponent (as the case may be) executing in favour of the Government (unless the Council otherwise determines) a deed of covenant in a form to be approved by the Council to comply with and observe and perform the provisions of this Agreement on the part of the Developer to be complied with, observed or performed in regard to the matter or matters the subject of such assignment, sub-letting or disposition.
- (2) Notwithstanding anything contained in or anything done under or pursuant to subclause (1) of this clause the Developer shall at all times during the currency of this Agreement be and remain liable for the due and punctual performance and observance of all the covenants and agreements on its part contained in this Agreement but the Council may agree to release the

Developer from such liability where the Council considers such release will not be contrary to the interests of the Government.

23. FORCE MAJEURE

In the event that the performance of this Agreement by either Party (herein referred to as "the Affected Party") is prevented or delayed in whole or in part by acts of God, flood, fire or damage caused by lightning, storm or tempest, cyclones, strikes, lockouts or other industrial disturbances, riots, insurrection, acts of terrorism, war, civil disorders, governmental laws, rules, regulations, requirements and administrative orders or any other causes or circumstances beyond the reasonable control of the Affected Party (herein referred to as "Force Majeure") which by the exercise of the due diligence the Affected Party is unable to prevent or overcome, this Agreement shall nevertheless continue and remain in full force and effect and the Affected Party shall not be in default hereunder by reason thereof;

PROVIDED THAT the Affected Party shall promptly notify the other Party of the occurrence and cessation of the Force Majeure and shall to the extent that it can use its best efforts to overcome or remove the Force Majeure;

and accordingly the time within which the Affected Party is required hereunder to perform its duties or satisfy any obligations hereunder shall be extended by a period corresponding to the duration of the Force Majeure.

24. TERMINATION

(1) If:

- (a) (i) the Developer makes default which the Government considers material in the due performance or observance of any of the covenants or obligations of Developer contained in this Agreement or in any grant, lease, licence, easement or other title or document granted or assigned under this Agreement on its part to be performed or observed; or
- (ii) the Developer abandons or repudiates this Agreement or its operations under this Agreement;

and such default, repudiation or abandonment is not remedied or such operations resumed within a period of ninety (90) days after notice is given by the Government as provided in subclause (2) or, if the default or abandonment is referred to arbitration, then within the period fixed by the arbitrator mentioned in subclause (3);

- (b) the Developer goes into liquidation (other than a voluntary liquidation for the purpose of reconstruction) and unless within three (3) months from the date of such liquidation the interest of the Developer is assigned to an assignee or assignees approved by the Government;

the Government may by notice to the Developer terminate this Agreement.

- (2) The Government in a notice given by it under subclause (1) shall specify the nature of the default or other grounds so entitling the Government to exercise its right of termination and where appropriate and known to the Government the party or parties responsible therefor and the Government shall give notice to the Developer and all such assignees, mortgagees, chargees and disponees for the time being of the Developer's rights to or in favour of whom or by whom an assignment, mortgage, charge or disposition has been effected in terms of clause 22 whose name and address for service of notices has previously been notified to the Government by the Developer or by any such assignee, mortgagee, chargee or donee.
- (3) If the Developer contests the alleged default, abandonment or repudiation referred to in paragraph (a) of subclause (1), the Developer shall within sixty (60) days after notice is given by the Government as provided in subclause (2) refer the matter in dispute to arbitration, and if the matter in dispute is decided against the Developer, the Developer shall comply with the arbitration award within a reasonable time to be fixed by that award but if the arbitrator finds that there was a bona fide dispute and that the Developer was not dilatory in pursuing the arbitration, the time for compliance with the arbitration award shall not be less than ninety (90) days from the date of such award.
- (4) If the default referred to in paragraph (a) of subclause (1) is not remedied after receipt of the notice referred to in subclause (1) or within the time fixed by the arbitration award as provided in subclause (3), the Government instead of terminating this Agreement because of the default may itself remedy the default or cause it to be remedied (for which purpose the Government by its agents, employees or otherwise shall have full power to enter upon and to make use of all plant, machinery and installations upon the Development Area) and the actual costs and expenses incurred by the Government in remedying or causing the default to be remedied shall be payable by the Developer to the Government on demand.

25. CONSEQUENCES OF TERMINATION

On the termination of this Agreement:

- (a) except as otherwise agreed by the Minister:
 - (i) the rights of the Developer in or under this Agreement; and
 - (ii) where this Agreement has been terminated because of a matter mentioned in clause 24(1), the rights of the Developer or of any assignee, mortgagee, chargee, or donee to any lease, licence, easement, grant or other title, interest or right granted under or pursuant to this Agreement;

shall thereupon cease and terminate but without prejudice to the liability of either of the Parties in respect of any antecedent breach or default under this Agreement or under any such lease, licence, grant, or other title, interest or right or in respect of any indemnity given under this Agreement; and

- (b) the Developer shall forthwith pay to the Government and any other Governmental Agency all

moneys which may then have become payable or accrued due.

26. ARBITRATION

- (1) Any dispute or difference between the Parties arising out of or in connection with this Agreement, the construction of this Agreement or as to the rights, duties or liabilities of any Party hereunder or as to any matter to be agreed upon between the Parties under this Agreement shall, in default of agreement between the Parties and in the absence of any provision in this Agreement to the contrary, be referred to the arbitration.
- (2) Arbitration shall be effected by a single arbitrator in accordance with the UNCITRAL Arbitration Rules as at present in force.
- (3) The appointing authority shall be the President for the time being of the Solomon Islands Bar Association.
- (4) The place of arbitration shall be Honiara.
- (5) The language used in the arbitration proceedings shall be English.
- (6) The arbitrator is hereby empowered upon the application of a Party to grant in the name of the Government any interim extension of any period or variation of any date referred to herein which having regard to the circumstances may reasonably be required in order to preserve the rights of that Party or of the Parties hereunder and an award may in the name of the Government grant any further extension or variation for that purpose.

27. VARIATION

- (1) The Parties may from time to time by agreement in writing add to, substitute for, cancel or vary all or any of the provisions of this Agreement or of any estate, interest, lease, licence, easement, grant or other title granted under or pursuant to this Agreement for the purpose of more efficiently or satisfactory implementing or facilitating any of the objects of this Agreement.
- (2) The Minister shall cause any agreement made pursuant to subclause (1) in respect of any addition, substitution, cancellation or variation of this Agreement to be laid on the table of the National Parliament within three (3) sitting days next following its execution.
- (3) The National Parliament may, within three (3) sitting days after the agreement has been laid before it pass a resolution disallowing the agreement, but if no such resolution has been passed after the last day on which the agreement might have been disallowed the agreement shall have effect from and after that last day.

28. NOTICES

- (1) All notices and other communications required to be given under this Agreement shall be in writing and shall be sent to the recipient by hand, prepaid post or facsimile transmission.
- (2) Without limiting any other means by which a Party may be able to prove that a notice or other communication has been received by the other Party, a notice or other communication shall be deemed to be duly received:
 - (a) if sent by hand, when left at the address of the recipient;
 - (b) if sent by prepaid post, seven (7) days after the date of posting;
 - (c) if sent by facsimile transmission, upon receipt by the sender of an acknowledgment of transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was transmitted in its entirety to the recipient's facsimile number;

PROVIDED THAT if a notice or other communication is served by hand or sent by facsimile transmission on a day which is not a Business Day or after 4.30 pm on any Business Day, such notice or communication shall be deemed to be duly received by the recipient at 8.00 am on the first Business Day thereafter.

- (3) All notices and other communications shall be sent to the recipient at the address or facsimile number set out below or to such other address or facsimile number as a Party may from time to time notify the other in writing:

- (a) to the Government:

Postal Address: P.O. Box 26
Honiara
Solomon Islands

Facsimile Number: (677) 20392

- (b) to the Commissioner:

Postal Address: P.O. Box G38
Honiara
Solomon Islands

Facsimile Number: (667) 26134

(c) to the Developer:

Postal Address: 02-06, United House

20 Kramat Lane

Singapore 0922

Facsimile Number: (65) 7338835

29. WAIVER

No delay, failure or omission on the part of a Party in enforcing, exercising or pursuing any right, power, privilege, claim or remedy conferred by or available under this Agreement, or arising from the breach by another Party of any of its obligations hereunder, shall constitute:

- (a) a waiver thereof, or of any other such right, power, privilege, claim or remedy; or
- (b) operate so as to bar the enforcement or exercise thereof, or of any other such right, power, privilege, claim or remedy, in any other instance at any time thereafter.

30. STAMP DUTY

This Agreement shall be exempt from any stamp duty which but for the operation of this clause would or might be chargeable thereon.

31. WARRANTY OF AUTHORITY

Each person executing this Agreement on behalf of a Party hereto represents and warrants that he has been fully empowered by such Party to execute this Agreement and that all necessary action to authorise the execution of this Agreement by him has been taken by such Party.

32. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with laws of Solomon Islands and the Parties hereto hereby submit to the non-exclusive jurisdiction of the courts of Solomon Islands.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed on the day and year first hereinbefore written.

SIGNED BY

HONOURABLE CHRISTOPHER ABE, MP

Minister of Finance and

HONOURABLE FRANCIS ORODANI, MP

Minister of Lands

for and on behalf of

GOVERNMENT OF SOLOMON ISLANDS

in the presence of:

(Witness)

SIGNED BY

PATT LOE

in his capacity as

COMMISSIONER OF LANDS

in the presence of:

(Witness)

SIGNED BY

CHIA CHANG CHEE

for and on behalf of

METROPOLIS PACIFIC PTE LTD

in the presence of:

(Witness)

ANNEXURE
The Properties

Parcel Number	Term	Area	Survey/Filed Plan Number
191-057-1	75 yrs	351.53 ha	1757
191-057-2	75 yrs	435.30 ha	1757
191-057-7	75 yrs	2.3196 ha	WK9860
191-057-8	75 yrs	2.0498 ha	WK9760 WK9860
191-057-9	75 yrs	2.569 ha	WK9860 WK9760
191-057-10	75 yrs	2.6573 ha	WK9860 WK9760
191-057-11	75 yrs	2.2916 ha	WK9860 WK9760
191-057-12	75 yrs	2.1779 ha	WK9760 WK9860
191-057-13	75 yrs	2.0824	WK9760
191-057-14	75 yrs	2.1254 ha	WK9760
191-057-15	75 yrs	2.0928 ha	WK9760

191-057-16	75 yrs	2.130 ha	WK9761
			WK9760

191-057-17	75 yrs	312.2197 ha	WK9760
			WK9860
			WK9759
			WK9761

191-057-18	75 yrs	2.6246 ha	WK9761
			WK9760

191-057-19	75 yrs	2.2919 ha	WK9760
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191-057-20	75 yrs	2.1285 ha	WK9760
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191-057-21	75 yrs	2.1234 ha	WK9760
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Parcel Number	Term	Area	Survey/Filed Plan Number
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191-057-22	75 yrs	2.2063 ha	WK9760
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191-057-23	75 yrs	2.0308 ha	WK9760
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191-057-24	75 yrs	2.0395 ha	WK9760
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191-057-25	75 yrs	2.0591 ha	WK9760
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191-057-26	75 yrs	2.0512 ha	WK9760
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191-057-27	75 yrs	2.1919 ha	WK9760
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191-057-28	75 yrs	2.1956 ha	WK9760
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191-057-29	75 yrs	2.3626 ha	WK9760
			WK9759
			WK9860
191-057-30	75 yrs	2.5272 ha	WK9759
			WK9760
191-057-31	75 yrs	2.1293 ha	WK9760
191-057-32	75 yrs	2.1103 ha	WK9760
191-057-33	75 yrs	2.7608 ha	WK9760
			WK9759
191-057-34	75 yrs	2.3676 ha	WK9760
191-057-35	75 yrs	2.2537 ha	WK9760
191-057-36	75 yrs	2.0753 ha	WK9760

SECOND SCHEDULE

(Section 13)

Constitution and Proceedings of the Council

1. The procedure for convening meetings of the Council and the conduct of business at those meetings shall, subject to this Act, be determined by the Council. General procedure
2. Four members shall form a quorum and any duly convened meeting of the Council at which a quorum is present shall be competent to transact any business of the Council and shall have and may exercise all the functions of the Council. Quorum
3. At the meeting of the Council- Presiding members

(a) the chairman, or in his absence the deputy chairman, shall preside; or

(b) in the absence of both the chairman and the deputy chairman, a member elected by the members present shall preside.

4. (1) The Council may, by resolution, delegate any function specified in the resolution, other than this power of delegation, to a member or any committee consisting of two or more members. Delegation by the Council

(2) The performance of a function by a delegate under this clause shall be deemed to be the performance of the function by the Council.

5. (1) A decision supported by the majority of the votes cast at a meeting of the Council at which a quorum is present shall be the decision of the Council. Voting

(2) If the votes of the members present at a meeting and voting are equally divided the presiding member shall have a casting vote in addition to a deliberative vote.

6. The Council shall cause accurate minutes of its meetings to be recorded and preserved. Minutes

7. The first meeting of the Council shall be convened by the chairman. First meeting of the Council

(No Subsidiary Legislation.)