

STRICTLY CONFIDENTIAL

Port Commitment – Port Botany and Port Kembla

Background

The State of New South Wales (**State**) has made contractual commitments to the private Port Lessee of Port Botany and Port Kembla (**NSW Ports**) to make certain payments to NSW Ports in respect of future container capacity development at Port of Newcastle (**Port Commitment**). Virtually identical arrangements are in place between the State and NSW Ports in relation to both Port Botany and Port Kembla.

The Term Sheets with NSC require Mayfield Development Corporation Pty Ltd (**MDC**) to make the State whole for any cost the State incurs to NSW Ports under the Port Commitment or under the corresponding commitment in respect of Port Kembla, due to the activities of MDC in the Port of Newcastle.

A summary of the Port Commitment has previously been provided to MDC. This document sets out the detailed terms of the payment commitment in respect of which the State requires recourse to MDC. This document deals with the Port Botany commitment, but the State also requires that MDC keep it whole in respect of the commitment given to NSW Ports in relation to Port Kembla.

Parties

The parties to the Port Commitment in respect of Port Botany are the State, Port Manager, Botany Port Lessee and Purchaser, as defined below.

Port Commitment Terms

1. Defined terms & interpretation

1.1 Defined terms

In this document:

Associate means:

- (a) in relation to an entity that is not a natural person:
 - (i) each of that entity's related bodies corporate (as that term is defined in the Corporations Act 2001 (Cth));
 - (ii) each person who has a relevant interest (as that term is defined in the Corporations Act) in 20% or more of the voting shares in that entity;
 - (iii) each other entity in which that entity has a relevant interest (as that term is defined in the Corporations Act) in 20% or more of the voting shares in that other entity as if that other entity were a 'company' as defined in the Corporations Act and its securities were shares;
 - (iv) each other entity that Controls that entity;
 - (v) each other entity that is Controlled by that entity;

- (vi) each trust of which the entity or a person or entity described in paragraphs (a)(i), (ii), (iii), (iv) or (v) is a trustee; and
- (vii) each trust under which that entity holds 20% or more of voting rights of voting securities, as if that trust were a 'company' as defined in the Corporations Act and its securities were shares,

except that, for the purposes of this document a relevant interest (as that term is defined in the Corporations Act) that has arisen merely because the person is party to a shareholders' agreement or consortium agreement, or a constitution, in respect of the entity that gives members pre-emptive rights on the transfer of securities if all members have pre-emptive rights on the same terms, will be disregarded; and

- (b) in relation to a natural person, any:
 - (i) spouse;
 - (ii) relative by blood or adoption of that person or that person's spouse;
 - (iii) body corporate in which that person and an Associate (as determined by another application of this definition) of that person hold in aggregate more than 20% of the voting shares; and
 - (iv) trust of which that person or a person described in paragraphs (b)(i), (ii) or (iii) is a trustee,

where a reference to the Corporations Act in this definition is to that Act as in force at 1 January 2013.

Botany Port Lessee means NSW Ports Botany Property Co Pty Limited (ACN 163 262 422) as trustee for the NSW Ports Botany Property Trust.

Business Day means:

- (a) for receiving a notice under clause 7, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is received; and
- (b) for all other purposes, a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney, Australia.

Business Hours means from 8.00am and 5.00pm on a Business Day.

Completion Date means the date on which Completion occurred under the Sale and Purchase Agreement between the Purchaser, Port Botany Lessor, the State and others dated on or about 12 April 2013, being 31 May 2013.

Container means any moveable device, designed for continuous use in loading and unloading cargoes on and from Ships, including boxes, crates, cylinders, tanks, TEUS, other stackable units and any similar cargo-carrying device which is designated as a container by international stevedoring standards from time to time and **Containerised** has a corresponding meaning. Container includes:

- (a) overseas import containers;
- (b) overseas export containers; and
- (c) local containers (coastal inwards or outwards); and
- (d) empty containers and transhipped containers.

Container Capacity means, in relation to Port Botany or Port Kembla, capacity for the export or import of Containers, including associated handling and logistics services, provided on or from facilities located on the Port Botany Land or the Port Kembla Land, as the case may be.

Control of an entity means the definition of 'Control' in section 50AA of the Corporations Act and:

- (a) in the case of a corporation includes the power (whether it is legally enforceable or not) to control, whether directly or indirectly, the composition of the board of directors of that corporation, the voting rights of the majority of the voting shares of the corporation or the management of the affairs of the corporation; and
- (b) in the case of a unit trust, includes the power (whether it is legally enforceable or not) to control, whether directly or indirectly, the appointment or removal of the trustee of the trust, the composition of the board of directors of the trustee, the voting rights of the majority of the units of the trust or the management of the affairs of the trust or the business operated by the trust,

and **Controlled** has a corresponding meaning where a reference to the Corporations Act in this definition is to that Act as in force at 1 January 2013.

Force Majeure Event means:

- (a) in relation to Port Botany, any event or circumstance affecting Port Botany or its operations, including but not limited to natural disaster, fire, flood, weather event, earthquake, war, act of terrorism, act of God, and industrial action, but excluding a State Law made or modified after 31 May 2013 that is specific and exclusive to Port Botany (or to Port Botany and Port Kembla) and restricts the volume of Containers that may be exported or imported through the Port Botany Land or the development of Container Capacity at Port Botany; and
- (b) in relation to Port Kembla, any event or circumstance affecting Port Kembla or its operations, including but not limited to natural disaster, fire, flood, weather event, earthquake, war, act of terrorism, act of God, and industrial action, but excluding a State Law made or modified after 31 May 2013 that is specific and exclusive to Port Kembla (or to Port Kembla and Port Botany) and restricts the volume of Containers that may be exported or imported through the Port Kembla Land or the development of Container Capacity at Port Botany.

Full Capacity has the meaning given in clause 3.1.

Kembla Port Lessee means NSW Ports Kembla Property Co Pty Limited (ACN 163 262 404) as trustee for the NSW Ports Kembla Property Trust.

Kembla Port Manager means Port Kembla Operations Pty Ltd ABN 50 132 250 580.

NSW Ports Botany Property Trust means the trust of that name established on or about 11 April 2013

NSW Ports Kembla Property Trust means the trust of that name established on or about 11 April 2013.

NSW Ports Operations Hold Trust means the trust of that name established on or about 11 April 2013.

PAMA means the *Ports and Maritime Administration Act 1995* (NSW).

Port Botany means Port Botany, New South Wales.

Port Botany Land means the land the subject of the Port Botany Lease from time to time.

Port Botany Lease means the long term concurrent lease granted by the Port Botany Lessor to the Port Lessee in relation to certain land at Port Botany and the associated site at Cook's River dated on or about the Completion Date.

Port Botany Lessor means Port Botany Lessor Pty Limited ABN 31 161 204 404.

Port Development Plan means as the context requires a Port Development Plan as defined in the Port Botany Lease or the Port Kembla Lease.

Port Kembla means Port Kembla, New South Wales.

Port Kembla Land means the land the subject of the Port Kembla Lease from time to time.

Port Kembla Lease means the long term concurrent lease granted by Port Kembla Lessor Pty Ltd to the Kembla Port Lessee in relation to certain land at Port Kembla dated on or about the Completion Date.

Port Manager means Port Botany Operations Pty Limited (as trustee for the Port Botany Unit Trust) ABN 25 855 834 182.

Purchaser means NSW Ports Operations Hold Co Pty Limited (ACN 163 262 351) as trustee for the NSW Ports Operations Hold Trust.

SPC means Sydney Ports Corporation.

State means The Hon. Michael Baird, Treasurer, for and on behalf of the Crown in right of the State of New South Wales.

State Agency means any of:

- (a) the State of New South Wales;
- (b) any Minister of the State of New South Wales;
- (c) any Department, agency or authority of the State of New South Wales;
- (d) a body corporate owned by the State of New South Wales; and
- (e) a subsidiary of a body corporate owned by the State of New South Wales.

State Law means any:

- (a) enactment of the New South Wales parliament;
- (b) subordinate legislation made under any enactment of the New South Wales parliament; or
- (c) instrument made or issued by a State Agency under any enactment or subordinate legislation referred to in paragraph (a) or (b); or
- (d) decisions of a court in respect of any of the items in paragraphs (a), (b) or (c) above.

Support Period means:

- (a) each period of 12 consecutive months commencing on the anniversary of 1 July 2013 and ending during the Term; and
- (b) the period commencing on the last anniversary of 1 July 2013 that commences during the Term and ending on the last day of the Term (if less than 12 months).

Wharfage Charges means charges imposed and payable under section 61 of PAMA in respect of sites at Port Botany, known as "wharfage charges".

Term means the period commencing on the Completion Date and ending on the earlier of the 50th anniversary of the Completion Date and the date of termination of the Port Botany Lease.

TEU means Twenty Foot Equivalent Unit or 20 foot shipping container.

Transaction Documents means the Port Botany Lease and the other documents described as "Transaction Documents" in the Port Botany Lease.

1.2 Interpretation

In this document, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this document, and a reference to this document includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A**, dollar or **\$** is to Australian currency;
- (f) a reference to time is to Sydney, Australia time;
- (g) a reference to a party is to a party to the parties to the Port Commitment, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by **including**, **for example** or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them severally and not jointly;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them severally and not jointly; and
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of the Port Commitment documentation or any part of it.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

1.4 Business Days

If a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.5 Trustee capacity

- (a) Botany Port Manager as trustee for the Port Botany Unit Trust (in this clause 1.5, the **Botany Trustee**) is a party to the Port Commitment only in its capacity as trustee for the Port Botany Unit Trust (in this clause 1.5, the **Botany Trust**). A liability arising under or in connection with the Port Commitment is limited to and can be enforced against the

Botany Trustee only to the extent to which it can be satisfied out of the property of the Botany Trust out of which the Botany Trustee is actually indemnified for the liability.

- (b) The limitation of liability in clause 1.5(a) will not apply to any obligation or liability of the Botany Trustee to the extent that it is not satisfied because under the agreement governing the Botany Trust or by operation of law there is a reduction in the extent of the indemnification of Botany Trustee out of the assets of the Botany Trust as a result of fraud, negligence or breach of trust of the Botany Trustee or the Botany Trustee waiving or agreeing to amend the rights of indemnification it would otherwise have out of the assets of the Botany Trust.
- (c) Kembla Port Manager as trustee for the Port Kembla Unit Trust (in this clause 1.5, the **Kembla Trustee**) is a party to the Port Commitment only in its capacity as trustee for the Port Botany Unit Trust (in this clause 1.5, the **Kembla Trust**). A liability arising under or in connection with the Port Commitment is limited to and can be enforced against the Kembla Trustee only to the extent to which it can be satisfied out of the property of the Kembla Trust out of which the Kembla Trustee is actually indemnified for the liability.
- (d) The limitation of liability in clause 1.5(c) will not apply to any obligation or liability of the Kembla Trustee to the extent that it is not satisfied because under the agreement governing the Kembla Trust or by operation of law there is a reduction in the extent of the indemnification of Kembla Trustee out of the assets of the Kembla Trust as a result of fraud, negligence or breach of trust of the Kembla Trustee or the Kembla Trustee waiving or agreeing to amend the rights of indemnification it would otherwise have out of the assets of the Kembla Trust.

2. Term

The Port Commitment will operate for and will terminate at the end of the Term. The parties will have no further obligations under the Port Commitment after termination. This clause 2 does not affect obligations and rights that have accrued prior to such termination.

3. Support in respect of development of container capacity at Port of Newcastle

3.1 Full Capacity

There is **Full Capacity** at Port Botany or Port Kembla (a **Port**) as the case may be at a time when having regard to:

- (a) the existing utilisation of that Port;
- (b) the Port Development Plans for the Port in force under the Port Botany Lease or Port Kembla Port Lease as the case may be;
- (c) any statement made by the Botany Port Manager, Botany Port Lessee, Kembla Port Manager or Kembla Port Lessee as the case may be that it does not intend to develop further container capacity at the Port;
- (d) the bona fide plans of stevedore tenants at the Port to expand the capacity of their Container handling facilities at the Port, or the absence of such plans;
- (e) the physical environment and constraints of that Port;
- (f) laws applicable to that Port; and
- (g) the availability of capital,

it is reasonable to conclude that the maximum Container Capacity of that Port at that time will not be able to be increased in the future by more than the greater of:

- (h) a total of 5% of the Container Capacity at that time; or
- (i) capacity to import or export an additional 500,000 TEUs in a year.

3.2 No present Full Capacity

The parties acknowledge that as at 31 May 2013, there is not yet Full Capacity at Port Botany or Port Kembla.

3.3 Support

Subject to clause 3.8, if all of the conditions in paragraphs (a) to (e) are satisfied in respect of a Support Period (**Relevant Support Period**):

- (a) the Botany Port Manager demonstrates to the reasonable satisfaction of the State that at least one of Port Botany or Port Kembla was not at Full Capacity during the whole of the Relevant Support Period;
- (b) the EXCESS as calculated in accordance with clause 3.4 in respect of the Relevant Support Period is greater than zero;
- (c) the EXCESS as calculated in accordance with 3.4 in respect of the Support Year (if any) immediately prior to the Relevant Support Year was also greater than zero (Previous Support Period);
- (d) the Botany Port Manager demonstrates to the reasonable satisfaction of the State that the number of Containers imported or exported by Port Botany in the Relevant Support Period is less (**Shortage**) than it would have been had EXCESS been zero or less, and that there is both a reasonable, and a material, causal connection and correlation between the amount of EXCESS and the amount of the Shortage; and
- (e) the Botany Port Manager demonstrates to the reasonable satisfaction of the State that the number of Containers imported or exported by Port Botany in the Previous Support Period (if any) is less (**Prior Shortage**) than it would have been had EXCESS for that Previous Support Period been zero or less and that there is both a reasonable, and a material, causal connection and correlation between the amount of EXCESS and the amount of the Prior Shortage,

then the State must pay to the Botany Port Manager in accordance with this clause 3 the amount of NSupport as calculated under clause 3.4.

3.4 Calculation of NSupport

In this document:

$$\text{NSupport} = \text{EXCESS} \times \text{TEUPBn}/\text{TEUtotal} \times \text{WAWpb} \times \text{N}/365$$

where:

Escalation is the greater at the time of calculation of NSupport of:

- (a) $1.06^{p/365}$; and
- (b) $\text{TEUPBn}/\text{TEUPBbase}$

where p is the number of days in the period commencing on 30 June 2013 and ending on the last day of the Relevant Support Period.

EXCESS is the greater of:

- (a) zero; and
- (b) $TEUNn - (30,000 \times Escalation \times N/365)$

FM Capacity is the number of TEU imports or exports attributable to capacity developed at Port of Newcastle in any period of time between the occurrence of a Force Majeure Event that is reasonably likely to materially reduce Container Capacity, or prevent the development of Container Capacity, at Port Botany or Port Kembla for at least 5 years and the time that the effect of that Force Majeure Event is removed and the Container Capacity at Port Botany or Port Kembla is restored to what it would have been had the Force Majeure Event not occurred, to the extent such capacity used or developed at Port of Newcastle is used or developed predominantly in response to that Force Majeure Event.

N is the number of days in the Relevant Support Period.

TEUPbase is the number, expressed in terms of the number of TEUs, of containers imported to or exported from Port Botany during the year ending 30 June 2013.

TEUPBn is the number, expressed in terms of the number of TEUs, of Containers imported to or exported from Port Botany during the Relevant Support Period.

TEUPKn is the number, expressed in terms of the number of TEUs, of Containers imported to or exported from Port Kembla during the Relevant Support Period.

TEUNn is the number, expressed in terms of the number of TEUs, of Containers imported to or exported from the Port of Newcastle during the Relevant Support Period, excluding:

- (a) any FM Capacity; and
- (b) the number of TEU imports or exports (if any) attributable to any state of emergency or disaster that results in the temporary import or export through Port of Newcastle of humanitarian aid or emergency supplies, goods or vehicles.

TEUtotal is the aggregate of TEUPBn and TEUPKn.

WAWpb is the weighted average per TEU of the Wharfage Charges actually imposed by Botany Port Manager on users of Port Botany in respect of Containers at Port Botany in respect the Relevant Support Period.

3.5 Botany Port Manager may make a submission

If all the conditions in clause 3.3 were satisfied in respect of a Support Period, then within 20 Business Days after the end of that Support Period the Botany Port Manager may make a written submission to the State which:

- (a) provides evidence that all of the conditions of clause 3.3 were satisfied;
- (b) provides a calculation of NSupport; and
- (c) provides reasonable written details of and supporting evidence for that calculation.

3.6 Consultation in respect of submission

If the Botany Port Manager makes a submission in accordance with clause 3.5:

- (a) the parties must make their respective representatives reasonably available to discuss the submission within the period of 20 Business Days following the receipt of the submission by the State; and
- (b) the State must within 20 Business Days following the receipt of the submission by the State either:

- (i) give the Botany Port Manager written notice that the State accepts the submission; or
- (ii) give the Botany Port Manager written notice that the State rejects the submission, and a statement of the material reasons for the rejection.

3.7 Payment of agreed support or dispute

- (a) If under clause 3.6 the State accepts a submission by the Botany Port Manager, it must pay the amount of NSupport to the Botany Port Manager within 60 days after notifying the Botany Port Manager of that acceptance.
- (b) If the State rejects a submission made by the Botany Port Manager, either party may take such action including legal proceedings in relation to the matters the subject of the submission as it sees fit.
- (c) The Botany Port Manager must not bring legal proceedings, or otherwise seek to enforce clause 3.3, in respect of any alleged EXCESS referred to in clause 3.4 unless it has complied with clauses 3.5 and 3.6 in respect of that alleged EXCESS.

3.8 Newcastle capacity resulting from long-term Force Majeure Event

- (a) Clause 3.3 will cease to apply and have no further effect (other than in respect of any Support Period that has already ended) at any time after a Force Majeure Event affecting both Port Botany and Port Kembla has occurred that is reasonably likely to:
 - (i) materially reduce Container Capacity, or prevent the development of Container Capacity, at Port Botany and Port Kembla for at least 5 years; and
 - (ii) materially constrain the import or export of Containers into or from New South Wales by sea unless additional Container handling capacity is established.
- (b) Clause 3.3 will cease to apply and have no further effect (other than in respect of any Support Period that has already ended) at any time after the conditions in both paragraphs (i) and (ii) of this clause 3.2(b) are satisfied:
 - (i) a Force Majeure Event (**Primary FM Event**) has occurred that is reasonably likely to:
 - (A) materially reduce Container Capacity, or prevent the development of Container Capacity, at one of Port Botany or Port Kembla (the **Affected Port**) for at least 5 years; and
 - (B) materially constrain the import or export of Containers into or from New South Wales by sea unless additional Container handling capacity is established; and
 - (ii) having regard to:
 - (A) the existing utilisation of whichever of Port Botany or Port Kembla is not the **Affected Port (Other Port)**;
 - (B) any Force Majeure Event (including the Primary FM Event) which at or after the occurrence of the Primary FM Event affects the Other Port;
 - (C) the Port Development Plans in force under the Port Botany Lease or Port Kembla Lease as the case may be;
 - (D) any statement made by or on behalf of the Port Botany Manager, Port Botany Lessee, Port Kembla Manager or Port Kembla Lessee, as

applicable, that it does not intend to develop further container capacity at the Other Port;

- (E) the bona fide plans of stevedore tenants at the Other Port to expand the capacity of their Container handling facilities at the Other Port, or the absence of such plans;
- (F) the physical environment and constraints of the Other Port;
- (G) laws applicable to the Other Port; and
- (H) the availability of capital,

the State, acting reasonably, concludes (and notifies the Port Manager of its conclusion) that the maximum Container Capacity of the Other Port will not, within 24 months after the occurrence of the Primary FM Event, be increased to accommodate the amount of Container Capacity that has been constrained by the Primary FM Event at the Affected Port.

- (c) If one of clause 3.8(a) or (b) has applied to end the application of clause 3.3, clause 3.3 will not commence to apply again even if the circumstances described in clause 3.8(a) or (b) change or cease.

3.9 Other limits on support

- (a) Each of Botany Port Manager, Botany Port Lessee and Purchaser releases each of the State, the Port Botany Lessor and SPC from any liability whatsoever in respect of any increase in the use of or the capacity of the Port of Newcastle to import, export or handle Containers, however arising, in connection with the Port Commitment or the Transaction Documents, other than liability under clause 3.3.
- (b) Botany Port Manager must not make a claim under the Port Commitment in respect of any temporary increase in movements of Containers through the Port of Newcastle that results from any Force Majeure Event affecting Port Botany or Port Kembla.
- (c) The State holds the benefit of this clause 3.9 on trust for each of the Port Botany Lessor and SPC.

4. Limits on claims for support

- (a) Botany Port Manager may not make a claim under the Port Commitment in respect of:
 - (i) any Support Period commencing after Botany Port Manager or Kembla Port Manager or an Associate of Botany Port Manager or Kembla Port Manager has developed or commenced development of Container handling capacity at Port of Newcastle; or
 - (ii) any Support Period during which:
 - (A) Port of Newcastle or any material part of it is operated, managed or leased by Botany Port Manager or Kembla Port Manager or an Associate of Botany Port Manager or Kembla Port Manager; or
 - (B) any material Container handling capacity at Port of Newcastle is operated by Botany Port Manager or Kembla Port Manager or an Associate of Botany Port Manager or Kembla Port Manager.
- (b) Botany Port Manager, Botany Port Lessee and the Purchaser must, as reasonably requested by the State from time to time, provide to the State information about:

- (i) the number of Containers imported and exported through Port Botany and Port Kembla in any period of time;
 - (ii) the nature of charges imposed by Botany Port Manager under PAMA and the revenue from those charges in any period of time;
 - (iii) the identities of the Associates of the Botany Port Manager, Botany Port Lessee and the Purchaser at any given time; and
 - (iv) the extent to which any of Botany Port Manager, Botany Port Lessee, Kembla Port Manager and Kembla Port Lessee are under the common Control (direct or indirect) of any person at any given time.
- (c) Each of Botany Port Manager, Port Lessee and the Purchaser must procure use their respective reasonable endeavours to minimise any loss of revenue that may be the subject of a claim by Port Manager under the Port Commitment.

5. Miscellaneous

5.1 Alterations

The Port Commitment may be altered only in writing signed by each party.

5.2 Approvals and consents

Except where this document expressly states otherwise, a party may, in its absolute discretion, give conditionally or unconditionally or withhold any approval or consent under the terms of the Port Commitment as set out in this document.

5.3 Further action

Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to the Port Commitment and any transactions contemplated by this document.

5.4 Severability

A term or part of a term of the terms of the Port Commitment that is illegal or unenforceable may be severed and the remaining terms or parts of the term continue in force.

5.5 Waiver

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver. A party is not liable for any loss of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

5.6 Governing law and jurisdiction

The Port Commitment is expressed to be governed by the law of New South Wales and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.