

COCKATOO ISLAND DOCKYARD AGREEMENT.

No. 73 of 1933.

An Act to approve an Agreement entered into between the Cockatoo Docks and Engineering Co. Limited, the Australian Commonwealth Shipping Board, and the Commonwealth of Australia, in relation to Cockatoo Island Dockyard.

[Assented to 15th December, 1933.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

- Short title.** 1. This Act may be cited as the *Cockatoo Island Dockyard Agreement Act 1933*.
- Approval of Agreement.** 2. The Agreement, a copy of which but not including the annexures thereto is contained in the Schedule to this Act, made on the third day of February, One thousand nine hundred and thirty-three, between the Cockatoo Docks and Engineering Co. Limited of the first part, the Australian Commonwealth Shipping Board of the second part, and the Commonwealth of Australia of the third part, is approved.
- Appropriation.** 3. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, such amount as is necessary to meet any liability of the Commonwealth arising under the Agreement referred to in the last preceding section.

THE SCHEDULE.

AGREEMENT made the third day of February One thousand nine hundred and thirty-three BETWEEN COCKATOO DOCKS AND ENGINEERING CO LIMITED a Company duly incorporated under the Companies Acts of the State of New South Wales and carrying on business in the said State whose registered office is situate at Sydney in the said State (hereinafter called the "Company" which expression shall where the context so admits or requires be deemed to include the permitted assigns of Cockatoo Docks and Engineering Co Limited) of the first part THE AUSTRALIAN

THE SCHEDULE—continued.

COMMONWEALTH SHIPPING BOARD a body corporate under that name by virtue of the *Commonwealth Shipping Act 1923* (hereinafter called the "Board") of the second part AND THE COMMONWEALTH OF AUSTRALIA (hereinafter called the "Commonwealth") of the third part WHEREBY it is agreed by and between the parties hereto as follows that is to say :—

1. THAT the Board will grant to the Company the Island situated in the Harbour of Port Jackson in the State of New South Wales in the Commonwealth of Australia known as Cockatoo Island (including all accretions thereto by way of reclamations) and containing an area of approximately thirty-seven acres one rood and twenty-three perches together with the dry docks wharfs buildings plant machinery machines and apparatus thereon or used therewith as specified in the Schedule and plans annexed hereto (the said Island dry docks wharfs buildings plant machinery machines and apparatus being collectively hereinafter referred to as the "demised premises") for the term and at the rent and upon and subject to the covenants agreements and provisions contained in the form of lease set out in Clause 2 of this Agreement and the parties to this Agreement will enter into a lease in that form

2. THE lease shall be in the following form namely :—

"COMMONWEALTH OF AUSTRALIA.

LEASE.

THIS INDENTURE made the day of One thousand nine hundred and thirty-three BETWEEN THE AUSTRALIAN COMMONWEALTH SHIPPING BOARD a body corporate under that name by virtue of the *Commonwealth Shipping Act 1923* (hereinafter called the "Lessor" which expression shall where the context so admits or requires be deemed to include the person or body for the time being entitled to the reversion immediately expectant upon the determination of the term hereby created) of the first part THE COMMONWEALTH OF AUSTRALIA (hereinafter called the "Commonwealth") of the second part AND COCKATOO DOCKS AND ENGINEERING CO LIMITED (hereinafter called the "Lessee" which expression shall where the context so admits or requires be deemed to include the permitted assigns of Cockatoo Docks and Engineering Co Limited) of the third part :

WHEREAS the premises hereby demised are vested in the Lessor in pursuance of the Act aforesaid and the Treasurer of the Commonwealth of Australia has pursuant to Section 10 (d) of the said Act consented to their disposal by these presents as testified by his executing these presents :

AND WHEREAS the Commonwealth has undertaken to be bound by these presents to the same extent as the Lessor :

NOW THIS INDENTURE WITNESSETH as follows :—

1. THE Lessor hereby demises unto the Lessee the Island situated in the Harbour of Port Jackson in the State of New South Wales in the Commonwealth of Australia known as Cockatoo Island (including all accretions thereto by way of reclamations) and containing an area of approximately thirty-seven acres one rood and twenty-three perches TOGETHER WITH the dry docks wharfs buildings plant machinery machines and apparatus thereon or used therewith as specified in the Schedule and plans annexed hereto (the said Island dry docks wharfs buildings plant machinery machines and apparatus being collectively hereinafter referred to as the "demised premises") TO HOLD to the Lessee for the term of twenty-one years commencing on the first day of March One thousand nine hundred and thirty-three and thereafter until either party shall give to the other of them on or before the thirtieth day of June in any year after the expiration of the said term notice in writing of its intention to determine the lease and on the expiration of two years from the thirtieth day of the month of June on or immediately prior to which such notice was given the lease unless sooner determined as hereinafter provided shall determine and be at an end PAYING THEREFOR during the said term such rent and in such manner as is hereinafter mentioned.

2. (1) THE rent payable by the Lessee to the Lessor for the demised premises shall be not less than One thousand pounds (£1,000) per annum nor more than Fifty thousand pounds (£50,000) per annum.

THE SCHEDULE—*continued.*

(2) Subject to sub-clauses (1) and (3) of this Clause the rent payable by the Lessee to the Lessor shall be for the first year at the rate of One thousand pounds (£1,000) per annum and thereafter a yearly sum (or for any period less than a year a proportionate part of such sum) calculated as follows that is to say for the second year two and one-half per centum of the turnover of the Lessee during the year and for the third year three and one-quarter per centum of the turnover of the Lessee during the year and for the fourth and all following years five per centum of the turnover of the Lessee during the year but less a rebate of two and one-half per centum of the cost to the Lessee of all stores and materials used or supplied by the Lessee during the year PROVIDED THAT that after rent for any year reaches the amount of Forty thousand pounds (£40,000) the calculation of the further rent payable for that year until the maximum is reached shall be made on the basis as aforesaid but a reduction of fifty per centum of the amount which exceeds the sum of Forty thousand pounds (£40,000) shall be made therefrom.

(3) During the second and third years the amount of rent payable in excess of One thousand pounds (£1,000) per annum shall not exceed the net profits made by the Lessee during the year for which the rent is payable and if the Lessee does not make any nett profits for the year for which the rent is payable the rent payable for that year shall not exceed One thousand pounds (£1,000).

(4) Should the Commonwealth Government fail to entrust Government work to the Lessee to the value of Forty thousand pounds (£40,000) per annum during any year of the first three years of the lease the Commonwealth will contribute towards the loss (if any) sustained by the Lessee in that year in the ratio of one pound in two pounds of that loss such contribution not to exceed in any one year Sixteen thousand six hundred and sixty-six pounds (£16,666) provided that no contribution shall be payable by the Commonwealth during any such year in which the overhead expenditure of the establishment is less than Twenty-two thousand five hundred pounds (£22,500).

(5) The word "turnover" wherever it occurs in this Clause means the total amount of the Lessee's receipts and credits whether derived from dock dues or other charges labour done or supplied stores or material used or supplied or any other sources whatsoever and whether from work done or service given at the demised premises or elsewhere or from work done or services given for or to any member of the Lessee or for or to any organization controlled by any such member or members but does not include income from investments.

(6) The rent shall be payable as follows:—The sum of One thousand pounds (£1,000) shall be paid by equal half-yearly payments on the thirtieth day of June and the thirty-first day of December of each year of which the first shall be made on the thirtieth day of June next provided however that for the period from the date of commencement of these presents until the thirtieth day of June next the rent to be paid shall be a proportionate part of the said sum. If further rent is payable for any year such further rent shall be payable within three months from the expiration of the year.

(7) The accounts in respect of—

- (a) the turnover of the Lessee to the extent of the maximum rent payable to the Lessor;
- (b) the net profits (if any) made by the Lessee during the second and third years of the Lease;
- (c) the loss (if any) sustained by the Lessee in each year of the first three years of the Lease; and
- (d) the overhead expenditure of the establishment during each year of the first three years of the Lease to the extent of Twenty-two thousand five hundred pounds (£22,500);

shall be certified to by an auditor approved of by the Commonwealth and may if so desired by the Commonwealth be subject to inspection by the Auditor-General of the Commonwealth.

3. The Lessee covenants and agrees with the Lessor as follows:—

- (1) To pay the said rent on the days and in the manner aforesaid.
- (2) To assume the like obligations to pay rates taxes and charges as the Commonwealth Shipping Board was under in pursuance of Section 20 of the *Commonwealth Shipping Act 1923*.

THE SCHEDULE—*continued.*

(3) Not to do anything which will impair the efficiency of the demised premises as a dockyard for naval purposes.

(4) To keep the aforesaid dry docks wharfs and buildings and all piers landing stages and steps and all improvements extensions and additions to such dry docks wharfs buildings piers landing stages and steps during the continuance of these presents in as good repair and condition as they are now which shall include the painting of all painted outside woodwork on buildings occupied by the Lessee and to yield the same up upon the expiration or sooner determination thereof in such good repair and condition (ordinary wear and tear age depreciation obsolescence and damage by fire storm tempest flood earthquake or any other cause whatsoever excepted).

(5) To keep the aforesaid plant machinery machines and apparatus in good working order repair and condition (ordinary wear and tear age depreciation obsolescence and damage by fire storm tempest flood earthquake or any other cause whatsoever excepted).

(6) To permit the Commonwealth at its own expense to erect and install on the demised premises and use any new and additional buildings plant machinery machines and apparatus which the Commonwealth may from time to time during the continuance of these presents require to be erected and installed and for those purposes to at all necessary times enter on the demised premises by its contractors agents officers workmen and servants provided that such erection and installation shall not unreasonably interfere with the operations of the Lessee.

(7) Subject to paragraph (6) of Clause 5 of these presents to keep all buildings plant machinery machines and apparatus erected and installed by the Commonwealth pursuant to paragraph (6) of this Clause in good repair and condition.

(8) To permit any responsible officer or officers of the Lessor or the Commonwealth to enter at all reasonable times upon the demised premises and view the condition and state of repair thereof and it shall be the duty of the Lessor and of the Lessee as soon as possible after each thirtieth day of June during the continuance of these presents to submit to the other of them a report dealing in detail with the demised premises and their state of preservation and efficiency.

(9) To repair within three calendar months from the date of notice all wants of reparation which upon such views shall be found and for the amendment of which notice in writing shall be left upon the demised premises provided that such notice be in accordance with the covenants to repair contained in these presents.

(10) To give preference in execution when required to do so by the Commonwealth to naval work or other defence work.

(11) Not to assign underlet or part with the possession of the demised premises or any part share or interest therein without the consent in writing of the Lessor first had and obtained.

(12) To make it a condition of any sub-lease by the Lessee to which the Lessor has consented in writing that the sub-lessee will observe and perform in all respects all the covenants agreements and provisions contained in these presents and on the part of the Lessee to be observed and performed and that the sub-lessee will enter into a bond to the Lessor for a sum to be fixed by the Lessor with a surety to be approved of by the Lessor conditioned to be void on the due and faithful observance and performance by the sub-lessee of all covenants agreements and provisions contained in these presents and on the part of the Lessee to be observed and performed.

(13) Not to commit any nuisance or do or permit or suffer to be done on the demised premises anything which may constitute a danger to the demised premises or to the Port.

(14) To comply with the requirements rules and regulations of the Board of Health or other public authority or authorities which shall be applicable to the demised premises and should any structural or other alterations to the demised premises be required pursuant to any such requirements rules or regulations forthwith to notify the Lessor of such required alterations and to thereupon at its own expense make such alterations other than structural alterations in a manner satisfactory to the Lessor.

THE SCHEDULE—continued.

(15) The Lessee shall not whether as principal or agent combine or conspire or collude or agree or enter either directly or indirectly orally or by writing into any understanding or arrangement with any other person partnership corporation or trust or association or combination of persons partnerships corporations or trusts carrying on or intending to carry on business in the Commonwealth of Australia or any part thereof in the construction or repair or docking of vessels with the intention or ultimate object of or the natural effect of which will operate in limiting or reducing or inflating unjustly prices in such aforesaid work to the detriment of the Lessor or the Commonwealth in relation to the demised premises or the rent or to the detriment of shipping in relation to the Commonwealth or any part thereof or by any means whatever preventing competition either public or private for the aforesaid work or enabling the Lessee or any other body or person to acquire a monopoly whether complete or partial in the whole or any part of the Commonwealth in such work.

Upon any question or difference of opinion arising regarding the observance of this condition or the effect of any operation of the Lessee which may be alleged to be contrary to any provision or to any intent hereof the onus of proof shall rest upon the Lessee.

4. THE Lessor hereby covenants and agrees with the Lessee that the Lessee paying the rent and observing and performing the covenants agreements and provisions on the part of the Lessee to be observed and performed shall during the continuance of these presents quietly enjoy the demised premises without interruption by the Lessor or any person lawfully claiming under or in trust for the Lessor.

5. IT IS MUTUALLY COVENANTED AND AGREED by and between the Lessor and the Lessee as follows :—

(1) That subject to the approval of the Lessor the Lessee may reclaim any portion or portions of the area abutting on Cockatoo Island aforesaid available for reclamation as indicated on Plan B1 annexed hereto and for that purpose may fill in such portion or portions of the said area and do all things necessary or convenient for the reclamation thereof and the said area if and so far as reclaimed by the Lessee shall become part of the demised premises and as such the covenants agreements and provisions contained in these presents shall in all respects apply thereto.

(2) That the One hundred and fifty tons floating crane known as "Titan" the property of the Commonwealth shall remain at the demised premises and be deemed to be part of the demised premises and as such the covenants agreements and provisions contained in these presents shall in all respects apply thereto subject however to the following conditions namely :—

- (i) that the Lessee shall keep the said crane in good working order repair and condition but maintenance costs other than such as are due to the use provided for in condition (iii) of this paragraph shall be borne equally by the Lessor and the Lessee ;
- (ii) that the said crane shall be docked by the Lessee at intervals of every two years the first of such intervals to commence with the commencement of these presents and at each docking the hull shall if the Commonwealth consider it necessary be scraped and coated with two coats of tar and cement and an examination shall be made of the inner surfaces and the inner surfaces shall be coated with red oxide as shall be found necessary ;
- (iii) that the Commonwealth shall have reasonable use of the said crane at the demised premises free of charge whenever required by it for Commonwealth purposes ;
- (iv) that the Lessee may use the said crane at any point within the limits of Port Jackson and subject to condition (iii) of this paragraph the Lessee shall have the full use of the said crane for all purposes including private hire and shall be entitled to all revenue derived from such use.

The Lessee covenants and agrees with the Lessor to observe and perform conditions (ii) and (iii) in all respects and condition (i) to the extent therein provided and the Lessor covenants and agrees with the Lessee to observe and perform condition (iv) in all respects and condition (i) to the extent therein provided.

THE SCHEDULE—*continued.*

(3) That if any rent shall be in arrear for three calendar months (whether such rent shall have been legally demanded or not) or if the Lessee shall omit to observe or perform any of the covenants agreements or provisions on the part of the Lessee to be observed or performed and such non-observance or non-performance shall have continued for three calendar months after the Lessor shall have given notice to the Lessee of such non-observance or non-performance the Lessor may re-enter upon the demised premises or upon any part thereof in the name of the whole and these presents shall thereupon determine but without prejudice to any claim which the Lessor may have against the Lessee in respect of any breach of the covenants agreements and provisions on the part of the Lessee to be observed and performed.

(4) That if the demised premises shall at any time during the continuance of these presents be destroyed damaged or rendered unfit for occupation or use by explosion (not attributable to the operations of the Lessee) or by fire storm tempest flood or earthquake then the rent payable under these presents or a proportionate part thereof according to the extent of the damage shall be suspended until the said premises shall be reinstated and again rendered fit for occupation and use and if any question shall arise whether the said premises or any part thereof shall have become unfit for occupation or use by reason of explosion fire storm tempest flood or earthquake within the meaning of these presents or what proportion of rent ought to be suspended on account thereof such question shall be referred to two arbitrators one to be appointed by each party and such reference shall be considered a reference to arbitration within the meaning of the laws of the State of New South Wales for the time being in force relating to arbitration.

(5) That if and so far as any of the buildings plant machinery machines or apparatus erected and installed by the Commonwealth pursuant to paragraph (6) of Clause 3 of these presents shall at any time or times not be required by the Commonwealth for its own use and shall be suitable for use by the Lessee the Commonwealth will make such building plant machinery machine or apparatus available to the Lessee for its use for such period or periods and on such terms and conditions as shall be mutually agreed between the Commonwealth and the Lessee.

(6) That the Lessor shall bear the cost of repair of such of the buildings plant machinery machines and apparatus erected and installed by the Commonwealth pursuant to paragraph (6) of Clause 3 of these presents or retained for the sole use of the Commonwealth or the Lessor under paragraphs (14) and (15) (a) of this Clause as shall be required solely for Defence or other Commonwealth purposes and of and from which the Lessee has no use or benefit. The Lessor and the Lessee shall bear the cost of repair of such of the said buildings plant machinery machines and apparatus as the Lessee shall have partial use and benefit of and from in such proportions as shall be agreed between the Lessor and Lessee.

(7) That subject to paragraphs (8) (9) and (10) of this Clause the Lessee shall not take down remove replace carry away or dispose of any plant machinery machines or apparatus without the approval in writing of the Lessor. The Lessor will at the date of expiration or other sooner determination of these presents pay to the Lessee the value at that date of any plant machinery machine or apparatus which with the approval in writing of the Lessor is in replacement of any obsolete plant machinery machine or apparatus such value to be ascertained by agreement or by arbitration in the manner hereinbefore provided. Any obsolete plant machinery machine or apparatus forming part of the demised premises at the commencement of the term hereby created or erected or installed during the continuance of these presents by or for the Lessor either in replacement renewal or reinstatement of any plant machinery machine or apparatus or otherwise may if mutually agreed upon by the Lessor and the Lessee be disposed of. The disposal shall be arranged by the Lessor and the Lessor shall retain the proceeds.

(8) That the Lessee shall on the expiration or sooner determination of these presents take down remove and carry away all plant machinery machines and apparatus (not being plant machinery machines or apparatus erected or installed for the Lessor either in replacement renewal or reinstatement of any plant machinery machines or apparatus or otherwise) which the Lessee may during the continuance of these presents have erected or installed unless the Lessor shall before the expiration or other sooner determination of these presents pay to the Lessee the value of such plant machinery machines and apparatus such value to be ascertained by agreement or by arbitration in the manner hereinbefore provided.

THE SCHEDULE—*continued*.

(9) That the Lessor will be prepared to expend a capital sum not exceeding in total Ten thousand pounds (£10,000) for such removal within the first twenty-four months of tenancy of plant and/or machinery as may be mutually agreed upon between the Lessor and the Lessee as being for the greater adaptation of the works for commercial purposes and so that no action is taken which will be detrimental to Defence requirements. The Lessee may at its own expense further alter the layout of the machinery and remove specific items of plant to some other position and erect buildings and sheds to suit its requirements but if so required by the Lessor at the expiration or other sooner determination of these presents the Lessee shall at its own expense replace the machinery and plant in its original position and remove the buildings and sheds.

(10) That the Lessor will consider proposals by the Lessee for the total removal of buildings or plant or for the betterment in any other way of the demised premises for the purposes of the Lessee provided always that such proposals are not detrimental to the use of the demised premises for Defence purposes.

(11) That the Lessee may subject to the prior approval in writing of the Lessor erect wharfs jetties landing stages and steps on or in connexion with the demised premises but only in accordance with plans and specifications approved of by the Lessor.

(12) That no buildings sheds wharfs jetties landing stages or steps shall be erected which will constitute a danger to property of the Lessor or the Port.

(13) (a) That the Commonwealth may at its own risk continue to store on the demised premises in the manner in which the same are stored at the commencement of these presents or in any other manner mutually agreeable to the Commonwealth and the Lessee the drawings patterns models designs or arrangements and details of arrangements of H.M.A. ships and all patterns of Admiralty articles stored on the demised premises at the commencement of these presents and such storage shall be free of charge to the Commonwealth and the Lessor.

(b) The Commonwealth may at all necessary times enter on the demised premises by its contractors agents officers workmen and servants for the purpose of inspecting or removing any drawings patterns models designs or arrangements or details of arrangements so stored.

(14) That the Commonwealth may have the sole use for so long as the Commonwealth may require of such housing and office accommodation on the demised premises as may be particularized by mutual agreement between the Commonwealth and the Lessee and such use shall be free of charge to the Commonwealth and the Lessor.

(15) (a) That the Commonwealth may at its own risk store reserve fittings materials goods or other things on that portion of the demised premises situate at the south-eastern corner thereof which includes the Bolt Shop and Fitting Shop and is shown by pink colour on the plan marked B annexed hereto and such storage shall be free of charge to the Commonwealth and the Lessor provided that the Lessee shall have full use of the trams and lines throughout such area and may by mutual arrangement provide other accommodation in lieu of the foregoing.

(b) The Commonwealth may at all necessary times enter on the demised premises by its contractors agents officers workmen and servants for the purpose of storing any reserve fittings materials goods or other things as aforesaid or of inspecting or removing any reserve fittings materials goods or other things so stored.

(16) (a) That the Lessee will adopt take over perform and carry out every contract agreement or arrangement for the making or installation of any machinery machine or apparatus or the carrying out of any work in connexion with the construction or repair of any vessel or any other work which the Lessor as owner of the demised premises may have entered into with any Government person or body prior to the commencement of these presents and which may not have been fully performed and carried out at that date and which that Government person or body agrees to the Lessee adopting taking over performing and carrying out.

(b) That the moneys payable by the Government person or body aforesaid under the contract agreement or arrangement shall be divided between the Lessor and the Lessee according to the value of the work done and material supplied by the Lessor and Lessee respectively for the purpose of the contract agreement or arrangement such value to be ascertained by agreement or by arbitration in the manner hereinbefore provided. Provided however that the amount receivable by the Lessee shall not be less than the value of the work to be done and the material to be supplied for the completion of such contract agreement or arrangement.

THE SCHEDULE—continued.

(c) That the Lessor will indemnify and keep indemnified the Lessee against liability in respect of the contract agreement or arrangement if and so far as such liability arises out of anything done or omitted to be done in respect of the contract agreement or arrangement before the contract agreement or arrangement was adopted and taken over by the Lessee and the Lessee will indemnify and keep indemnified the Lessor against liability in respect of the contract agreement or arrangement if and so far as such liability arises out of anything done or omitted to be done in respect of the contract agreement or arrangement after the contract agreement or arrangement was adopted and taken over by the Lessee.

(d) Upon the expiration or other sooner determination of these presents the Lessor shall enter into an arrangement with the Lessee whereby provision shall be made for the Lessor to adopt take over perform and carry out every contract agreement or arrangement of the nature defined in sub-paragraph (a) of this paragraph entered into by the Lessee prior to the expiration or other sooner determination of these presents either on terms to be mutually agreed upon or failing agreement on terms of sub-paragraphs (a) (b) and (c) of this paragraph modified so that any reference to the Lessor shall be read as a reference to the Lessee and any reference to the Lessee shall be read as a reference to the Lessor.

(17) (a) That subject to this paragraph the Commonwealth will give to the Lessee preference in placing its Naval work of a character ordinarily undertaken at the demised premises other than that which can be done at the Garden Island Naval Depot in Port Jackson.

(b) The Lessee shall accept and carry out subject to this paragraph all work so placed by the Commonwealth with the Lessee.

(c) With respect to the docking of H.M. War vessels charges shall be on a tonnage basis and shall not unless otherwise agreed upon between the Commonwealth and the Lessee exceed the following rates:—

Gross tonnage—Lloyd's Register.	First day or part thereof.	For each succeeding day.
1 to 800 tons	£20	£15
801 to 4000 tons	6d. per ton	4d. per ton
4001 to 5000 tons	5½d. per ton	3½d. per ton
5001 to 6000 tons	5d. per ton	3d. per ton
6001 and over	4½d. per ton	3d. per ton

Charges after the first day to be for any portion of a day as follows:—

First six hours or portion thereof ..	A quarter of a day to be charged.
Over six hours and not exceeding twelve hours	One half of a day to be charged.
Over twelve hours and not exceeding eighteen hours	Three-quarters of a day to be charged.
Over eighteen hours	Full day to be charged.

All such charges to the Commonwealth to be less rebates as follows:—

For vessels in dock up to six days	5 per centum.
For vessels in dock over six and under nine days	12½ per centum.
For vessels in dock for nine days and over	15 per centum.
For small vessels such as "Destroyer" class maximum tonnage 800	5 per centum.
Where two small vessels maximum tonnage 800 are in dock at the one time	7½ per centum.

(d) The Commonwealth may invite public tenders for the building of ships and vessels either in Australia or abroad and if it be desired to build in Australia may call for public tenders.

(e) With respect to repairs to H.M.A. vessels the supply of new machinery or other work required by the Commonwealth to be carried out the Commonwealth may invite from the Lessee an offer based on actual cost plus percentage charges and may

THE SCHEDULE--continued.

accept such offer (in which case the Commonwealth shall have the right of inspecting the Lessee's books in respect of the work) or may invite from the Lessee an offer for carrying out the work at a fixed price. Should both offers appear to the Commonwealth to be unreasonable the Commonwealth may call for public tenders for the work.

(f) The Commonwealth may supply from naval stocks any material machinery fittings or stores for use in connexion with the above-mentioned works but only in the case of materials for coating ships and for repairs and replacements of hull and machinery and fittings where the materials machinery and fittings have to be specially manufactured or are special to the Naval Service. The percentage charges on the cost to the Commonwealth of the materials machinery and fittings allowable to the Lessee in such cases and the percentage charge referred to in the last preceding subparagraph of this paragraph shall be as mutually arranged between the Commonwealth and the Lessee and these percentages may at the request of the Commonwealth or the Lessee be reviewed prior to the thirtieth day of June in any year and such reviewed rates shall operate from the first day of July following.

(18) That the Principal Officer (who is not Director) in charge of the works on the demised premises shall be approved by the Commonwealth and his services shall be terminated as Principal Officer by the Lessee forthwith upon the Commonwealth making a request to the Lessee for the termination of his services. Nothing in this paragraph shall be construed so as to prevent the Lessee from terminating the services of such officer at any time.

(19) (a) That if at any time or times during the continuance of those presents the Commonwealth be involved in war or there be in the opinion of the Minister of State for Defence a reasonable apprehension of its being so involved and the Governor-General of the Commonwealth shall deem it to be necessary or desirable for the efficient defence and protection of the Commonwealth or of any State for the Commonwealth to take possession or control of the demised premises or any part of parts thereof the Commonwealth may enter on the demised premises and take possession or control of the demised premises or any part or parts thereof accordingly.

(b) Such possession or control shall continue for such period as the said Governor-General shall deem it to be necessary or desirable for the efficient defence and protection of the Commonwealth or of any State that such possession or control should continue and no longer.

(c) The rent payable under these presents or a proportionate part thereof according to the extent of the possession or control by the Commonwealth shall be suspended during the period of the possession or control by the Commonwealth and the Lessee shall subject to the provisions of any act of the Commonwealth for the time being in force applicable to the taking of possession or control by the Commonwealth or of any order rules regulations or other instrument under any such Act and for the time being in force and applicable to the taking of possession or control by the Commonwealth be paid by the Commonwealth compensation for such loss as the Lessee has sustained by reason of the possession or control by the Commonwealth.

(d) If the question of what amount of rent ought to be suspended or what amount of compensation ought to be paid to the Lessee on account of the possession or control by the Commonwealth is not determined by any Act of the Commonwealth or by any order rule regulation or other instrument under any such Act or settled by mutual agreement such question shall be determined by arbitration in the manner hereinbefore provided.

(20) (a) That the Lessee shall permit the Master owner or agent of any vessel which is docked or slipped at the demised premises to perform any work on the vessel whilst at such premises provided that in the event of any underwater work being carried out by other than the Lessee or Naval rating the Lessee shall be entitled to receive from the Master owner or agent of such vessel 10 per centum of the cost of the labour employed on all work (including inboard work if any) on the vessel in the dock or on the slip.

(b) For the purposes as set out in sub-paragraph (a) of this paragraph the plant machinery machines and other apparatus of the Lessee may be used at such time or times as may be convenient to the Lessee which shall provide the labour required for such plant machinery machines and other apparatus. The rates to be paid for such use shall be as may be from time to time mutually agreed upon between the Commonwealth and the Lessee and be available for perusal at the demised premises.

THE SCHEDULE—continued.

(21) That any notice demand requirement approval or other communication to be given or made by the Lessor or the Commonwealth on or to the Lessee under these presents shall be deemed to have been duly given or made if signed by or on behalf of the Secretary Department of the Interior of the Commonwealth of Australia and sent by hand or by prepaid post addressed to the Lessee at the usual or last known address of the Lessee.

(22) That each party to these presents shall bear its own costs thereof.

6. THE Commonwealth covenants and agrees with the Lessee that the covenants agreements and provisions contained in these presents and on the part of the Lessor to be observed and performed shall be binding on the Commonwealth and the Commonwealth shall be responsible for the observance and performance of such covenants agreements and provisions to the same extent as the Lessor whether or not the Lessor is capable of carrying out the same.

IN WITNESS &C."

3. (a) THE Company shall have the option of taking over from and paying for to the Board all or any of the stores (other than Naval stores) on the demised premises at the commencement of the lease at a value to be ascertained by agreement or by arbitration in the manner hereinafter provided. Any stores (other than Naval stores) not taken over by the Company within one year from the commencement of the Lease shall be disposed of by the Board and the proceeds shall be retained by the Board.

(b) Naval stores shall remain the property of the Commonwealth and shall be at the disposal of the Commonwealth but by agreement with the Commonwealth the Company may take over from and pay for to the Commonwealth all or any of such stores at a value to be ascertained by agreement or by arbitration in the manner hereinafter provided.

4. THE Company at the commencement of the Lease and the Board at the expiration or other sooner determination of the Lease shall as and when the law permits take over all apprentices under articles of apprenticeship employed on the demised premises and shall execute a proper assignment of the articles of apprenticeship of each such apprentice.

5. (1) THE Company shall on or before the commencement of the Lease enter into a bond to the Board in the sum of Ten thousand pounds (£10,000) with a surety to be approved of by the Board conditioned to be void on the due and faithful observance and performance in all respects of the obligations to be observed and performed by the Company under the Lease.

(2) After the expiration of five years from the date of commencement of the Lease and provided that the Company during that period shall have observed and performed in all respects the obligations to be observed and performed by the Company under the Lease the Board shall upon the rent payable by the Company under the Lease reaching the sum of Thirty thousand pounds (£30,000) in any year release the said bond to the obligors thereof.

6. THE specification in the Schedule hereto of the dry docks wharfs buildings plant machinery machines and apparatus on or used with Cockatoo Island is a general statement regarding plant and equipment and does not necessarily include every item on or used with Cockatoo Island and no warranty of complete accuracy is given by the Board or the Commonwealth.

7. ANY dispute or difference between the parties in any way arising out of or connected with the carrying out of this Agreement shall be forthwith referred for arbitration to two arbitrators one to be appointed by each party and such reference shall be considered a reference to arbitration within the meaning of the laws of the State of New South Wales for the time being in force relating to arbitration.

8. THE Company shall not without first obtaining the consent in writing of the Board assign underlet or part with this Agreement or any part thereof.

9. IF Sales Tax shall be payable by the Company to the Commonwealth in respect of any goods leased by the Board to the Company pursuant to this Agreement or by this Agreement agreed to be leased by the Board to the Company the Commonwealth shall upon payment of such Sales Tax to the Commonwealth refund to the Company the amount of the Sales Tax so paid.

THE SCHEDULE—*continued*.

10. ANY notice demand or other communication to be given or made by the Board on or to the Company under this agreement shall be deemed to have been duly given or made if signed by or on behalf of the Secretary Department of the Interior and sent by hand or by prepaid post addressed to the Company at the usual or last known address of the Company.

11. THE agreements on the part of the Board contained or implied in this Agreement shall be binding upon the Commonwealth and the Commonwealth shall be responsible for the observance and performance of the said agreements whether or not the Board is capable of carrying out the same.

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

THE COMMON SEAL of Cockatoo Docks and
Engineering Co Limited was hereunto
affixed in the presence of— (L.S.)
NORMAN FRASER Director.
GEO. F DAVIS Director.

THE COMMON SEAL of the Australian
Commonwealth Shipping Board was
hereunto affixed in the presence of— (L.S.)
J. WILSON Director.
H E MORGAN Director.

SIGNED by the Right Honourable Joseph
Aloysius Lyons, Prime Minister of
the Commonwealth of Australia for
and on behalf of the Commonwealth
in the presence of— J. A. LYONS
MARTYN M. THRELFALL