

Deed of Novation of
Voluntary Planning Agreement
Land on the Corner of Parramatta Road,
Good Street and Cowper Street, Granville

Airbosi Pty Ltd (ACN 075 674 690)

Sitana Pty Ltd (ABN 40 093 102 179)

Brodieville Pty Ltd (ABN 68 107 201 481)

(Novator)

Starryland NSW Pty Ltd (ABN 43 164 382 110)

(Novatee)

City of Parramatta Council (ABN 49 907 174 773)

(Council)

Deed of Novation of Voluntary Planning Agreement

Date

Parties

Novator

Name Airbosi Pty Ltd
ACN 075 674 690
Address 10 Crown Street, Woolloomooloo NSW 2011

Name Sitana Pty Ltd
ABN 40 093 102 179
Address 10 Crown Street, Woolloomooloo NSW 2011

Name Brodieville Pty Ltd
ABN 68 107 201 481
Address 10 Crown Street, Woolloomooloo NSW 2011

Novatee

Name Starryland NSW Pty Ltd
ABN 43 164 382 110
Address Level 26, 25 Bligh Street, Sydney NSW 2000

Council

Name City of Parramatta Council
ABN 49 907 174 773
Address 126 Church Street, Parramatta NSW 2150

Background

- A. The Land Owner owns the Land.
- B. The Novatee has purchased the Land from the Land Owner pursuant to the Contract for Sale which provides, among other terms and conditions, that the Contract for Sale is subject to the gazettal of the rezoning of the Land.

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- C. The rezoning of the Land has been successful and the Novator has entered into the Planning Agreement with the Council.
 - D. Under the Planning Agreement, the Novator as land owner and developer, as the case may be, have agreed to make various development contributions.
 - E. The Novator wishes to novate all its rights and obligations under the Planning Agreement to the Novatee in accordance with the terms of the Planning Agreement and this Deed on and from the Effective Date.
 - F. The Council has consented to the novation on the terms set out in this Deed.

Operative part

1 Definitions and interpretation

1.1 Definitions

In this Deed:

- (a) **Contract for Sale** means the contract for sale of the Land entered into between the Land Owner and the Novatee dated 19 January 2018.
- (b) **Effective Date** means the date of completion of the Contract for Sale.
- (c) **Land** has the same meaning given in the Planning Agreement.
- (d) **Land Owner** means Sitana Pty Ltd (ABN 40 093 102 179) and Brodieville Pty Ltd (ABN 68 107 201 481).
- (e) **Planning Agreement** means the voluntary planning agreement in relation to the Land entered into between the Novator and the Council dated [*] a copy of which is attached to this Deed and marked "A".

1.2 Interpretation

In this Deed, unless the context indicates a contrary intention:

- (a) **(documents)** a reference to this deed or another document includes any document which varies, supplements, replaces, assigns or novates this deed or that other document.
- (b) **(references)** a reference to a clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this deed.
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this deed.
- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns.

- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns.
- (f) **(rights and obligations)** a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed.
- (g) **(requirements)** a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done.
- (h) **(including) including** and **includes** are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind.
- (i) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning.
- (j) **(singular)** the singular includes the plural and vice-versa.
- (k) **(parts)** a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation.
- (l) **(rules of construction)** neither this deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.
- (m) **(joint and several)** an agreement, representation, covenant, right or obligation:
 - (i) in favour of two or more persons is for the benefit of them jointly and severally; and
 - (ii) on the part of two or more persons binds them jointly and severally.

2 Novation

- 2.1 Subject to clause 3.2, the parties agree that on and from the Effective Date:
 - (a) the Novatee is substituted for the Novator under the Planning Agreement as if the Novatee had originally been a party to the Planning Agreement instead of the Novator; and
 - (b) all references in the Planning Agreement to the Novator are to be read and construed as if they were references to the Novatee.
- 2.2 Subject only to the amendments set out in this Deed, the parties confirm all other provisions of the Planning Agreement will remain in full force and effect and will be read, construed and enforced as if the terms of this Deed were supplemental to the Planning Agreement.

3 Assumption and release

3.1 On and from the Effective Date, the Novatee:

- (a) is contractually bound to perform all of the obligations of the Novator under the Planning Agreement;
- (b) must comply with the provisions of the Planning Agreement;
- (c) enjoys all the rights and benefits given to the Novator under the Planning Agreement.

3.2 This Deed does not affect:

- (a) any liability of the Novator incurred by the Novator relating to events occurring before the Effective Date; or
- (b) any liability of the Council incurred by the Council relating to events occurring before the Effective Date.

3.3 The Novator indemnifies the Council from any and all claims, actions, proceedings, obligations and liabilities (whether actual or contingent and whether based in negligence or any other form of legal liability) and all damages, costs and expenses (including on a solicitor and own client basis) arising from any act, omission, or default of the Novator in performance of the Planning Agreement prior to the Effective Date.

3.4 The Novatee indemnifies the Council from any and all claims, actions, proceedings, obligations and liabilities (whether actual or contingent and whether based in negligence or any other form of legal liability) and all damages, costs and expenses (including on a solicitor and own client basis) arising from any act, omission, or default of the Novator in performance of the Planning Agreement on or after the Effective Date.

3.5 The Council releases the Novator from performing any obligations that arise under the Planning Agreement on or after the Effective Date,

4 Representations and warranties by Novatee

The Novatee represents and warrants to the Council that, as at the Effective Date:

- (a) it is bound by, and must comply with, the provisions of the Planning Agreement; and
- (b) it possesses the right and capacity to perform and fulfil the Novatee possess the right and capacity to perform and fulfil its obligations under this Deed and the Planning Agreement.

5 General

5.1 This Deed:

- (a) is governed by the laws of the State of New South Wales;
- (b) may be delivered by the party delivering a signed counterpart of the deed poll electronically, including by email or by facsimile.

5.2 The parties must each bear its own costs and expenses of and incidental to the preparing and carrying into effect of this Deed.

Executed as a deed in Sydney

Executed by)
Airbosi Pty Ltd)
 in accordance with section 127 of the)
Corporations Act 2001 (Cth) by:)

G. E. Roddy

Signature of Director

GEOFFREY EDWARD RODDY

Print name of Director

E. Delfabbro

Signature of Director

Erica Linda Delfabbro

Print name of Director

Executed by)
Sitana Pty Limited)
 in accordance with section 127 of the)
Corporations Act 2001 (Cth) by:)

G. E. Roddy

Signature of Director

GEOFFREY EDWARD RODDY

Print name of Director

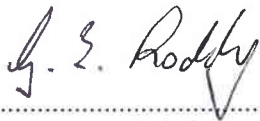
B. J. Roddy

Signature of Director

BRIAN JAMES RODDY

Print name of Director

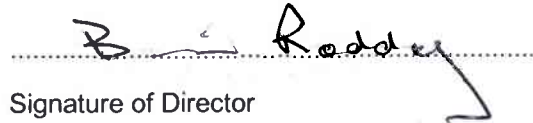
Executed by)
Brodieville Pty Limited)
in accordance with section 127 of the)
Corporations Act 2001 (Cth) by:)



Signature of Director

GEOFFREY EDWARD RODDY

Print name of Director



Signature of Director

BRIAN JAMES RODDY

Print name of Director

Executed by)
Starryland NSW Pty Ltd)
in accordance with section 127 of the)
Corporations Act 2001 (Cth) by:)



Signature of Director

HAO LIU

Print name of Director



Signature of Director

YANNAN ZHANG

Print name of Director

Signed for and on behalf of)
City of Parramatta Council)
in accordance with a resolution of the)
Council dated by:)



Andrew Wilson
Signature

Roland Ian Kim Hart
Signature

ANDREW WILSON
Print name of Lord Mayor

Roland Ian Kim Hart
Full name of Chief Executive Officer