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12 April 2024

ASX Announcement

Genex enters into binding Transaction Implementation Deed with J-POWER

Genex Power Limited (**ASX: GNX**) (**Genex**) is pleased to announce that it has entered into a binding Transaction Implementation Deed (**TID**) with Electric Power Development Co., Ltd. (**J-POWER**), under which J-POWER has agreed to:

- acquire all of the ordinary shares in Genex (**Genex Shares**) that J-POWER and the Excluded Genex Shareholders[1] do not already own by way of a members' scheme of arrangement for A$0.275 in cash per Genex Share (**Scheme Consideration**) (**Scheme**); and
- make a simultaneous off-market takeover offer for all of the Genex Shares for A$0.270 in cash per Genex Share (**Takeover Consideration**), conditional on (among other conditions) the Scheme not being approved by the holders of Genex Shares (**Genex Shareholders**) at the Scheme Meeting, or by the Court, and the 50.1% Minimum Acceptance Condition[2] (**Takeover Offer**),

(together, the **Transaction**).

Highlights of the Transaction

- The Scheme Consideration of A$0.275 (or Takeover Consideration of A$0.270) in cash per Genex Share represents a compelling premium to historical trading prices of Genex Shares, including a:
    - 49% (46%) premium to the undisturbed Genex Share price[3] of $0.185;
    - 56% (53%) premium to the 1-month[4] volume weighted average price (**VWAP**) of Genex

[1] "Excluded Genex Shareholders" is defined and explained in the 'Indicative timetable and next steps' section of this announcement.
[2] See the 'Overview of the Takeover Offer' section of this announcement for a summary of the conditions of the Takeover Offer, including the 50.1% Minimum Acceptance Condition.
[3] The last closing price of Genex Shares on the ASX on Friday, 1 March 2024 (being the last trading day before Genex announced the receipt of the Indicative Proposal to the ASX on Monday, 4 March 2024)(Last Undisturbed Trading Date).
[4] To and including the Last Undisturbed Trading Date.

Shares of $0.176;

- 58% (56%) premium to the 3-month[4] VWAP of Genex Shares of $0.174; and
- 65% (62%) premium to the 6-month[4] VWAP of Genex Shares of $0.166.

- The Scheme Consideration (or Takeover Consideration) implies an enterprise value for Genex of A$1,035 million (A$1,028 million),[5] an equity value of A$381 million (A$374 million),[6] and represents an uplift in equity value of approximately 15% to the Initial Indicative Proposal received from J-POWER.
- The Genex IBC unanimously recommends the Transaction, in the absence of a Superior Proposal[7] and subject to the conclusions of an Independent Expert (as set out below).
- Each of the Scheme and the Takeover Offer is subject to the satisfaction (or, if applicable, waiver) of certain conditions, which are summarised in the sections of this announcement entitled 'Overview of the Scheme' and 'Overview of the Takeover Offer'.
- The Transaction will be funded by J-POWER's existing cash reserves and debt facilities, and is not conditional on J-POWER obtaining financing (including debt funding) for the Transaction.

Unanimous recommendation of the Genex IBC

The independent committee of the board of directors of Genex (**Genex Board**)[8] (**Genex IBC**) unanimously recommends that:

- Genex Shareholders (other than Excluded Genex Shareholders) vote in favour of the Scheme at the Scheme Meeting, in the absence of a Superior Proposal[7] and subject to the Independent Expert concluding in the Independent Expert's Report, and continuing to conclude, that the Scheme is fair and reasonable and in the best interests of Genex Shareholders (other than Excluded Genex Shareholders); and

[5] Implied enterprise values based on Scheme Consideration of A$0.275 per Genex Share and Takeover Consideration of A$0.270 per Genex Share (as applicable), 1,385,177,140 Genex Shares on issue (being the number of Genex Shares on issue as at the date of this announcement), and Genex's net debt of A$654 million as at 31 December 2023.
[6] Implied equity values based on Scheme Consideration of A$0.275 per Genex Share and Takeover Consideration of A$0.270 per Genex Share (as applicable), multiplied by 1,385,177,140 Genex Shares on issue (being the number of Genex Shares on issue as at the date of this announcement).
[7] As defined in the TID.
[8] Comprised of all members of the Genex Board, other than J-POWER's representative and nominee to the Genex Board, Kenichi Seshimo.

- Genex Shareholders accept the Takeover Offer, in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report, and continuing to conclude, that the Takeover Offer is fair and reasonable.

Subject to those same qualifications, each member of the Genex IBC (**Genex IBC Member**) intends to:

- vote, or cause to be voted, all of that Genex IBC Member's Genex IBC Member Shares[9] in favour of the Scheme at the Scheme Meeting; and
- accept, or procure the acceptance of, the Takeover Offer in respect of all of that Genex IBC Member's Genex IBC Member Shares.[10]

Non-executive Genex Director and Chairman of the Genex IBC, Dr Ralph Craven said:

> *"The Genex IBC is unanimous in its conclusion that the Transaction is in the best interests of Genex Shareholders (as a whole). In making this assessment, the Genex IBC carefully considered a range of matters, including its view of the intrinsic value of Genex and the certainty for Genex Shareholders of the all-cash consideration, and unanimously concluded that the Transaction provides an opportunity for Genex Shareholders to realise their investment in Genex for cash at a significant premium to the prices at which Genex Shares traded before Genex received the Indicative Proposal".*

Background

On 4 March 2024, Genex announced that it had received a non-binding, indicative and conditional proposal (**Indicative Proposal**) from J-POWER to acquire all of the Genex Shares that J-POWER and its associates did not already own by way of a members' scheme of arrangement for A$0.275 in cash per Genex Share (**Potential Scheme**). The Indicative Proposal also contained an alternative structure, under which J-POWER would potentially also, concurrently with the Potential Scheme, make an off-market takeover bid for all of the Genex Shares for A$0.270 in cash per Genex Share (**Potential Takeover Offer**). The Indicative Proposal followed an earlier non-binding, indicative and conditional proposal (**Initial Indicative Proposal**) received from J-POWER for A$0.240 under the Potential Scheme and A$0.235 under the Potential Takeover Offer.

[9] 'Genex IBC Member Shares' means, in respect of a Genex IBC Member, those Genex Shares (i) held by or on behalf of, or controlled (as defined in the Corporations Act) by, that Genex IBC Member, or (ii) in which that Genex IBC Member otherwise has a relevant interest (as defined in the Corporations Act) and in respect of which the Genex IBC Member has the power to exercise, or control the exercise of, the voting rights attached to those Genex Shares.

[10] As at the date of this announcement, Dr Ralph Craven has 1,048,188 Genex IBC Member Shares (representing approximately 0.08% of the Genex Shares on issue), Ms Teresa Dyson has 585,856 Genex IBC Member Shares (representing approximately 0.04% of the Genex Shares on issue), Mr Simon Kidston has 8,663,827 Genex IBC Member Shares (representing approximately 0.63% of the Genex Shares on issue) and Mr Ben Guo has 2,420,681 Genex IBC Member Shares (representing approximately 0.17% of the Genex Shares on issue).

After careful consideration of the Indicative Proposal in consultation with its legal and financial advisers, the Genex IBC unanimously determined that it was in the best interests of Genex Shareholders (as a whole) to progress the Indicative Proposal and allow J-POWER to undertake confirmatory due diligence on Genex to assist J-POWER to provide a binding proposal to the Genex IBC. Genex also entered into a confidentiality and exclusivity deed with J-POWER, under which Genex agreed to certain exclusivity restrictions and obligations while J-POWER undertook its confirmatory due diligence.

Following completion of J-POWER's confirmatory due diligence, Genex and J-POWER entered into the TID.

Overview of the Scheme

If the Scheme is implemented, each Genex Shareholder (other than Excluded Genex Shareholders) on the Scheme Record Date[7] will receive the Scheme Consideration, being a cash amount of A$0.275 per Genex Share, which implies an equity value for Genex of A$381 million.

The TID sets out the terms and conditions on which the Scheme will be implemented and related matters.

The Scheme is subject to a number of conditions which must be satisfied or, if applicable, waived before the Scheme can become effective. These conditions are set out in full in the TID and include:

- the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is fair and reasonable and in the best interests of Genex Shareholders (other than Excluded Genex Shareholders);
- the approval of the acquisition of all of the Genex Shares by J-POWER under the Scheme by the Foreign Investment Review Board (**FIRB**);
- the approval of the Scheme by the requisite majorities of Genex Shareholders (other than Excluded Genex Shareholders) at a meeting of Genex Shareholders ordered by the Court to be convened to consider the Scheme (**Scheme Meeting**);
- the approval of the Scheme by the Supreme Court of New South Wales (the **Court**);
- the receipt of certain consents and approvals from Genex's contractual counterparties related to the change of control in Genex that will occur on implementation of the Scheme; and
- other customary conditions, including that no Target Prescribed Occurrence[7] or Target Material Adverse Change[7] occurs.

The Scheme is not subject to a condition that J-POWER obtains internal or external financing to allow J-POWER to fund the Scheme Consideration.

Overview of the Takeover Offer

Under the terms of the Takeover Offer, Genex Shareholders that accept the Takeover Offer will, if the Takeover Offer is declared or otherwise becomes unconditional, receive the Takeover Consideration, being a cash amount of A$0.270 per Genex Share, which implies an equity value for Genex of A$374 million.

Schedule 2 of the TID sets out the terms and conditions of the Takeover Offer.

The Takeover Offer is subject to a number of conditions which must be satisfied or, if applicable, waived before the Takeover Offer can become unconditional. These conditions are set out in full in Schedule 2 of the TID and include:

- the approval of the acquisition of all of the Genex Shares by J-POWER under the Takeover Offer by FIRB;
- the Scheme not being approved by Genex Shareholders at the Scheme Meeting or by the Court (**Scheme Fails Condition**);
- J-POWER having a relevant interest[11] in at least 50.1% of the Genex Shares on issue (**50.1% Minimum Acceptance Condition**);
- certain of Genex's contractual counterparties not exercising (or stating an intention to exercise) certain contractual rights related to a change of control in Genex that arise or will arise as a result of J-POWER acquiring a relevant interest in Genex Shares under the Takeover Offer (except where the relevant counterparty has provided the required consent, waiver or approval under the relevant contract);
- J-POWER not terminating the TID due to an unremedied breach of the TID by Genex or a representation and warranty given by Genex in the TID, or an unremedied Target Regulated Event[7], in each case, that is, alone or together with any other such breaches or Target Regulated Events (as applicable) that have occurred, material in the context of the Scheme (taken as a whole) or the Takeover Offer (taken as a whole); and
- other customary conditions, including that no Target Prescribed Occurrence or Target Material Adverse Change occurs.

Under the TID, the Scheme Fails Condition can only be waived by J-POWER with the prior written consent of Genex, and the 50.1% Minimum Acceptance Condition can only be waived by J-POWER

[11] As defined in the *Corporations Act 2001* (Cth) (Corporations Act), but determined on the basis set out in clause 3.4(i) of the TID.

once J-POWER has a relevant interest[11] in at least 40% of the Genex Shares on issue (and certain other requirements are met) or, otherwise, with the prior written consent of Genex.

In addition, under the TID:

- the Takeover Offer must remain open for acceptance by Genex Shareholders for at least 20 business days after the date of the Scheme Meeting, so Genex Shareholders will have the opportunity to consider whether to accept the Takeover Offer after they have voted on the Scheme and the outcome of the vote at the Scheme Meeting is known; and
- J-POWER must not extend the Takeover Offer period to a date that is after the latest to occur of 3 months after the date of the Scheme Meeting, 30 November 2024[12] and the date to which the end of the Takeover Offer period is automatically extended under the Corporations Act without the prior written consent of Genex.[13]

The Takeover Offer is not subject to a condition that J-POWER obtains internal or external financing to allow J-POWER to fund the Takeover Consideration.

Other key terms

The TID contains certain, customary termination rights for each of Genex and J-POWER, including that either party may terminate the TID in the event of an unremedied breach of the TID by the other party (including a breach of a warranty given by the other party under the TID) that is, alone or together with any other such breaches that have occurred, material in the context of the Scheme (taken as a whole) or the Takeover Offer (taken as a whole).

Under the TID, Genex is subject to customary exclusivity obligations, including "no shop", "no talk" and "no due diligence" obligations (the latter two obligations being subject to a customary fiduciary exception), and "notification" obligations (in respect of any Competing Proposals[7] received by Genex). The TID also includes a "matching right" regime that applies to any Superior Proposal made or received by Genex. In addition, the TID sets out certain, customary circumstances in which Genex will be required to pay a break fee to J-POWER and J-POWER will be required to pay a reverse break fee to Genex. The amount of each of the break fee and the reverse break fee, should either become payable under the TID, is A$3,515,014 [14].

A copy of the TID, which sets out the full terms and conditions of the Scheme and the Takeover Offer and other provisions relating to the Scheme and the Takeover Offer and the implementation of those transactions, is attached to this announcement.

[12] Or such later date agreed between Genex and J-POWER.
[13] Except where the Takeover Offer period is automatically extended to a later date as a result of the operation of section 624(2) of the Corporations Act.
[14] In both cases, being an amount equal to 1% of the aggregate Scheme Consideration.

Indicative timetable and next steps

As summarised above, implementation of the Scheme is subject to (among other conditions) approval by Genex Shareholders[15] at the Scheme Meeting. For this condition to be satisfied and the Scheme to proceed, the resolution to approve the Scheme to be considered and voted on by Genex Shareholders at the Scheme Meeting must be approved by at least 75% of the total number of votes cast by Genex Shareholders[15] on that resolution and a majority in number (more than 50%) of all eligible Genex Shareholders[15] present and voting at the Scheme Meeting (in person or by proxy, attorney or corporate representative).

A Transaction Booklet containing important information in relation to the Transaction, including an explanatory statement in respect of the Scheme, J-POWER's bidder's statement (which will include the formal offers made to Genex Shareholders under the Takeover Offer) and Genex's target's statement in respect of the Takeover Offer, the reasons for the Genex IBC's unanimous recommendation in respect of the Transaction, a copy of the report prepared by the independent expert appointed by Genex in respect of the Transaction (**Independent Expert**) (which will include the Independent Expert's opinion on whether the Scheme is fair and reasonable and in the best interests of Genex Shareholders[15] and whether the Takeover Offer is fair and reasonable) (**Independent Expert's Report**), and notice and details of the Scheme Meeting (including information about how to vote on the Scheme), is expected to be sent to Genex Shareholders in early- to mid-June 2024.

After the Transaction Booklet has been sent to Genex Shareholders, Genex Shareholders will have the opportunity to vote on the Scheme at the Scheme Meeting, which is currently expected to be held in mid-July 2024. As at the date of this announcement, J-POWER has a relevant interest in 7.72% of the Genex Shares (**J-POWER's Genex Shares**) and these Genex Shares will not be acquired under the Scheme. Accordingly, the Scheme must be approved by the requisite majorities of Genex Shareholders – excluding the holders of J-POWER's Genex Shares (being the **Excluded Genex Shareholders**) – at the Scheme Meeting.

If Genex Shareholders[15] approve the Scheme by the requisite majorities at the Scheme Meeting, and the other conditions precedent to the Scheme becoming effective are satisfied (or, if applicable, waived), Genex currently expects that the Scheme will be implemented in late-July 2024.

The dates set out above in relation to the implementation of the Scheme are indicative, subject to Court availability and the Court approval process, and the satisfaction (or, if applicable, waiver) of the conditions precedent to the Scheme becoming effective, and are subject to change.

[15] Other than Excluded Genex Shareholders.

Genex Shareholders do not need to take any action at this time. Genex will continue to keep Genex Shareholders informed about the Transaction in due course and in accordance with its continuous disclosure obligations.

Genex is being advised by Goldman Sachs and Gilbert + Tobin in relation to the Transaction.

J-POWER is being advised by Macquarie Capital and MinterEllison in relation to the Transaction.

This announcement was authorised for release by the Genex IBC.

FOR MORE INFORMATION ABOUT THIS ANNOUNCEMENT

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About Genex Power Limited

Genex Power Limited has a portfolio of more than $1 billion of renewable energy generation and storage projects across Australia. The Company's flagship Kidston Clean Energy Hub, located in north Queensland, will integrate large-scale solar generation with pumped storage hydro. The Kidston Clean Energy Hub is comprised of the operating 50MW stage 1 Solar Project (**KS1**) and the 250MW Kidston Pumped Storage Hydro Project (**K2-Hydro**) with potential for a further wind project. The 50MW Jemalong Solar Project (**JSP**) is located in NSW and provides geographical diversification to Genex's portfolio. JSP was energised in December 2020 and is now fully operational. Genex's first battery energy storage system, the 50MW/100MWh Bouldercombe Battery Project (**BBP**) located in Central Queensland achieved energisation in June 2023 and is now fully operational. With a committed portfolio of 400MW and up to approximately 2.3GW of renewable energy and storage projects in the Company's development pipeline, Genex is well placed in its strategy to become a leading renewable energy and storage company in Australia.

Genex continues to acknowledge the support of key Federal and State Government stakeholders such as the Australian Renewable Energy Agency (**ARENA**), the Northern Australia Infrastructure Facility (**NAIF**) and the Queensland State Government.

ANNEXURE A: COPY OF TID

Transaction Implementation Deed

Genex Power Limited (ACN 152 098 854)

Electric Power Development Co., Ltd.

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Date: 12 April 2024

Parties

1 **Genex Power Limited (ACN 152 098 854)** of Suite 12.03, Level 12, 35 Clarence Street, Sydney NSW 2000 (**Target**)

2 **Electric Power Development Co., Ltd.** of 15-1, Ginza 6-Chome, Chuo-ku, Tokyo 104-8165, Japan (**Bidder**)

Background

A Bidder proposes to:

- acquire all of the Scheme Shares by way of a members' scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders; and
- simultaneously, make a takeover bid for all of the Target Shares under Chapter 6 of the Corporations Act, conditional on, amongst other matters, either the Scheme Condition in clause 3.1(a) (Target Shareholder approval) or the Court Approval Condition not being satisfied.

B Target and Bidder have agreed to propose the Scheme and the Takeover Bid on and subject to the terms and conditions of this deed.

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

A term or expression which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this deed.

1.3 Target knowledge, belief or awareness

(a) In this deed, unless otherwise specified, a reference to the knowledge, belief or awareness of Target or a Target Group Member is limited to the actual knowledge, belief or awareness of the persons agreed between the parties in writing in the Disclosure Letter, in each case as at the date of this deed, having made reasonable enquiries of each other and of their direct reports. The knowledge, belief or awareness of any other person will not be imputed to Target nor any other Target Group Member (except to the extent referred to in this clause 1.3(a)).

(b) Without limiting clause 14, none of the persons referred to in clause 1.3(a) as being agreed between the parties in writing will bear any personal liability in respect of the Target Representations and Warranties or otherwise under this deed, except where such person has engaged in wilful misconduct or wilful concealment or fraud.

1.4 Bidder knowledge, belief or awareness

(a) In this deed, unless otherwise specified, a reference to the knowledge, belief or awareness of Bidder or a Bidder Group Member is limited to the actual knowledge, belief or awareness of the persons agreed between the parties in writing in the Disclosure Letter, in each case as at the date of this deed having made reasonable enquiries of each other and of their direct reports. The knowledge, belief or awareness of any person other than the persons referred to in this clause 1.4(a) will not be imputed to Bidder nor any other Bidder Group Member (except to the extent referred to in this clause 1.4(a)).

(b) Without limiting clause 14, none of the persons referred to in clause 1.4(a) as being agreed between the parties in writing will bear any personal liability in respect of the Bidder Representations and Warranties or otherwise under this deed, except where such person has engaged in wilful misconduct or wilful concealment or fraud.

2 Agreement to propose the Transactions

2.1 Overview

On and subject to the terms of this deed:

(a) Bidder proposes to acquire all of the Scheme Shares under the Scheme pursuant to which Scheme Shareholders will be entitled to receive the Scheme Consideration; and

(b) simultaneously, Bidder will make the Takeover Bid for all of the Target Shares at the Takeover Bid Consideration, which will be conditional on, amongst other matters, either the Scheme Condition in clause 3.1(a) (Target Shareholder approval) or the Court Approval Condition not being satisfied.

2.2 Proposal and implementation of Scheme

(a) Target agrees to:

(i) propose the Scheme to Target Shareholders (other than Excluded Target Shareholders); and

(ii) implement the Scheme in accordance with Part 5.1 of the Corporations Act,

on and subject to the terms and conditions of this deed and, if the Scheme becomes Effective, in accordance with the Scheme.

(b) Bidder agrees to assist Target in proposing the Scheme on and subject to the terms and conditions of this deed and the Deed Poll.

(c) Target and Bidder agree to implement the Scheme in accordance with Part 5.1 of the Corporations Act on and subject to the terms and conditions of this deed, the Scheme and the Deed Poll.

2.3 Takeover Bid

(a) Bidder agrees to:

(i) make offers pursuant to an off-market takeover bid under Chapter 6 of the Corporations Act to acquire all of the Target Shares on terms and conditions no less favourable to Target Shareholders than the Takeover Bid Terms (together, the **Offers**, and each, an **Offer**); and

(ii) without limiting clause 2.3(a)(i), publicly announce on the date of this deed a proposal to make the Takeover Bid constituted by the despatch of the Offers.

(b) Without limiting the Takeover Bid Terms:

(i) unless withdrawn in accordance with the Corporations Act, the Offer will remain open for acceptance during the period commencing on the date of the Offer and ending at 7:00pm (Sydney time) on the later of:

(A) the date set pursuant to the Timetable; or

(B) any date to which the Offer Period is extended (including, for the avoidance of doubt, any date to which the Offer Period is automatically extended as a result of the operation of section 624(2) of the Corporations Act); and

(ii) despite anything else in clause 2.3(a)(i) or the Takeover Bid Terms:

(A) the Offer Period must not expire prior to the date that is 20 Business Days after the date of the Scheme Meeting; and

(B) Bidder must not extend the Offer Period to a date that is after the latest to occur of:

(1) the date that is 3 months after the date of the Scheme Meeting;

(2) the End Date; and

(3) the date to which the end of the Offer Period is automatically extended as a result of the operation of section 624(2) of the Corporations Act,

without the prior written consent of Target.

2.4 Despatch of Transaction Booklet

(a) Each party agrees to use reasonable endeavours to send as one combined document pack the Scheme Booklet, the Bidder's Statement and the Target's Statement (in each case, as at the date that the Scheme Booklet is registered by ASIC under section 412(6) of the Corporations Act) (**Transaction Booklet**) to Target Shareholders in accordance with the Timetable.

(b) Target agrees, and the Target IBC has consented, to the Offers and accompanying documents being sent by Bidder under the Takeover Bid under item 6 of section 633(1) of the Corporations Act to the Target Shareholders where the documents are sent as one combined document pack as contemplated by clause 2.4(a).

2.5 Bidder may elect a Subsidiary

(a) Target agrees that Bidder may, by giving written notice to Target on or before the date that is 5 Business Days prior to the date on which Target intends to provide the Regulator's Draft to ASIC for its review for the purposes of section 411(2) of the Corporations Act in accordance with clause 5.3(b) and the Timetable, nominate under this clause 2.5 a wholly-owned Subsidiary of Bidder (**Bidder Subsidiary**) to perform its obligations under this deed (including under clauses 2.1(b), 2.2, 2.3, 5 and 6) to:

(i) acquire all of the Scheme Shares under the Scheme; and

(ii) make the Offers under the Takeover Bid and acquire Target Shares pursuant to acceptances of those Offers and in accordance with the Takeover Bid Terms.

(b) If Bidder nominates a Bidder Subsidiary to acquire all of the Scheme Shares and make the Offers pursuant to clause 2.5(a):

(i) unless the context otherwise requires, references in this deed:

(A) to the Bidder's Statement are to be read as the bidder's statement of the Bidder Subsidiary in relation to the Takeover Bid;

(B) to the Offers are to be read as references to the offers by the Bidder Subsidiary pursuant to an off-market takeover bid under Chapter 6 of the Corporations Act to acquire all of the Target Shares on terms and conditions no less favourable to Target Shareholders than the Takeover Bid Terms, and references in the Takeover Bid Terms to Bidder are to the Bidder Subsidiary;

(C) to Bidder making the Offers are to be read as references to the Bidder Subsidiary making the Offers; and

(D) to Bidder accepting the transfer of or acquiring Scheme Shares under the Scheme are to be read as the Bidder Subsidiary accepting the transfer of or acquiring Scheme Shares under the Scheme;

(ii) Bidder and the Bidder Subsidiary will both enter into the Deed Poll;

(iii) Bidder must procure that the Bidder Subsidiary performs and observes Bidder's obligations under this document and the Deed Poll, and Bidder remains liable to Target for the due performance and observation of those obligations by the Bidder Subsidiary; and

(iv) Bidder will continue to be bound by this deed, the Deed Poll and the Confidentiality and Exclusivity Deed and will not be released from any obligations or liabilities under those documents following that nomination.

(c) For the avoidance of doubt, if Bidder nominates a Bidder Subsidiary under clause 2.5(a):

(i) Bidder must ensure and procure that the Bidder Subsidiary:

(A) in the case of the Scheme, complies with its obligations under the Deed Poll and completes the acquisition of Scheme Shares in accordance with the terms of this deed and the Deed Poll; and

(B) in the case of the Takeover Bid, complies with its obligations under each contract between the Bidder Subsidiary and a Target Shareholder formed as a result of such Target Shareholder's acceptance of an Offer;

(ii) Bidder unconditionally and irrevocably:

(A) guarantees to Target the due and punctual performance by the Bidder Subsidiary of the Bidder Subsidiary's obligations under this deed (as if this deed were amended to reflect the reference changes referred to in clause 2.5(b)(i)) and the Deed Poll (and the Bidder Subsidiary's obligations under the Corporations Act in respect of the Takeover Bid); and

(B) indemnifies Target on demand against any Claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Target suffers, incurs or is liable for arising from any default or delay in the performance by the Bidder Subsidiary of such obligations; and

(iii) each of Bidder and Target must use their reasonable endeavours and negotiate in good faith to agree any necessary amendments to the Scheme and the Deed Poll to reflect the relevant principles and requirements in clause 2.5(b) before the First Court Date.

(d) The obligation of Bidder under clause 2.5(c) is a principal and continuing obligation and remains in full force and effect until all obligations of the Bidder Subsidiary referred to in that clause have been fully discharged, terminated or otherwise ceased to apply in accordance with the terms of this deed, the Deed Poll, the terms of the Offer or the Corporations Act (as applicable).

(e) The liability of Bidder under clause 2.5(c) is not affected by anything which, but for this clause 2.5(e), might operate to release or exonerate Bidder in whole or in part from its obligations.

3 Conditions to the Transactions

3.1 Scheme Conditions

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties to implement the Scheme under clauses 5.3(q), 5.4(f) and 5.4(g) (and any other obligations of the parties that can only be, or are only required to be, performed after the Court Approval Condition has been fulfilled) are not binding, until and unless the following Scheme Conditions are satisfied or waived in accordance with clause 3.4:

(a) (**Target Shareholder approval**) Target Shareholders (other than Excluded Target Shareholders) approve the Scheme Resolution by the Requisite Majorities (except to the extent the Court orders otherwise under section 411(4)(a)(ii)(A) of the Corporations Act) at the Scheme Meeting;

(b) (**Court Approval Condition**) the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act (either unconditionally and without modification or with modifications or conditions consented to by Target and Bidder in accordance with clause 5.1(b)) (**Court Approval Condition**);

(c) (**No restraints**) as at the Delivery Time, there is not in effect any:

(i) permanent, or temporary restraining order, injunction or other decision, order or decree issued by any court of competent jurisdiction or by any Government Agency;

(ii) law, rule or regulation; or

(iii) other legal restraint or prohibition,

that restrains, prevents or prohibits the implementation of the Scheme;

(d) (**Independent Expert**) the Independent Expert:

(i) issues an Independent Expert's Report which concludes that the Scheme is fair and reasonable and in the best interests of Target Shareholders (other than Excluded Target Shareholders) before the time that the Scheme Booklet is registered by ASIC under section 412(6) of the Corporations Act; and

(ii) does not withdraw, adversely change or adversely qualify that conclusion, or withdraw its Independent Expert's Report, before the Delivery Time;

(e) (**No Target Prescribed Occurrence**) no Target Prescribed Occurrence occurs during the period commencing on the date of this deed and ending at the Delivery Time (each inclusive);

(f) (**No Target Material Adverse Change**) no event, change in condition, matter, occurrence or circumstances that is a Target Material Adverse Change occurs:

(i) during the period commencing on the execution of this deed and ending at the Delivery Time (each inclusive); or

(ii) before the execution of this deed but which is first discovered by Bidder to be a Target Material Adverse Change, is first announced or disclosed to Bidder by Target in a manner that makes known to the Bidder that a Target Material Adverse Change has occurred, or otherwise first becomes known to the Bidder to be a Target Material Adverse Change, during the period commencing on the execution of this deed and ending at the Delivery Time (each inclusive);

(g) (**Scheme Transaction FIRB approval**) before 5:00pm on the Business Day before the Second Court Date, one of the following has occurred:

(i) Bidder has received written notice under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (**FATA**), by or on behalf of the Treasurer, advising that the Commonwealth has no objections to the Scheme Transaction, either unconditionally or, subject to clause 3.3(e)(iv), on terms and conditions that are acceptable to Bidder;

(ii) the Treasurer becomes precluded by the passage of time from making an order or decision under Part 3 of the FATA in relation to the Scheme Transaction and the Scheme Transaction is not prohibited by section 82 of the FATA; or

(iii) where an interim order is made under section 68 of the FATA in respect of the Scheme Transaction, the subsequent period for making an order or

decision under Part 3 of the FATA elapses without the Treasurer making such an order or decision;

(h) (**ASIC and ASX**) before the Delivery Time, ASIC and the ASX have issued or provided all consents, waivers, relief or approvals that Target and Bidder (each acting reasonably) agree in writing are necessary to implement the Scheme on the terms and conditions of this deed (other than any such consents, waivers, relief or approvals that are specifically referred to in or specifically contemplated by another provision of this deed), and no such consent, waiver, relief or approval has been withdrawn, cancelled, revoked or adversely modified before the Delivery Time;

(i) (**Target Performance Rights**) as at the Delivery Time:

(i) Target has entered into a Target Performance Right Deed with each Target Performance Right Holder, and has not done any thing that is expressed under the terms of a Target Performance Right Deed to require Bidder's prior written consent (except where Bidder's prior written consent has been provided);

(ii) Target has complied with all of its obligations under clause 7.2 (other than any such obligation that is conditional on the Scheme becoming, or that is only required to be (or can only be) performed after the Scheme has become, Effective);

(iii) no Target Shares or other securities (as that expression is defined in section 92 of the Corporations Act) in a Target Group Member have been issued, transferred or granted to any person under the Target Performance Rights Plan between (and including) the date of this deed and the Delivery Time and, other than as expressly set out in the Target Incentive Securities Disclosure Letter (and subject to any qualifications in the Target Incentive Securities Disclosure Letter), there is no obligation on a Target Group Member to issue any Target Share or any such securities on or as a result or in satisfaction of the vesting, exercise, conversion, lapsing, extinguishment or cancellation of any Target Performance Right (including as a consequence of Target amending, waiving or exercising any discretion in connection with the Target Performance Rights Plan or any Target Performance Right); and

(iv) either:

(A) ASX has issued or provided, and has not adversely amended (in a material respect), withdrawn or revoked, the Target Performance Right ASX Listing Rule 6.23 Waiver; or

(B) Target Shareholders have provided all approvals referred to in clause 7.2(a)(iii)(B),

such that when:

(v) Target complies with each of its obligations under clause 7.2 that is conditional on the Scheme becoming, or that is only required to be (or can only be) performed after the Scheme has become, Effective; and

(vi) Target and each Target Performance Right Holder complies with each of their respective obligations under each Target Performance Right Deed,

there will upon implementation of the Scheme be no Target Non-Project Performance Rights on issue;

(j) (**Target Options**) as at the Delivery Time:

(i) Target has entered into a Target Option Cancellation Deed with each Target Optionholder, and has not done any thing that is expressed under the terms of a Target Option Cancellation Deed to require Bidder's prior written consent (except where Bidder's prior written consent has been provided);

(ii) Target has complied with all of its obligations under clause 7.3 (other than any such obligation that is conditional on the Scheme becoming, or that is only required to be (or can only be) performed after the Scheme has become, Effective);

(iii) no Target Shares or other securities (as that expression is defined in section 92 of the Corporations Act) in a Target Group Member have been issued or transferred to any person between (and including) the date of this deed and the Delivery Time as a result of the vesting, exercise, conversion or cancellation of any Target Option and, other than expressly set out in the Target Incentive Securities Disclosure Letter (and subject to any qualifications in the Target Incentive Securities Disclosure Letter), there is no obligation on a Target Group Member to issue any Target Share or any such securities on or as a result or in satisfaction of the vesting, exercise, conversion, lapsing, extinguishment or cancellation of any Target Option (including as a consequence of Target amending, waiving or exercising any discretion in connection with any Target Option); and

(iv) either:

(A) ASX has issued or provided, and has not adversely amended (in a material respect), withdrawn or revoked, the Target Option ASX Listing Rule 6.23 Waiver; or

(B) Target Shareholders have provided all approvals referred to in clause 7.3(a)(i)(B),

such that when:

(v) Target complies with each of its obligations under clause 7.3 that is conditional on the Scheme becoming, or that is only required to be (or can only be) performed after the Scheme has become, Effective; and

(vi) Target and each Target Optionholder complies with each of their respective obligations under each Target Option Cancellation Deed,

there will upon implementation of the Scheme be no Target Options on issue; and

(k) (**Identified Contracts**) before the Delivery Time, each relevant counterparty to an Identified Contract has provided (as applicable in respect of each Identified Contract):

(i) its written consent, waiver, approval or other relevant confirmation under the relevant Identified Contract to the change of control or ownership of Target (or another Target Group Member) that will occur as a result of the Scheme Transaction (**Target Change of Control**); or

(ii) written confirmation that it will not exercise, or a written waiver of the right to exercise, a right to terminate the relevant Identified Contract that arises as a result of the Target Change of Control,

in each case in a form acceptable to Bidder (acting reasonably), and no such consent, waiver, approval or confirmation has been withdrawn, cancelled, revoked or adversely modified as at the Delivery Time,

(each, a **Scheme Condition**).

3.2 Takeover Bid Conditions

The completion of any contract that results from an acceptance of an Offer under the Takeover Bid will be subject to the conditions set out in clause 7 of Schedule 2 (being the Takeover Bid Conditions), except to the extent that any such Takeover Bid Condition has been fulfilled or validly waived (or the Offer has been freed of any such Takeover Bid Condition) by Bidder.

3.3 Satisfaction of Conditions

(a) Target must, to the extent it is within its power to do so, use its reasonable endeavours to satisfy, or procure the satisfaction of:

(i) the Scheme Conditions in clauses 3.1(a) (Target Shareholder Approval), 3.1(e) (No Target Prescribed Occurrence), 3.1(f) (No Target Material Adverse Change), 3.1(i) (Target Performance Rights) and 3.1(j) (Target Options); and

(ii) the Takeover Bid Conditions in clauses 7(b) (Target Performance Rights), 7(c) (Target Options), 7(d) (No Target Prescribed Occurrences) and 7(h) (No Target Material Adverse Change) of Schedule 2,

as soon as reasonably practicable after the date of this deed and otherwise in accordance with the Timetable and in any event before the End Date, and continues to be satisfied at all times until the last time that the relevant clause provides that such Condition is to be satisfied.

(b) Without limiting clauses 3.1(g), 3.3(e) or clause 7(a) of Schedule 2, Bidder must, to the extent it is within its power to do so, use its reasonable endeavours (other than waiving a Condition) to satisfy, or procure the satisfaction of, the Scheme Condition in clause 3.1(g) (Scheme Transaction FIRB approval) and the Takeover Bid Condition in clause 7(a) of Schedule 2 (Takeover Bid Transaction FIRB approval) as soon as reasonably practicable after the date of this deed and continues to be satisfied at all times until the last time that the relevant clause provides that such Condition is to be satisfied.

(c) Each party must:

(i) to the extent that it is within its power to do so, use its reasonable endeavours (other than waiving a Condition) to satisfy, or procure the satisfaction of:

(A) the Scheme Conditions in clauses 3.1(b) (Court Approval Condition), 3.1(c) (No restraints), 3.1(h) (ASIC and ASX) and 3.1(k) (Identified Contracts); and

(B) the Takeover Bid Condition in clauses 7(e) (Restraints) and 7(i) (Identified Contracts) of Schedule 2,

in accordance with the Timetable (unless otherwise agreed between the parties under clause 3.5(a)) and, in any event, before the End Date and continue to be satisfied at all times until the last time that the relevant clause provides that such Condition is to be satisfied; and

(ii) without limiting clause 3.3(c)(i), use its reasonable endeavours to ensure that there is no occurrence or non-occurrence within its reasonable control (or control of, in the case of Bidder, another Bidder Group Member, or, in the case of Target, another Target Group Member), other than waiving a Condition, that prevents, or would be reasonably likely to prevent, the satisfaction of any Condition.

(d) Target will not be in breach of its obligations under clauses 3.3(a) or 3.3(c) to the extent that it takes an action or omits to take an action:

(i) where such action or omission (as applicable) is expressly required or expressly permitted (including any action expressly required or expressly permitted to not be taken) by this deed, the Scheme Transaction, the Takeover Bid Transaction or the transactions contemplated by any of these;

(ii) which is undertaken in connection with an actual, proposed or potential Competing Proposal, but only to the extent not restricted or prohibited under clause 10;

(iii) which has been expressly agreed to in writing by Bidder (such agreement not to be unreasonably withheld, conditioned or delayed) or specifically requested in writing by Bidder, which agreement or request will not be or be treated as a waiver of any Scheme Condition unless such waiver is expressly stated in writing; or

(iv) which is required by any applicable law, regulation, or binding order or binding direction of or made by a Government Agency.

(e) Without limiting clause 3.3(b), but subject to clause 3.3(e)(iii):

(i) Bidder must take all steps required, and for which it is responsible, in respect of the process for satisfying the Scheme Condition in clause 3.1(g) (Scheme Transaction FIRB approval) and the Takeover Bid Condition in clause 7(a) (Takeover Bid Transaction FIRB approval) of Schedule 2 (with such approvals, collectively, being **FIRB Approval**), including, subject to clause 3.3(e)(ii), responding to requests for information at the earliest reasonably practicable time;

(ii) without limiting clause 3.3(e)(i), Bidder must:

(A) promptly (and in advance) provide Target with drafts of all material written communications to be provided by or on behalf of Bidder (or another Bidder Group Member) to one or more Government Agencies after the date of this deed in connection with FIRB Approval such that Target has a reasonable opportunity to comment on them before

submission, and, prior to submitting each such communication, Bidder must:

(1) correct any factual inaccuracy in such a communication identified by Target and notified to Bidder;

(2) consider in good faith any other comments notified to it by Target; and

(3) following such consideration, incorporate the reasonable comments of Target;

(B) promptly provide Target with a copy of any material communication between Bidder (or another Bidder Group Member) or a Representative of Bidder and a Government Agency in connection with FIRB Approval (including in relation to any conditions or undertakings imposed, requested, proposed or required by a Government Agency, and details of any such conditions or undertakings);

(C) give Target reasonable notice of any proposed meetings or discussions with the Government Agencies where such meetings or discussions are expected to relate to matters that are material to FIRB Approval and, if the participation of Target in any meeting or discussion between Bidder and a Government Agency in connection with FIRB Approval is requested or required by a Government Agency use reasonable endeavours to procure that the relevant meeting or discussion is held at such time that will enable Representatives of Target to attend that meeting or discussion; and

(D) without limiting any other obligation of Bidder in this clause 3.3(e)(ii), keep Target reasonably informed of the progress in relation to (including, but not limited to, all material developments regarding) FIRB Approval (including, but not limited to, any material matters raised by, or conditions or other arrangements proposed by, the relevant Government Agency, and/or any issues that may affect Bidder's ability to complete either Transaction);

(iii) without limiting clause 3.3(b) or this clause 3.3(e), Target must:

(A) as soon as reasonably practicable, provide:

(1) Bidder with all information that Bidder reasonably requests; and

(2) the applicable Government Agencies with all information that the relevant Government Agency reasonably requests,

for the purpose of progressing an application for FIRB Approval; and

(B) if the participation of Target in any meeting or discussion is required by a Government Agency for the purpose of progressing an application for FIRB Approval, use reasonable endeavours to procure that Representatives of Target attend the relevant meeting or discussion;

(iv) in relation to the Scheme Condition in clause 3.1(g) (Scheme Transaction FIRB approval) and the Takeover Bid Condition in clause 7(a) (Takeover Bid Transaction FIRB approval) of Schedule 2:

(A) Bidder must agree or accept:

(1) conditions or undertakings in the form of the tax conditions published by or on behalf of the Foreign Investment Review Board (**FIRB**) prior to the date of this deed in items 1 to 6 of part D of FIRB's guidance note 12 (Tax Conditions) (in the form last updated on 10 August 2023); and

(2) conditions of a similar kind to which the Bidder or a Bidder Group Member has accepted in relation to prior notifications under the FATA (including for the avoidance of doubt any condition requiring notification of implementation of a Transaction),

promptly after such conditions or undertakings are imposed, required or requested; and

(B) for the avoidance of doubt, Bidder may in its absolute discretion determine whether or not to agree or accept any other conditions imposed, required or requested by any Government Agency.

(f) Nothing in clause 3.3(e) requires a party to disclose to any other party any information, document, submission or other material or to permit any other party or its Representatives to attend meetings or discussions:

(i) the subject matter of which is privileged, and cannot be provided pursuant to common interest privilege, or on an external counsel to counsel basis, without waiving such privilege;

(ii) the subject matter of which cannot be disclosed due to confidentiality obligations owed to any Third Party (including any Government Agency);

(iii) if such disclosure or attendance will cause a breach of an applicable law, or regulation or request, order or direction of a Government Agency; or

(iv) is commercially sensitive to the party or:

(A) in the case of the Bidder, the Bidder Group; or

(B) in the case of Target, the Target Group.

3.4 Benefit and waiver of Conditions

(a) The Scheme Conditions in clauses 3.1(a) (Target Shareholder approval), 3.1(b) (Court Approval Condition) and 3.1(g) (Scheme Transaction FIRB approval) cannot be waived.

(b) The Scheme Conditions in clauses 3.1(c) (No restraints) and 3.1(h) (ASIC and ASX) are for the benefit of Target and Bidder and any breach or non-fulfilment of the relevant Scheme Condition may only be waived with the written consent of both Bidder and Target (in each party's absolute discretion).

(c) The Scheme Condition in clause 3.1(d) (Independent Expert) is for the sole benefit of Target and any breach or non-fulfilment of that Scheme Condition may only be waived with the written consent of Target (in its absolute discretion).

(d) The Scheme Conditions in clauses 3.1(e) (No Target Prescribed Occurrence), 3.1(f) (No Target Material Adverse Change), 3.1(i) (Target Performance Rights), 3.1(j) (Target Options) and 3.1(k) (Identified Contracts) are for the sole benefit of Bidder and any breach or non-fulfilment of the relevant Scheme Condition may only be waived with the written consent of Bidder (in its absolute discretion).

(e) If a party waives the breach or non-fulfilment of a Scheme Condition, such waiver will not prevent that party from suing the other party for any breach of this deed that resulted in the breach or non-fulfilment of the relevant Scheme Condition, provided that the relevant party is permitted to do so under this deed.

(f) Waiver of breach or non-fulfilment of a Scheme Condition does not constitute:

(i) a waiver of breach or non-fulfilment of any other Scheme Condition resulting from the same event; or

(ii) a waiver of breach or non-fulfilment of that Scheme Condition resulting from any other event.

(g) A party entitled to waive a Scheme Condition under this clause 3.4 may do so in its absolute discretion. Any waiver of a Scheme Condition by a party for whose benefit the Scheme Condition applies must take place at or prior to the Delivery Time.

(h) The Takeover Bid Condition in clause 7(f) (Scheme fails) of Schedule 2 may only be waived by Bidder (where, for the purpose of this clause, such 'waiver' includes Bidder freeing the Offer from that Takeover Bid Condition) with the prior written consent of Target (in its absolute discretion).

(i) The Takeover Bid Condition in clause 7(g) (Minimum acceptance) of Schedule 2 (**Takeover Bid Minimum Acceptance Condition**) may only be waived by Bidder (where, for the purpose of this clause, such 'waiver' includes Bidder freeing the Offer from that Takeover Bid Condition):

(i) if Bidder has a Relevant Interest in at least 40% of Target Shares on issue, where, for the purpose of this clause 3.4(i), Bidder's Relevant Interest is to be determined as if section 609A of the Corporations Act was omitted from the Corporations Act and disregarded in relation to a facility covered by that section relating to the Takeover Bid (**Takeover Bid Acceptance Facility**), provided that the waiver of the Takeover Bid Minimum Acceptance Condition (together with the waiver of any other applicable Takeover Bid Conditions at the same time as such waiver) causes acceptances under the Takeover Bid Acceptance Facility to be unable to be withdrawn; or

(ii) otherwise (and in all circumstances other than those expressly stated in clause 3.4(i)(i)) with the prior written consent of Target (in its absolute discretion).

3.5 Failure of a Scheme Condition

(a) If:

(i) there is a breach or non-fulfilment of a Scheme Condition before the earlier of the End Date and the time and date specified in this deed for the satisfaction of that Scheme Condition and:

(A) the breach or non-fulfilment of that Scheme Condition is not waived in accordance with clause 3.4 or cannot be waived because of clause 3.4(a); or

(B) in respect of a Scheme Condition that can be waived under clause 3.4, each party having the benefit of that Scheme Condition confirms in writing to the other party that it will not waive the breach or non-fulfilment in accordance with clause 3.4; or

(ii) subject to clause 3.5(d), a Scheme Condition becomes incapable of satisfaction or being fulfilled before the earlier of the End Date and the time and date specified in this deed for the satisfaction of that Scheme Condition and:

(A) the breach or non-fulfilment of that Scheme Condition that has occurred or would otherwise occur is not waived in accordance with clause 3.4 or cannot be waived because of clause 3.4(a); or

(B) in respect of a Scheme Condition that can be waived under clause 3.4, each party having the benefit of that Scheme Condition confirms in writing to the other party that it will not waive the breach or non-fulfilment of that Scheme Condition that has occurred or would otherwise occur in accordance with clause 3.4; or

(iii) the Scheme has not become Effective by the End Date,

then either party may give the other party written notice (**Consultation Notice**) within 10 Business Days after the relevant event (**Termination Event**). The parties must then consult in good faith with a view to determining whether they can reach agreement with respect to:

(iv) changing the date of the application made to the Court for an order under paragraph 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed to in writing by Bidder and Target, unless there is no reasonable prospect that the relevant Scheme Condition will be satisfied before the End Date;

(v) an extension of the time for satisfaction of the relevant Scheme Condition or an extension of the End Date, or both (as the case may be); or

(vi) the Scheme or both Transactions proceeding by way of alternative means or methods or whether, in the case of a breach of the Scheme Condition in clause 3.1(e) (No Target Prescribed Occurrence) or clause 3.1(f) (No Target Material Adverse Change), the breach or non-fulfilment or the effects of the breach or non-fulfilment are still able to be remedied.

(b) If the parties are unable to reach agreement under clause 3.5(a) before the later of 10 Business Days after a Consultation Notice is given and 5 Business Days before the time and the date specified in this deed for the satisfaction of the Scheme

Condition or, if a Consultation Notice is not required to be given or is otherwise not given within 10 Business Days after a Termination Event, then either party (in this clause 3.5, the **Terminating Party**) may terminate this deed by giving written notice (**Termination Notice**) to the other party, provided that:

(i) if the basis upon which the Terminating Party is seeking to terminate this deed is the occurrence of an event described in clause 3.5(a)(i) or clause 3.5(a)(ii):

(A) the relevant Scheme Condition is a Scheme Condition referred to in clause 3.4(a); or

(B) the Terminating Party is stated in clause 3.4(b), 3.4(c) or 3.4(d) to have the benefit of the relevant Scheme Condition (whether or not the other party also has the benefit of that Scheme Condition); and

(ii) there has been no failure by the Terminating Party to comply with its obligations under this deed, where that failure directly and materially contributed to the circumstances giving rise to the Termination Event.

(c) Where a Termination Notice is validly given under clause 3.5(b), this deed will terminate with immediate effect and clause 15.6 will apply.

(d) For the purposes of clause 3.5(a)(ii), a Scheme Condition will be incapable of satisfaction or incapable of being fulfilled if there is an act, failure to act or occurrence that will prevent the Scheme Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

3.6 Certain notices

Each party must as soon as reasonably practicable (and in any event within 5 Business Days) notify the other party in writing if it becomes aware:

(a) that a Condition has been satisfied, in which case that party must comply with any reasonable request for evidence of such satisfaction made by the other party;

(b) that there is a breach or non-fulfilment of a Condition; or

(c) of any fact, matter or circumstance that has resulted, will result or is reasonably likely to result in:

(i) a Condition becoming incapable of satisfaction or otherwise not being satisfied in accordance with its terms;

(ii) a Target Representation and Warranty or a Bidder Representation and Warranty (as applicable) becoming, or being discovered or determined to be, untrue or incorrect in any material respect;

(iii) the occurrence of a Target Regulated Event; or

(iv) a material breach of this deed by the relevant party.

3.7 Scheme voted down

If the Scheme is not approved by Target Shareholders (other than Excluded Target Shareholders) at the Scheme Meeting by reason only of the non-satisfaction of the

Headcount Test and Bidder considers acting reasonably that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied, then Target must:

(a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and

(b) make such submissions to the Court and file such evidence as counsel engaged by Target to represent it in Court proceedings related to the Scheme, in consultation with Bidder, considers is reasonably desirable or required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test,

and if the Court exercises such discretion or gives such approval, the Scheme Condition in clause 3.1(a) (Target Shareholder approval) is deemed to be satisfied for all purposes.

4 Disclosure documents

4.1 Definitions

In this clause 4, the following definitions apply:

Primary Party means:

(a) in the case of the Scheme Booklet and the Target's Statement as incorporated in the Transaction Booklet, Target; and

(b) in the case of the Bidder's Statement as incorporated in the Transaction Booklet, Bidder.

Relevant Document means each of the Scheme Booklet, the Target's Statement and the Bidder's Statement as incorporated into the Transaction Booklet.

Secondary Party means:

(a) in the case of the Scheme Booklet and the Target's Statement as incorporated in the Transaction Booklet, Bidder; and

(b) in the case of the Bidder's Statement as incorporated in the Transaction Booklet, Target.

Secondary Party Information means, in relation to a Relevant Document, information regarding the Secondary Party provided by or on behalf of the Secondary Party to the Primary Party for inclusion in the Relevant Document, being:

(a) information about the Secondary Party, its Related Entities, assets, businesses and interests, and dealings in Target Shares, its intentions for Target's employees and the implications of each of those matters for the Target Group (in the case of Bidder); and

(b) any other information required under the Corporations Act, the Corporations Regulations, applicable Takeovers Panel guidance notes, RG 60 or the ASX Listing Rules (as applicable) to enable the Relevant Document to be prepared,

which the parties agree is “Secondary Party Information” in relation to the Relevant Document and is identified in the Relevant Document as such.

4.2 Primary Party’s obligations

The Primary Party in respect of each Relevant Document must:

(a) (**preparation**) subject to clause 4.2(b) and in accordance with the Timetable, prepare the Relevant Document (other than the Secondary Party Information and the Independent Expert’s Report) in accordance with all applicable laws (including the Corporations Act and the Corporations Regulations), applicable Takeovers Panel guidance notes, RG 60 and the ASX Listing Rules (as applicable) and, subject to clauses 4.4 and 4.5 and the Secondary Party’s compliance with its obligations under clauses 4.3(a) and 4.3(b), include the Secondary Party Information in the Relevant Document;

(b) (**consultation with the Secondary Party**) consult with the Secondary Party as to the content of the Relevant Document, including:

(i) providing the Secondary Party with drafts of the Relevant Document and, where the Primary Party is Target and to the extent agreed or consented to by the Independent Expert (which agreement and consent Target must request), the factual information sections relating to the Secondary Party in the Independent Expert’s Report, in a timely manner and within a reasonable time before the Regulator’s Draft is finalised, and, acting reasonably and in good faith, consider (and, where the Primary Party is Target and to the extent agreed or consented to by the Independent Expert (which agreement and consent Target must request), promptly provide to the Independent Expert in writing) all timely and reasonable comments provided by or on behalf of the Secondary Party on those drafts (provided that, where Target is the Primary Party, any review of the Independent Expert's Report (or a section of the Independent Expert’s Report) by Bidder is limited to a review for factual accuracy of those parts of the Independent Expert’s Report that include information relating to Bidder); and

(ii) without limiting clauses 4.2(b)(i), 4.4, 4.5 and 4.3(b), obtain the written consent of the Secondary Party to the form and content in which the Secondary Party Information appears in the Relevant Document (which consent must not be unreasonably withheld, conditioned or delayed by the Secondary Party), in each case before:

(A) providing the Regulator's Draft (included in the draft Transaction Booklet) to ASIC;

(B) providing the draft Scheme Booklet (included in the draft Transaction Booklet) to the Court; and

(C) requesting ASIC to register the explanatory statement included in the Scheme Booklet in accordance with section 412(6) of the Corporations Act (as contemplated by clause 5.3(f)) and despatching the Scheme Booklet to Target Shareholders (other than Excluded Target Shareholders); and

(D) despatching the Bidder’s Statement and the Target’s Statement (included in the Transaction Booklet) to Target Shareholders,

and the Primary Party must not lodge, provide or despatch (as applicable) the Relevant Document before the Secondary Party provides that consent;

(c) (**verification**) undertake reasonable verification procedures in relation to the information contained in the Relevant Document (other than the Secondary Party Information and the Independent Expert's Report) for the purpose of ensuring that such information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is despatched to Target Shareholders;

(d) (**ASIC review of the Scheme Booklet**) where the Primary Party is Target, keep Bidder (and ensure that Target's legal Advisers keep Bidder's legal Advisers) reasonably informed of any material issues raised by ASIC in relation to the Regulator's Draft (and of any resolution of such issues), and consider in good faith all reasonable comments made by or on behalf of Bidder in relation to any such issues raised by ASIC (provided that, to the extent that those issues relate to Secondary Party Information, the Primary Party must not take any steps to address them with ASIC (where that would result in any amendments to the Secondary Party Information) without the Secondary Party's prior written consent, which must not be unreasonably withheld, conditioned or delayed); and

(e) (**supplementary disclosure**) if, after despatch of the Relevant Document and until, in the case of the Scheme Booklet, the date of the Scheme Meeting and, in the case of the Target's Statement or the Bidder's Statement, the end of the Offer Period, the Primary Party becomes aware:

(i) that information included in the Relevant Document for which the Primary Party is responsible is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or

(ii) of information that is required to be disclosed to Target Shareholders (other than, in respect of the Scheme Booklet, Excluded Target Shareholders) under any applicable law (including the Corporations Act or the Corporations Regulations), applicable Takeovers Panel guidance notes, RG 60 or the ASX Listing Rules (as applicable), but was not included in the Relevant Document,

promptly consult with the Secondary Party in good faith as to the need for, and form of, any supplementary disclosure to Target Shareholders (other than, in respect of the Scheme Booklet, Excluded Target Shareholders), and make any such disclosure that it considers reasonably necessary in the circumstances, having regard to applicable law (including the Corporations Act or the Corporations Regulations), applicable Takeovers Panel guidance note, RG 60 or ASX Listing Rule. Such consultation with the Secondary Party must include, to the extent reasonably practicable, providing the Secondary Party with a reasonable opportunity to review and comment on such disclosure before it is made, and the Primary Party must consider in good faith any reasonable comments on the proposed disclosure provided by or on behalf of the Secondary Party in a timely manner (however, in relation to any update of, or revision, amendment or supplement to, the Independent Expert's Report in connection with the proposed supplementary disclosure, the Primary Party makes no representation as to the extent to which the Independent Expert will receive or consider those comments from the Secondary Party). To the extent that the supplementary disclosure relates to (or constitutes) Secondary Party Information, it may only be made with the Secondary Party's prior written consent (which the Secondary Party must not unreasonably withhold or delay).

4.3 Secondary Party's obligations

The Secondary Party in respect of each Relevant Document must:

(a) (**preparation of Secondary Party Information**):

(i) as soon as reasonably practicable after the date of this deed, prepare the Secondary Party Information for inclusion in the Relevant Document in accordance with all applicable laws (including the Corporations Act and the Corporations Regulations), applicable Takeovers Panel guidance notes, RG 60 and the ASX Listing Rules and provide the Secondary Party Information to the Primary Party; and

(ii) consult with the Primary Party as to the content of the Secondary Party Information in the Relevant Document, including providing the Primary Party with drafts of the Secondary Party Information in a timely manner and, acting reasonably and in good faith, take into account all reasonable comments from the Primary Party and the Primary Party's Representatives on those drafts, provided that such comments are provided to the Secondary Party in a timely manner and within a reasonable time before the Regulator's Draft is finalised and, acting reasonably and in good faith, consider all timely and reasonable comments provided by or on behalf of the Primary Party on those drafts;

(b) (**confirmation of Secondary Party Information**) promptly after the Primary Party requests that it does so, at each time required under clause 4.2(b)(ii) confirm in writing to the Primary Party that:

(i) it consents to the inclusion of the Secondary Party Information in the Relevant Document, in the form and context in which the Secondary Party Information appears; and

(ii) the Secondary Party Information in the Relevant Booklet:

(A) is not misleading or deceptive in any material respect (whether by omission or otherwise); and

(B) does not contain any statement which is misleading or deceptive in any material respect (including by way of omission from that statement); and

(iii) the inclusion of such Secondary Party Information in the Relevant Document, in that form and context, has been approved by: (A) if the inclusion of the Secondary Party Information in the Relevant Document is required by the Corporations Act, the Corporations Regulations or a Government Agency to be approved by the Bidder Board, the Bidder Board; or (B) otherwise, the Bidder Board, a delegate of the Bidder Board, or other appropriate Bidder director or employee or decision-making body that is duly authorised to give such approval on behalf of Bidder or the Bidder Board (in the case of the Bidder) or the Target IBC (in the case of the Target);

(c) (**verification**) undertake reasonable verification procedures in relation to the Secondary Party Information contained in the Relevant Document for the purpose of ensuring that such information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date the Relevant Document is despatched to Target Shareholders;

(d) (**assistance with Relevant Document**) provide any assistance or information reasonably requested by the Primary Party or the Primary Party's Representatives in connection with the preparation of the Relevant Document (including any supplementary disclosure to Target Shareholders (other than, in respect of the Scheme Booklet, Excluded Target Shareholders) the subject of clause 4.2(e) above), including reviewing the drafts of the Relevant Document prepared by the Primary Party and providing comments on those drafts in good faith and in a timely manner (and within a reasonable time before the Regulator's Draft is finalised); and

(e) (**update Secondary Party Information**) after the Relevant Document has been despatched and until, in the case of the Scheme Booklet, the date of the Scheme Meeting and, in the case of the Bidder's Statement and the Target's Statement, the close of the Offer Period, promptly provide to the Primary Party any information that is necessary to ensure that the Secondary Party Information contained in the Relevant Document:

(i) is not misleading or deceptive in any material respect (whether by omission or otherwise); and

(ii) does not contain any statement that is misleading or deceptive in a material respect (including by way of omission from that statement).

4.4 Responsibility statements

The parties agree that each Relevant Document will include a responsibility statement (which will be included in the Transaction Booklet) to the effect that:

(a) the Primary Party is responsible for the content of the Relevant Document (other than, to the maximum extent permitted by law, the Secondary Party Information, the Independent Expert's Report or any other report or letter issued to the Primary Party by a Third Party, including an Adviser to the Primary Party) and that neither the Secondary Party nor its Representatives assumes any responsibility for the accuracy or completeness of the Relevant Document other than Secondary Party Information;

(b) the Secondary Party is responsible for the Secondary Party Information (and no other part of the Relevant Document) and that neither the Primary Party nor its Representatives assumes any responsibility for the accuracy or completeness of the Secondary Party Information; and

(c) the Independent Expert is responsible for the Independent Expert's Report, and none of the Primary Party, the Secondary Party or their respective Representatives assumes any responsibility for the accuracy or completeness of the Independent Expert's Report (except in relation to information given by the Primary Party or the Secondary Party to the Independent Expert).

4.5 Disagreement on content

If the parties disagree on the form or content of the Relevant Document, they must consult in good faith to try to settle an agreed form of the Relevant Document. If an agreement between the parties in relation to the disputed matters is not reached after reasonable consultation, then:

(a) if the disagreement relates to the form or content of any information appearing in the Relevant Document other than the Secondary Party Information, the Primary Party will, acting in good faith, decide the final form or content of the disputed part of the Relevant Document; and

(b) if the disagreement relates to the form or content of the Secondary Party Information, the Primary Party will make such amendments to the form or content of the disputed part of the Secondary Party Information as the Secondary Party requires (acting reasonably and in good faith).

5 Scheme implementation steps

5.1 Scheme

(a) Target agrees to propose the Scheme on and subject to the terms of this deed.

(b) Target must not consent to any modification of, or amendment to, the Scheme, or to the making or imposition by the Court of any condition in respect of the Scheme, without the prior written consent of Bidder (such consent not to be unreasonably withheld or delayed).

5.2 Scheme Consideration

(a) Under the Scheme, subject to the Scheme becoming Effective, on the Implementation Date, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder at the Scheme Record Date.

(b) Bidder undertakes and warrants to Target (in its own right and separately as trustee for each Scheme Shareholder) that, in consideration for the transfer to Bidder of all of the Scheme Shares in accordance with the Scheme, Bidder will:

(i) accept that transfer on the Implementation Date; and

(ii) pay, or procure the payment of, an amount in cleared funds equal to the Aggregate Scheme Consideration for all Scheme Shares (free of any set-off or withholding, including withholding under Subdivision 14-D of Schedule 1 to the TAA, except to the extent expressly permitted or expressly provided under the Scheme) into the Trust Account by no later than two Business Days before the Implementation Date,

in each case, in accordance with the terms of the Scheme.

(c) Each of Bidder and Target must comply with their respective obligations under clauses 7.2(d) to 7.2(i) (inclusive) of the Scheme as if those clauses of the Scheme were expressly set out in this deed (with references to 'this Scheme' being read as references to 'this deed').

5.3 Target's obligations

Without limiting the general nature of clause 2.2 or Target's obligations under clause 4, clause 5, clause 7.1 or clauses 7.4 to 7.8 (inclusive), but subject to clause 7.1, Target must:

(a) (**Independent Expert**) as soon as reasonably practicable after the date of this deed (if the Independent Expert has not been appointed prior to the date of this deed), appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report (and any update of, or revision, amendment or supplement to, the Independent Expert's Report);

(b) (**lodgement of Regulator's Draft with ASIC**): in accordance with the Timetable and in any event no later than 14 days before the First Court Date, provide an advanced draft of the Scheme Booklet (**Regulator's Draft**) to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Bidder as soon as practicable thereafter;

(c) (**indication of intent**) no later than 14 days before the First Court Date, apply to ASIC for a letter indicating whether ASIC intends to appear and make submissions to the Court, or intervene to oppose the Scheme, at the First Court Hearing;

(d) (**approval of Scheme Booklet**) as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet in accordance with clause 5.3(b), procure that a meeting of the Target IBC is held to consider approving the Scheme Booklet for despatch to Target Shareholders (other than Excluded Target Shareholders), subject to orders of the Court under section 411(1) of the Corporations Act, and confirm to Bidder when the Target IBC has provided that approval;

(e) (**First Court Hearing**) promptly:

(i) prepare all Court Documents reasonably necessary for the Court proceedings relating to the First Court Hearing and consult with Bidder as to the content of all relevant Court Documents (and such consultation must include providing Bidder with a reasonable opportunity to review and comment on the relevant Court Documents before they are lodged, and Target must consider in good faith any reasonable comments on those Court Documents provided by or on behalf of Bidder in a timely manner); and

(ii) lodge all relevant documents with the Court and take all other reasonable steps necessary to ensure that an application is heard by the Court for orders under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting (including applying to the Court to make such orders);

(f) (**registration of Scheme Booklet**) if the Court directs Target to convene the Scheme Meeting, on the day such Court orders are made or as soon as reasonably practicable thereafter, request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;

(g) (**despatch**) as soon as reasonably practicable following the receipt of Bidder's written consent to the inclusion of the Bidder Information in the form and context in which the Bidder Information appears in such version of the Scheme Booklet (which Bidder must not unreasonably withhold or delay) and the subsequent registration of the Scheme Booklet by ASIC, despatch the Scheme Booklet to Target Shareholders (other than Excluded Target Shareholders);

(h) (**no objection statement**) apply to ASIC for a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;

(i) (**Scheme Meeting**) convene and hold the Scheme Meeting to approve the Scheme in accordance with the orders made by the Court at the First Court Hearing;

(j) (**Scheme Conditions certificate**) at the Second Court Hearing, provide to the Court (through Target's counsel):

(i) a certificate confirming (in respect of matters within its knowledge) whether or not the Scheme Conditions (other than the Court Approval Condition) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to Bidder by 5:00pm on the date 2 Business Days prior to the Second Court Date; and

(ii) any certificate provided to it by Bidder pursuant to clause 5.4(d);

(k) (**Second Court Hearing**) subject to the Scheme Conditions (other than the Court Approval Condition) being satisfied or waived in accordance with clause 3, apply to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme and prepare, and consult with Bidder as to the content of, all Court Documents necessary for the Court proceedings relating to the Second Court Hearing. Such consultation must include providing Bidder with a reasonable opportunity to review and comment on the relevant Court Documents before they are lodged, and Target must consider in good faith any reasonable comments provided by or on behalf of Bidder in a timely manner;

(l) (**Target representation at Court Hearings**) procure that Target is represented by counsel at the Court Hearings;

(m) (**Bidder representation at Court Hearings**) allow, and not oppose, any application by Bidder for leave of the Court to be represented by counsel at a Court Hearing;

(n) (**lodgement of Court order**) if the Court approves the Scheme, lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act on the first Business Day after the date on which Target receives an office copy of those orders (or such other Business Day as Bidder and Target may agree in writing (each acting reasonably));

(o) (**suspension of trading Target Shares and ASX listing**) if the Scheme becomes Effective, apply to ASX to have:

(i) trading in Target Shares suspended from the close of trading on the Effective Date; and

(ii) Target removed from the Official List, and Official Quotation of Target Shares terminated, with effect on and from the close of trading on the Trading Day immediately following the Implementation Date;

(p) (**information**) to the extent not prohibited by applicable law, binding regulation or binding order or binding direction of a Government Agency:

(i) provide reasonable information in Target's possession about Target Shareholders to Bidder which Bidder requests and reasonably requires in order to facilitate the provision by, or on behalf of, Bidder of the Scheme Consideration and, without limiting Bidder's obligations under the Confidentiality and Exclusivity Deed, canvass Target Shareholders' views on the Transactions;

(ii) at any time reasonably requested by Bidder in writing before the date of the Scheme Meeting, provide to Bidder in writing the total number of proxy appointments and directions: (A) to vote in favour of the Scheme; (B) to vote

against the Scheme; (C) to abstain from voting on the Scheme; and (D) where the proxy may vote on the Scheme Resolution at the proxy's discretion, in each case as then received by Target before the date of the Scheme Meeting;

(iii) within five Business Days after the date of this deed, provide Bidder with:

(A) a copy of the Target Share Register as at the date of this deed; and

(B) a copy of the most recent beneficial ownership analysis report received by Target (which, for the avoidance of doubt, may be as at a date prior to the date of this deed), but only to the extent, if applicable, consented to by the Target Share Registry or other Third Party that prepared that report; and

(iv) provide to Bidder:

(A) at any time reasonably requested by Bidder, a copy of the latest Target Share Register; and

(B) at any time reasonably requested by Bidder, a copy of the most recent beneficial ownership analysis report received by Target (together with any other material information regarding the beneficial ownership of Target Shares that has come into Target's possession since the date of that report), but only to the extent, if applicable, consented to by the Target Share Registry or other Third Party that prepared that report (which consent Target must request);

(q) (**implementation of Scheme**) if the Scheme becomes Effective:

(i) close the Target Share Register at the Scheme Record Date for the purposes of determining the identity of the Scheme Shareholders and their entitlements to the Scheme Consideration as at the Scheme Record Date;

(ii) provide Bidder with a complete copy of the Target Share Register as at the Scheme Record Date (which must include the name, registered address and registered holding of Scheme Shares of each Scheme Shareholder as at the Scheme Record Date), within two Business Days after the Scheme Record Date;

(iii) subject to Bidder having provided the Scheme Consideration to each Scheme Shareholder in accordance with the terms and conditions of this deed (including, but not limited to, clause 5.2) and the Scheme, execute (for and on behalf of all Scheme Shareholders) instruments of transfer of and give effect to and register (or procure the registration of) the transfer of the Scheme Shares to Bidder on the Implementation Date; and

(iv) promptly doing all other things contemplated by, or reasonably required to give effect to, the Scheme and the orders of the Court approving the Scheme under section 411(4)(b) of the Corporations Act;

(r) (**ASX listing and Official Quotation of Target Shares**) subject to clause 5.3(o), not do anything to cause Target Shares to cease being Officially Quoted on ASX or to become permanently suspended from Official Quotation prior to implementation of the Scheme, unless Bidder has agreed in writing; and

(s) (**compliance with laws**) do everything reasonably within its power to ensure that the Scheme is effected in accordance with all applicable laws, regulations and policy.

5.4 Bidder's obligations

Without limiting the general nature of clause 2.2 or Bidder's obligations under clause 7.1 and clause 4, but subject to clause 7.1, Bidder must:

(a) (**assistance with Court Documents**) provide any assistance or information reasonably requested by Target or Target's Representatives in connection with the preparation of any Court Documents, including reviewing the drafts of the Court Documents and providing comments on those drafts in good faith and in a timely manner;

(b) (**Independent Expert's Report**) provide any assistance or information reasonably requested by Target or Target's Representatives, or by the Independent Expert, in connection with the preparation of the Independent Expert's Report (and any update of, or revision, amendment or supplement to, the Independent Expert's Report);

(c) (**Deed Poll**) before 5:00pm on the Business Day before the First Court Date, enter into the Deed Poll and deliver it to Target and, if the Scheme becomes Effective, fully comply with its obligations under the Deed Poll;

(d) (**Scheme Conditions certificate**) before the Delivery Time, provide to Target for provision to the Court at the Second Court Hearing a certificate confirming (in respect of matters within its knowledge) whether or not the Scheme Conditions (other than the Court Approval Condition) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to Target by 5:00pm on the date 2 Business Days before the Second Court Date;

(e) (**representation at Court**) ensure that it is represented by counsel at the First Court Hearing and the Second Court Hearing, at which, through its counsel, Bidder will undertake (if requested by the Court) to do all such things and take all such steps within its power as are reasonably necessary in order to ensure the fulfilment of its obligations under this deed, the Scheme and the Deed Poll, and to, so far as reasonably practicable, ensure that the Court makes an order under section 411(4)(b) of the Corporations Act approving the Scheme;

(f) (**Scheme Consideration**) if the Scheme becomes Effective, provide the Scheme Consideration in the manner and amount contemplated by, and in accordance with, clause 5.2 and the terms of the Scheme and the Deed Poll;

(g) (**Scheme Share transfer**) if the Scheme becomes Effective:

(i) accept a transfer of the Scheme Shares in accordance with the Scheme (and as contemplated by clause 5.2(b)); and

(ii) execute instruments of transfer in respect of the Scheme Shares;

(h) (**compliance with laws**) do everything reasonably within its power to ensure that the Scheme is effected in accordance with all applicable laws and regulations; and

(i) (**Excluded Target Shareholders**) without limiting Bidder's obligations under the Confidentiality and Exclusivity Deed, if any Bidder Group Member acquires any Target Shares, or a Relevant Interest in any Target Shares, or a person or entity

otherwise acquires Target Shares and holds those Target Shares on behalf of or for the benefit of any Bidder Group Member (and does not hold Target Shares on behalf of, or for the benefit of, any other person) after the date of this deed, notify Target in writing of such acquisition by or on behalf or for the benefit of the relevant Bidder Group Member.

5.5 Conduct of Court proceedings and appeal process

(a) Subject to clause 5.5(b), Target and Bidder must give all undertakings to the Court in all Court proceedings which are reasonably required to satisfy the Court Approval Condition and are typical of undertakings previously requested by Australian courts in respect of transactions similar to the Scheme, provided that, for the avoidance of doubt, this deed does not give Target (on the one hand) or Bidder (on the other hand) any right or power to give undertakings to the Court for or on behalf of Bidder (in the case of Target) or Target (in the case of Bidder) without that party's written consent.

(b) If the Court requests Target or Bidder to give an undertaking to the Court in connection with the Scheme or the satisfaction of the Court Approval Condition which the party requested to give the undertaking does not believe is reasonable or does not believe is usual in the circumstances, the parties must:

(i) consult with each other in good faith as to whether to appeal the Court's decision; and

(ii) appeal the Court's decision unless the parties agree otherwise under paragraph (i) or a senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success before the End Date.

(c) If the Court refuses to make any orders directing Target to convene the Scheme Meeting under section 411(1) of the Corporations Act or approving the Scheme under section 411(4)(b) of the Corporations Act, Target and Bidder must:

(i) consult with each other in good faith as to whether to appeal the Court's decision; and

(ii) appeal the Court's decision unless the parties agree otherwise under paragraph (i) or a senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success before the End Date.

6 Facilitating the Takeover Bid

6.1 Promoting the Takeover Bid

During the Offer Period:

(a) in the absence of a Superior Proposal, and subject to the Independent Expert concluding in the Independent Expert's Report, and continuing to conclude, that the Takeover Bid is fair and reasonable, Target must (without limitation to its obligations under clause 9) participate in efforts reasonably required by Bidder to promote the merits of the Takeover Bid to Target Shareholders (in accordance with the Takeover Recommendation); and

(b) Bidder must participate in efforts reasonably requested by Target to promote the merits of the Takeover Bid to Target Shareholders, including, where requested by Target, meeting with key Target Shareholders.

6.2 Independent Expert

Without limiting the parties' respective obligations under clause 4 or clause 5, each party must provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Target's Statement.

6.3 Target Share Register and Target Shareholder information

Without limitation to Target's obligations under clause 5.3(p), from the date of this deed until the end of the Offer Period, to the extent permitted by applicable law, Target must comply with any reasonable request of Bidder:

(a) to be provided with an up-to-date copy of the Target Share Register;

(b) for information that is required to be maintained by Target in accordance with section 672DA of the Corporations Act; and

(c) to give directions to Target Shareholders under Part 6C.2 of the Corporations Act.

6.4 Official Quotation

Target must take all reasonable steps to maintain the Official Quotation of Target Shares, notwithstanding any suspension of the quotation of the Target Shares, up to and including the date Bidder compulsorily acquires any Target Shares it does not already own under Chapter 6A of the Corporations Act, including making any required applications to ASX and ASIC.

6.5 ASIC and ASX waivers

Target and Bidder must use their respective reasonable endeavours to:

(a) as soon as reasonably practicable after the date of this deed, apply for and obtain from ASIC and the ASX all consents, waivers, relief or approvals that Target and Bidder (each acting reasonably) agree in writing are necessary to effect the Takeover Bid and/or the Offers on the terms and conditions of this deed (other than any such consents, waivers, relief or approvals that are specifically referred to in or specifically contemplated by another provision of this deed), and

(b) ensure that no such consent, waiver, relief or approval is withdrawn, cancelled, revoked or adversely modified by ASIC or ASX (as applicable) before the end of the Offer Period.

7 Provisions relevant to both Transactions

7.1 Timetable

(a) Subject to clause 7.1(b), the parties must each use all reasonable endeavours to:

(i) comply with their respective obligations under clauses 5.3, 5.4 and 6; and

(ii) take all necessary steps and exercise all rights reasonably necessary to implement the Transactions,

in accordance with the Timetable.

(b) Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of clause 7.1(a) to the extent that such failure is due to circumstances and matters outside the party's control (including, for the avoidance of doubt, any delays caused by a Government Agency or the Court) or (without limitation to Target's obligations under clause 10) due to Target taking any action in response to a Competing Proposal as permitted by this deed.

(c) Each party must keep the other informed about their progress against the Timetable and notify each other if it believes that any of the dates in the Timetable are not achievable.

(d) To the extent that any of the dates or timeframes set out in the Timetable become not achievable due to matters outside of a party's control (including, for the avoidance of doubt, any delays caused by a Government Agency or the Court), or the parties agree to change the date of the application made to the Court for an order under paragraph 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) or an extension of the time for satisfaction of a Scheme Condition or an extension of the End Date (or both) under clause 3.5(a), the parties must consult in good faith to agree to any necessary extension to ensure such matters are completed within the shortest possible timeframe and/or required or consequential changes to the Timetable (as applicable).

7.2 Target Performance Right Holders and Target Performance Rights

(a) Target must use its reasonable endeavours to ensure that, by no later than the first to occur of the Delivery Time and the end of the Offer Period, Target has entered into a deed with each Target Performance Right Holder (on the terms agreed between Target and Bidder in writing in the Target Incentive Securities Disclosure Letter, and otherwise on such terms as are acceptable to Bidder) under which:

(i) Target agrees to cancel, and each Target Performance Right Holder agrees to the cancellation of, 50% of the Target Performance Rights held by that Target Performance Right Holder (which, for the avoidance of doubt, are all of the Target Performance Rights held by the Target Performance Right Holder that are not Project Target Performance Rights) (**Target Non-project Performance Rights**) on or before the Scheme Record Date or the end of the Offer Period (as applicable) for cash consideration of an amount per Target Non-Project Performance Right agreed between Target and Bidder in the Target Incentive Securities Disclosure Letter (**Target Performance Right Cancellation Consideration**); and

(ii) Target agrees to amend, and each Target Performance Right Holder agrees to the amendment of, the terms of issue of the remaining 50% of the Target Performance Rights held by that Target Performance Right Holder (which for the avoidance of doubt, will be those Target Performance Rights the vesting of which is subject to the satisfaction of the "New Projects Condition" (as defined in the Target Incentive Securities Disclosure Letter) or the "K2H Condition" (as defined in the Target Incentive Securities Disclosure Letter) as at the date of this deed) (**Target Project Performance Rights**) to reflect the terms and conditions agreed between Target and Bidder in the Target Incentive Securities Disclosure Letter,

with the cancellation and amendment of the terms (as applicable) of such Target Performance Rights being subject to:

(iii) either:

(A) ASX issuing or providing a waiver of the applicable requirements of ASX Listing Rule 6.23 to enable any action required to be taken by Target under this clause 7.2 that requires the approval of Target Shareholders under that ASX Listing Rule to be taken by Target without the approval of Target Shareholders under that ASX Listing Rule (**Target Performance Right ASX Listing Rule 6.23 Waiver**) and the ASX not adversely amending (in a material respect), withdrawing or revoking that waiver before the Delivery Time; or

(B) Target Shareholders approving, for the purposes of ASX Listing Rule 6.23, any action required to be taken by Target under this clause 7.2 that requires the approval of Target Shareholders under that ASX Listing Rule; and

(iv) one of the following occurring:

(A) the Scheme becoming Effective; or

(B) the Offer is declared or otherwise becomes unconditional and:

(1) Bidder having acquired a Relevant Interest in at least 50.1% of the Target Shares on issue (whether at the time that the Offer was declared or otherwise became unconditional, or subsequently); or

(2) Bidder having validly waived the Takeover Bid Condition in clause 7(g) (Minimum acceptance) of Schedule 2 in accordance with clause 3.4(i) (including, to the extent required, with Target's consent under clause 3.4(i)(ii)), whether at the time that the Offer was declared or otherwise became unconditional, or before that time,

(**Target Performance Right Deeds**).

(b) If:

(i) the Scheme becomes Effective; or

(ii) the Offer is declared or otherwise becomes unconditional and Bidder has:

(A) acquired a Relevant Interest in at least 50.1% of the Target Shares on issue (whether at the time that the Offer was declared or otherwise became unconditional, or subsequently); or

(B) validly waived the Takeover Bid Condition in clause 7(g) (Minimum acceptance) of Schedule 2 in accordance with clause 3.4(i) (including, to the extent required, with Target's consent under clause 3.4(i)(ii)), whether at the time that the Offer was declared or otherwise became unconditional, or before that time,

Target must:

(iii) cancel the Target Non-Project Performance Rights the subject of the Target Performance Right Deeds for the applicable Target Performance Right Cancellation Consideration; and

(iv) amend the terms of Target Project Performance Rights the subject of the Target Performance Right Deeds, as contemplated by clause 7.2(a)(ii),

in each case, on or before the Scheme Record Date or the end of the Offer Period (as applicable) and as required by, and in accordance with, the applicable terms and conditions of, the Target Performance Right Deeds.

(c) As soon as reasonably practicable after the date of this deed, Target must apply to the ASX for the Target Performance Right ASX Listing Rule 6.23 Waiver. If the ASX Listing Rule 6.23 Waiver is not granted before the First Court Date, then Target must seek any approvals from Target Shareholders that are required under ASX Listing Rule 6.23 to enable Target to take any action required to be taken by Target under this clause 7.2.

7.3 Target Optionholders and Target Options

(a) Target must use its reasonable endeavours to ensure that, by no later than the first to occur of the Delivery Time and the end of the Offer Period, Target has entered into a cancellation deed with each Target Optionholder (on the terms agreed between Target and Bidder in writing in the Target Incentive Securities Disclosure Letter, and otherwise on such terms as are acceptable to Bidder) under which Target agrees to cancel, and each Target Optionholder agrees to the cancellation of, the Target Options held by that Target Optionholder on or before the Scheme Record Date or the end of the Offer Period (as applicable) for cash consideration of an amount per Target Option agreed between Target and Bidder in writing in the Target Incentive Securities Disclosure Letter (**Target Option Cancellation Consideration**) with the cancellation of such Target Options being subject to:

(i) either:

(A) ASX issuing or providing a waiver of the applicable requirements of ASX Listing Rule 6.23 to enable any action required to be taken by Target under this clause 7.3 that requires the approval of Target Shareholders under that ASX Listing Rule to be taken by Target without the approval of Target Shareholders under that ASX Listing Rule (**Target Option ASX Listing Rule 6.23 Waiver**) and the ASX not adversely amending (in a material respect), withdrawing or revoking that waiver before the Delivery Time; or

(B) Target Shareholders approving, for the purposes of ASX Listing Rule 6.23, any action required to be taken by Target under this clause 7.3 that requires the approval of Target Shareholders under that ASX Listing Rule; and

(ii) one of the following occurring:

(A) the Scheme becoming Effective; or

(B) the Offer is declared or otherwise becomes unconditional and:

(1) Bidder having acquired a Relevant Interest in at least 50.1% of the Target Shares on issue (whether at the time that the Offer was declared or otherwise became unconditional, or subsequently); or

(2) Bidder having validly waived the Takeover Bid Condition in clause 7(g) (Minimum acceptance) of Schedule 2 in accordance with clause 3.4(i) (including, to the extent required, with Target's consent under clause 3.4(i)(ii)), whether at the time that the Offer was declared or otherwise became unconditional, or before that time,

(**Target Option Cancellation Deeds**).

(b) If:

(i) the Scheme becomes Effective; or

(ii) the Offer is declared or otherwise becomes unconditional and Bidder has:

(A) acquired a Relevant Interest in at least 50.1% of the Target Shares on issue (whether at the time that the Offer was declared or otherwise became unconditional, or subsequently); or

(B) validly waived the Takeover Bid Condition in clause 7(g) (Minimum acceptance) of Schedule 2 in accordance with clause 3.4(i) (including, to the extent required, with Target's consent under clause 3.4(i)(ii)), whether at the time that the Offer was declared or otherwise became unconditional, or before that time,

Target must cancel the Target Options the subject of the Target Option Cancellation Deeds for the applicable Target Option Cancellation Consideration on or before the Scheme Record Date or the end of the Offer Period (as applicable), as required by, and in accordance with, the terms and conditions of the Target Option Cancellation Deeds.

(c) As soon as reasonably practicable after the date of this deed, Target must apply to the ASX for the ASX Listing Rule 6.23 Waiver. If the Target Option ASX Listing Rule 6.23 Waiver is not granted before the First Court Date, then Target must seek any approvals from Target Shareholders that are required under ASX Listing Rule 6.23 to enable Target to take any action required to be taken by Target under this clause 7.3.

7.4 Conduct of Target's business

Subject to clause 7.5 but without limitation to the Scheme Conditions in clause 3.1(e) (No Target Prescribed Occurrence), 3.1(i) (Target Performance Rights) and 3.1(j) (Target Options), the Takeover Bid Condition in clause 7(d) (No Target Prescribed Occurrences) of Schedule 2 and Target's obligations in respect of that Scheme Condition and that Takeover Bid Condition under this deed (including under clause 3.3), from the date of this deed up to and including the earlier of the Implementation Date and the earlier to occur of: (i) Bidder having acquired a Relevant Interest in at least 50.1% of the Target Shares on issue and the Offer having been declared or has otherwise become unconditional; and

(ii) the end of the Offer Period, Target must (and must take all actions within its power to procure that each other Target Group Member must):

(a) ensure that the business and operations of the Target Group are conducted:

(i) in the usual and ordinary course; and

(ii) in a manner substantially consistent with the manner in which such business and operations have been conducted in the 12-month period ending on the date of this deed,

which the parties acknowledge and agree involves the development, construction, operation and/or maintenance of the Existing Target Group Projects;

(b) ensure that the Target Group complies in all material respects with:

(i) all applicable laws and regulations (including, for the avoidance of doubt, the ASX Listing Rules); and

(ii) each Authorisation held by a Target Group Member;

(c) ensure all material assets of the Target Group (other than such assets that are under development or construction as at the date of this deed and from time to time after the date of this deed) are maintained in the ordinary and usual course and substantially consistent with the manner in which such assets have been maintained in the 12-month period ending on the date of this deed;

(d) keep Bidder reasonably informed of any material developments concerning the conduct of its business and operations after they arise;

(e) not commence any material new lines of business: (i) in which the Target Group is not engaged as at the date of this deed; and (ii) which do not relate to renewable energy generation and/or energy storage;

(f) continue to provide Bidder with access to the Disclosure Materials;

(g) use reasonable endeavours to maintain and preserve the Target Group's relationships with Government Agencies and:

(i) material customers;

(ii) material suppliers (other than a Bidder Group Member);

(iii) material landlords;

(iv) joint venture partners (other than a Bidder Group Member); and

(v) any other persons with whom the Target Group has material business dealings,

provided that, for the avoidance of doubt, nothing in this clause 7.4(g) prevents or restricts Target from changing, amending, terminating, renewing or replacing its relationships or contractual arrangements with any such party or parties in the ordinary course of business;

(h) comply, and take all reasonable action within its power to procure that each other Target Group Member complies, in all material respects with all Material Contracts;

(i) subject to clause 14.3, use reasonable endeavours to:

(i) maintain (or, where necessary, use reasonable endeavours to renew, as applicable) on substantially the same terms (other than in relation to the premium, provided that, where an applicable insurance policy is renewed, or the premium for an applicable insurance policy changes, after the date of this deed, the premium paid for the applicable insurance policy is, in the reasonable opinion of Target, a competitive premium in the context of the applicable (including having regard to geography and jurisdiction) insurance market at the relevant time) all insurance policies that Target (and Target Group Members) hold as at the date of this deed and which are material in the context of the Target Group (taken as a whole);

(ii) not do, or omit to do, anything that would make any such policy of insurance void or voidable by the relevant insurer;

(j) ensure that no Target Prescribed Occurrence or Target Regulated Event occurs;

(k) ensure no Target Shares or other securities (as that expression is defined in section 92 of the Corporations Act) in a Target Group Member are issued, transferred or granted to any person: (i) under, or pursuant to, the Target Performance Rights Plan or a Target Performance Right; or (ii) on or as a result or in satisfaction of the vesting, exercise, conversion, lapsing, extinguishment or cancellation of any Target Performance Right or Target Option; including in the case of both subparagraphs (i) and (ii) as a consequence of Target amending, waiving or exercising any discretion in connection with the Target Performance Rights Plan, any Target Performance Right or any Target Option); and

(l) use reasonable endeavours to keep available the services of its officers and key management personnel, provided that in doing so Target is not required to do any thing or omit to do any thing with would result in a breach of its other obligations under this deed (including its obligations under clauses 7.4(j) and 7.4(k)).

7.5 Permitted activities in relation to conduct of Target's business

Nothing in clause 7.4 restricts the ability of a Target Group Member (or any Representative of a Target Group Member) to take or not take any action (other than any action that breaches clause 7.4(k)):

(a) which is expressly required or expressly permitted to be taken or not taken by a Target Group Member by this deed, the Scheme Transaction, the Takeover Bid Transaction or the transactions contemplated by any of these;

(b) which has, and only to the extent it has, been Fairly Disclosed in:

(i) the Disclosure Materials;

(ii) any written documents, written communications or other written materials provided by or on behalf of a Target Group Member to a Bidder Group Member (or a Representative of a Bidder Group Member) under an Existing J-POWER Agreement in the 12-month period ending on the date of this deed;

(iii) any announcement made by Target to ASX in the 24-month period ending on the date of this deed; or

(iv) a publicly available document lodged with ASIC by or on behalf of Target or another Target Group Member (which would be disclosed in a search, conducted on the day 5 Business Days before the date of this deed, of ASIC's records that are open to public inspection) in the 24-month period ending on the day 5 Business Days before the date of this deed;

(c) which is, and only to the extent that it is, within the knowledge of Bidder as at the date of this deed;

(d) which has been expressly agreed to in writing by Bidder (such agreement not to be unreasonably withheld, conditioned or delayed) or specifically requested in writing by Bidder;

(e) which is expressly required by:

(i) a contractual obligation under a contract to which a Target Group Member is a party as at the date of this deed, which has, and only to the extent it has, been Fairly Disclosed in the Disclosure Letter; or

(ii) an Existing J-POWER Agreement (provided that such action or inaction does not cause a breach by a Target Group Member of the relevant Existing J-POWER Agreement), or has been expressly agreed or consented to in writing by a Bidder Group Member, or specifically requested in writing by a Bidder Group Member, under or for the purpose of an Existing J-POWER Agreement;

(f) which is required by any applicable law, binding regulation or binding order or direction of a Government Agency;

(g) to reasonably and prudently respond to regulatory or legislative changes (including, without limitation, changes to subordinate legislation) affecting the business of Target or another Target Group Member to a material extent (provided that, to the full extent reasonably practicable in the relevant circumstances, Target consults in good faith with Bidder before such change is implemented);

(h) to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property, or a disease epidemic or pandemic, including the outbreak, escalation or any impact of, or recovery from, the Covid-19 pandemic (or any mutation, variation or derivative of the Covid-19 pandemic)), provided that, to the full extent reasonably practicable having regard to the nature of the relevant emergency or disaster, Target has consulted with Bidder in good faith in respect of the proposal to take such action or not take such action (as applicable) and considers any reasonable comments or requests of Bidder in relation to such proposal in good faith;

(i) which is expressly excluded from, or expressly does not apply to, one or more Target Regulated Events and/or Target Prescribed Occurrences (other than any action that breaches clause 7.4(k)); or

(j) in connection with the treatment of Target Performance Rights in accordance with clause 7.2 and/or Target Options in accordance with clause 7.3 (other than any action that breaches clause 7.4(k)).

7.6 Bidder's access and information rights

Without limiting any Bidder Group Member's rights under an Existing J-POWER Agreement, between (and including) the date of this deed and the earlier of the

Implementation Date and the close of the Offer Period, Target must, and must cause each other Target Group Member to, provide to Bidder and a reasonable number of Bidder's Representatives (in accordance with the terms of the Confidentiality and Exclusivity Deed) reasonable access to: (A) information (including, for the avoidance of doubt, reports ordinarily prepared by senior executives of Target for the Target Board in the ordinary course of Target's business after the date of this deed and any monthly or other periodically prepared unaudited management accounts prepared by or for the Target Group's senior executives); (B) premises; and (C) such senior executives of any Target Group Member, as reasonably requested by Bidder at mutually convenient times, for the purposes of:

(a) the implementation of the Transactions;

(b) Bidder developing and implementing plans for the transition of the businesses of the Target Group to Bidder following implementation of the Transactions (which, for the avoidance of doubt, does not include ongoing due diligence on the Target Group);

(c) finalisation of the Bidder Group's corporate structuring arrangements directly related to implementation of the Scheme or the Takeover Bid; and

(d) any other purpose agreed between the parties in writing (each acting reasonably),

provided that:

(e) nothing in this clause 7.6 requires a Target Group Member to prepare any financial information or materials that the Target Group does not prepare on a monthly basis for its internal management or Target Board reporting purposes in the ordinary course of business;

(f) nothing in this clause 7.6 will require Target to provide, or procure the provision of, information concerning or in connection with:

(i) any Target Director's, the Target Board's (or any sub-committee of the Target Board's, including the Target IBC) and management's (a **Relevant Person**) consideration of the Transactions or any proposal by Bidder at any time in relation to the acquisition of an interest in Target Shares;

(ii) a Relevant Person's consideration of an Existing J-POWER Agreement (or any matter directly relating to an Existing J-POWER Agreement or the Target Group's actual or potential commercial or joint development arrangements with one or more Bidder Group Members); or

(iii) any actual, proposed or potential Competing Proposal (including a Relevant Person's consideration of any actual, proposed or potential Competing Proposal), provided that nothing in this clause 7.6(f) limits the obligations of Target under clause 10;

(g) the provision of information pursuant to this clause 7.6 must not result in unreasonable disruptions to, or interference with, the Target Group's business;

(h) Bidder must, and must procure that each of its Representatives and each other Bidder Group Member and their respective Representatives:

(i) keep all information obtained by it or them as a result of the operation of this clause 7.6 confidential in accordance with the terms of the Confidentiality and Exclusivity Deed;

(ii) provide Target with reasonable notice of any request for information or access; and

(iii) comply with the reasonable requirements of Target in relation to any access granted;

(i) nothing in this clause 7.6 gives Bidder or any other Bidder Group Member any rights as to the decision making of any Target Group Member or its business; and

(j) nothing in this clause 7.6 will require Target to provide, or procure the provision of, information if to do so would or would be reasonably likely to:

(i) breach any confidentiality obligation owed to a Third Party or any applicable law, regulatory requirement, Authorisation or court order; or

(ii) result in a waiver of legal professional privilege.

7.7 Change of Control Requirements

As soon as practicable after the date of this deed, the parties must:

(a) seek to identify any change of control provisions or similar or equivalent terms in any Material Contracts which will, or are reasonably likely to, be triggered by the execution of this deed, the Scheme becoming Effective, the implementation of the Scheme, or completion of the Takeover Bid (**Change of Control Requirements**);

(b) without limitation to the Scheme Condition in clause 3.1(k) (Identified Contracts), the Takeover Bid Condition in clause 7(i) (Identified Contracts) of Schedule 2 and the parties' obligations in respect of those Conditions under clause 3.3, in respect of any such Material Contracts that contain Change of Control Requirements:

(i) Target and Bidder must, each acting reasonably and in good faith, agree a proposed course of action to obtain any consents, waivers, approvals or other confirmations required in accordance with or in relation to the terms of any identified Change of Control Requirements. If it is agreed between Target and Bidder that Target will initiate contact with the relevant counterparties to request that they provide any consents, waivers, approvals or confirmations required in accordance with any such course of action agreed between Bidder and Target, Target must do so as soon as reasonably practicable after such course of action has been agreed between Bidder and Target;

(ii) Bidder and its Representatives must not contact any counterparties without Representatives of the Target or a Target Group Member being present or without Target's prior written consent (which must not be unreasonably withheld or delayed);

(iii) Target must cooperate with, and provide reasonable assistance to, Bidder to obtain such consents, waivers, approvals or confirmations as expeditiously as possible, including by promptly providing any information reasonably required by the relevant counterparties (but nothing in this clause requires Target or Bidder to incur material costs or expenses); and

(iv) Bidder must cooperate with, and provide reasonable assistance to, Target to obtain such consents, waivers, approvals or confirmations as expeditiously as possible, including:

(A) promptly providing any information and entering into such form of guarantee or security, as counterparties may reasonably require; and

(B) making its Representatives available where reasonably necessary to meet with counterparties to deal with any issues arising in relation to the relevant consent or waiver.

(c) Subject to the Target complying with its obligations under this clause 7.7 (and without limiting the Scheme Condition in clause 3.1(k) (Identified Contracts), the Takeover Bid Condition in clause 7(i) (Identified Contracts) of Schedule 2 or Target's obligations in respect of those Conditions under clause 3.3), a failure by a Target Group Member to obtain any Third Party consent, waiver, approval or confirmation referred to in, or contemplated by, clause 7.7(b) will not constitute a breach of this deed by Target and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this deed.

(d) For the avoidance of doubt, nothing in this clause 7.7 will require Target to seek any consents, waivers, approvals or other confirmations from any Bidder Group Member under any Existing J-POWER Agreement.

7.8 Appointment and resignation of directors

(a) Target must, on the Implementation Date, after the Scheme Consideration has been provided to Scheme Shareholders in accordance with the terms of the Scheme and with effect from the time that the transfer of all of the Scheme Shares to Bidder has been effected in accordance with the terms of the Scheme, procure that:

(i) those persons nominated by Bidder in writing at least 5 Business Days before the Implementation Date are appointed to the Target Board and the boards of other Target Group Members, provided that:

(A) each such person is not ineligible to act as a director of the relevant Target Group Member(s) under any applicable laws (including under the Corporations Act) and signs a consent to act as a director of the relevant Target Group Member(s); and

(B) such consents to act are provided to Target before the Implementation Date; and

(ii) each Target Director (other than the J-POWER Nominee Director) and director of another Target Group Member, as nominated by Bidder in writing at least 5 Business Days before the Implementation Date, resign as a Target Director or director of the relevant other Target Group Member (as applicable) by providing to the relevant board and Target Group Member his or her resignation in writing, such resignation to include an acknowledgement to the effect that he or she has no outstanding Claims against Target or the relevant Target Group Member in his or her capacity as a director of the relevant Target Group Member as at (or otherwise as a result of being director of a Target Group Member as at or prior to) the Implementation Date and an unconditional and irrevocable release of Target or the relevant Target Group Member (as applicable) from any such Claims they may otherwise have as at the Implementation Date, other than (and

nothing in this clause 7.8(a)(ii) requires any such director to forego) any rights or remedies they may have:

(A) under any deed of access and indemnity (or similar) between the director and one or more Target Group Members, a complete copy of which has been disclosed in the Disclosure Materials;

(B) under an indemnity given to the director under the constitution of a Target Group Member (including under the Target Constitution);

(C) under a policy of directors' and officers' insurance relating to his or her position as director of a Target Group Member; or

(D) under clauses 11.7(a)(iii), 11.7(e)(ii), 13.1, 13.2, 14.1 or 14.3 in their capacity as a Target Indemnified Party; or

(E) in their capacity as a Target Shareholder under the Scheme or the Deed Poll.

(b) Subject to clause 7.8(c), no later than three Business Days after the last to occur of:

(i) Bidder has acquired a Relevant Interest in at least 50.1% of the Target Shares on issue; and

(ii) the Offer has been declared or has otherwise become unconditional,

Target must procure that:

(iii) to the extent permitted by the Target Constitution, those persons nominated by Bidder in writing are appointed to the Target Board, provided that:

(A) each such person:

(1) is not ineligible to act as a director of Target under any applicable laws (including under the Corporations Act);

(2) is not a person who the Target IBC (acting reasonably and in good faith) determines is not of good fame or character;

(3) provides the information required to allow Target to comply with all applicable laws, regulations, orders and requests of any Government Agency and the ASX Listing Rules; and

(4) signs a consent to act as a director of Target and a letter of appointment as non-executive Target Director, in a form reasonably required by Target and that is materially consistent with that signed by the other non-executive Target Directors (with necessary modifications);

(B) the documents and information referred to in subparagraph (A) above are provided to Target before the appointment of the relevant person as a Target Director; and

(C) the persons nominated by Bidder to be appointed as Target Directors represent the minimum number of persons required to ensure that the persons nominated by Bidder to be appointed as Target Directors

under this clause 7.8(b), together with the J-POWER Nominee Director, comprise a majority of the Target Directors at the time of their appointment to the Target Board.

(c) After the appointments of the Bidder's nominees to the Target Board are made under clause 7.8(b), Bidder must procure that its nominees on the Target Board do not participate in any discussions or decisions of the Target Board or Target Directors which relate directly to the Takeover Bid and occur or are taken (as applicable) during the Offer Period (and, for the avoidance of doubt, such nominees will not be members of, or be entitled to be present at or participate in (or receive any materials prepared specifically for) a meeting of, the Target IBC).

(d) As soon as reasonably practicable after the date of this deed, Target must make written request to AED that AED irrevocably waive, subject to and with effect from the occurrence of:

(i) Bidder having acquired a Relevant Interest in at least 50.1% of the Target Shares on issue; and

(ii) the Offer having been declared or otherwise having become unconditional,

any continuing rights it has at that time to appoint, or nominate a person for appointment as, a Target Director under any written agreement between AED and a Target Group Member that remains in force at that time.

8 Public announcements in relation to the Transactions

8.1 Announcement of the Transactions

(a) As soon as possible after the execution of this deed (or, if the date of this deed falls on a day that is not a trading day on the ASX, before the commencement of trading on the first trading day on the ASX immediately following the date of this deed), Target must release the Agreed Public Announcement (which Bidder acknowledges and agrees will attach a copy of this deed, which has been duly executed by Target and Bidder) to the ASX market announcements platform.

(b) On or after the date of this deed, Bidder may release the Bidder Public Announcement as a press release and by posting the Bidder Public Announcement on Bidder's website.

8.2 Other public announcements

(a) Subject to clauses 8.2(b), 8.2(c) and 8.3, before making any public announcement in relation to the Scheme or the Takeover Bid (whether on the ASX market announcements platform or otherwise) (**Proposed Public Announcement**):

(i) a party must:

(A) provide the other party with a draft copy of the Proposed Public Announcement as soon as reasonably practicable before it is proposed that such Proposed Public Announcement is made;

(B) give the other party a reasonable opportunity to comment on the form and content of the draft Proposed Public Announcement; and

(C) consider in good faith all reasonable comments from that party and its Representatives (that are provided in a timely manner) on the draft Proposed Public Announcement; and

(ii) before making the Proposed Public Announcement, obtain the other party's prior written consent to the final form of the Proposed Public Announcement.

(b) A party must:

(i) use reasonable endeavours to provide its consent to the making of a Proposed Public Announcement contemplated by clause 8.2(a)(ii) as soon as practicable; and

(ii) not unreasonably withhold or delay such consent.

(c) Clause 8.2(a) does not apply to any announcement or disclosure in connection with the termination of this deed or an actual, proposed or potential Competing Proposal.

(d) Nothing in this clause 8 limits or qualifies the obligations of Target under clauses 9.1(b) and 9.1(c).

8.3 Required disclosure

(a) Subject to clause 8.3(b), where a party is required by applicable law, regulation or the ASX Listing Rules, or a Government Agency, to make any announcement or to make any disclosure in connection with the Scheme or the Takeover Bid, that party is not required to comply with clause 8.2(a) in respect of any such announcement or disclosure.

(b) Before any disclosure is made in reliance on clause 8.3(a), to the extent reasonably practicable and permitted by the relevant law, regulation or the ASX Listing Rules or a Government Agency (as applicable):

(i) the party required to make the disclosure (**Disclosing Party**) must use its reasonable endeavours to notify the other party as soon as reasonably practicable after it becomes aware that disclosure is required; and

(ii) the Disclosing Party must use its reasonable endeavours to give the other party an opportunity to comment on the proposed form of the disclosure and amend any factual inaccuracy, and consider in good faith and to the extent reasonably practicable any other comments that have been provided by or on behalf of the other party on the form of the disclosure in timely manner (having regard to the proposed or required time of the relevant disclosure),

other than where such disclosure relates to, or is in connection with, an actual, potential or proposed Competing Proposal.

9 Target IBC support of the Transactions

9.1 Target IBC Member recommendations and intentions

(a) Target represents and warrants to Bidder that, on or before the date of this deed, each Target IBC Member has confirmed to Target that:

(i) his or her recommendation to Target Shareholders (other than Excluded Target Shareholders) in respect of the Scheme is the Scheme Recommendation and his or her recommendation to Target Shareholders in respect of the Takeover Bid is the Takeover Recommendation; and

(ii) in respect of the Target IBC Member's Target IBC Member Shares as at the date of this deed (if any), the Target IBC Member's intention in respect of those Target IBC Member Shares is the Scheme Voting Intention and the Takeover Acceptance Intention,

and that, as at the date of this deed, they intend to make and maintain those recommendations and intention statements in respect of the Transactions at the times, in the communications and documents, and otherwise in the manner, required by this clause 9.

(b) Subject to clauses 9.1(d), 9.1(e) and 9.2, Target must use its reasonable endeavours to ensure that, in the Agreed Public Announcement, the Transaction Booklet, and each other material announcement made by Target to the ASX in relation to the Transactions (other than any such announcement referred to in clause 8.2(c)) (**Material Public Announcement**) before the Scheme Meeting:

(i) each Target IBC Member (or the Target IBC unanimously) recommends that Target Shareholders (other than Excluded Target Shareholders) vote in favour of the Scheme at the Scheme Meeting, in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report, and continuing to conclude, that the Scheme is fair and reasonable and in the best interests of Target Shareholders (other than Excluded Target Shareholders) (**Scheme Recommendation**); and

(ii) there is a statement by each Target IBC Member that the Target IBC Member intends to vote, or cause to be voted, all of that Target IBC Member's Target IBC Member Shares (if any) in favour of the Scheme at the Scheme Meeting, in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report, and continuing to conclude, that the Scheme is fair and reasonable and in the best interests of Target Shareholders (other than Excluded Target Shareholders) (**Scheme Voting Intention**).

(c) Subject to clauses 9.1(d), 9.1(e) and 9.2, Target must use its reasonable endeavours to ensure that, in the Agreed Public Announcement, the Transaction Booklet, and each other Material Public Announcement made by Target before the end of the Offer Period:

(i) the Target IBC unanimously recommends that Target Shareholders accept the Offer to be made to them under the Takeover Bid, in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report, and continuing to conclude, that the Offer is fair and reasonable (**Takeover Recommendation**); and

(ii) there is a statement by each Target IBC Member that the Target IBC Member intends to accept, or procure the acceptance of, the Offer in respect of all of that Target IBC Member's Target IBC Member Shares, in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report, and continuing to conclude, that the Offer is fair and reasonable (**Takeover Acceptance Intention**).

(d) For the avoidance of doubt, and without limiting clause 9.2, Target's obligations under clauses 9.1(b) and 9.1(c) will immediately cease to apply in respect of a Target IBC Member's Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and/or Takeover Acceptance Intention (as applicable) if that Target IBC Member withdraws, adversely changes, adversely modifies or adversely qualifies his or her Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and/or Takeover Acceptance Intention (as applicable) following the occurrence of one of the events referred to in clause 9.2, provided that, in the case of an event referred to in clause 9.2(c), such obligations cease to apply only in relation to the Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and/or Takeover Acceptance Intention (as applicable) of each Target IBC Member(s) to which clause 9.2(c) applies and not the Scheme Recommendations, Scheme Voting Intentions, Takeover Recommendations or Takeover Acceptance Intentions of the other Target IBC Member(s) (if any).

(e) Target's obligations under clause 9.1(c) will immediately cease to apply if the Scheme becomes Effective.

9.2 Maintenance of Recommendations

Target must use its reasonable endeavours to ensure that the Target IBC collectively, and the Target IBC Members individually, do not publicly withdraw, adversely change, adversely modify or adversely qualify its or their Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation or Takeover Acceptance Intention unless:

(a) the Target has received, other than as a result of a breach of clauses 10.2, 10.3 or 10.4, a Competing Proposal and the Target IBC has determined, after the procedures in clauses 10.5 and 10.7 have been complied with, that the Competing Proposal is a Superior Proposal;

(b) the Independent Expert concludes in the Independent Expert's Report (or any update of, or revision, amendment or supplement to, the Independent Expert's Report) that:

(i) in respect of the Scheme Recommendation and the Scheme Voting Intention:

(A) the Scheme is not in the best interests of Target Shareholders (other than Excluded Target Shareholders); or

(B) the Scheme is not fair and/or not reasonable to, but is in the best interests of, Target Shareholders (other than Excluded Target Shareholders); or

(ii) in respect of the Takeover Recommendation and the Takeover Acceptance Intention, the Takeover Bid is not fair and/or not reasonable; or

(c) the adverse change, withdrawal, adverse modification or adverse qualification in respect of a Target IBC Member's Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and/or Takeover Acceptance Intention (as

applicable) occurs because of a requirement of a court of competent jurisdiction, ASIC or the Takeovers Panel (which, for the avoidance of doubt, includes where such a court, ASIC or the Takeovers Panel advises Target or Bidder to the effect that any consent, approval, or order requested by Target or Bidder in connection with a Transaction will only be given if (or, in the case of the Takeovers Panel, a declaration of unacceptable circumstances in connection with a Transaction is or is likely to be made unless)) that the relevant Target IBC Member abstains from making the applicable recommendation or voting intention (in which case, Target's obligations under this clause 9.2 cease to apply only in respect of the Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and/or Takeover Acceptance Intention (as applicable) of each Target IBC Member(s) to which this clause 9.2(c) applies and not the Scheme Recommendations, Scheme Voting Intentions, Takeover Recommendations and/or Takeover Acceptance Intentions of the other Target IBC Member(s) (if any)).

9.3 Qualifications relating to Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and Takeover Acceptance Intention

(a) For the purposes of clauses 9.1 and 9.2, customary qualifications and explanations contained in the Transaction Booklet, the Agreed Public Announcement and any Material Public Announcement in relation to a Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation or Takeover Acceptance Intention to the effect that the applicable recommendation is made or the voting intention is held:

(i) in the absence of a Superior Proposal; and/or

(ii) in respect of:

(A) any Material Public Announcement issued before the issue of the Transaction Booklet, 'subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that:

(1) the Scheme is fair and reasonable and in the best interests of Target Shareholders (other than Excluded Target Shareholders); and

(2) the Offer is fair and reasonable'; or

(B) the Transaction Booklet and any public announcements issued at the time of or after the issue of the Transaction Booklet, 'subject to the Independent Expert continuing to conclude that:

(3) the Scheme is fair and reasonable and in the best interests of Target Shareholders (other than Excluded Target Shareholders); and

(4) the Offer is fair and reasonable',

(C) any public announcement issued after the Condition in clause 7(f) of Schedule 2 (Scheme fails) has been satisfied, 'subject to the Independent Expert continuing to conclude that the Offer is fair and reasonable',

will not be regarded as a failure to make, or a withdrawal, adverse change, adverse modification or adverse qualification of, a recommendation or voting intention.

(b) Despite anything to the contrary in this clause 9, a statement made by Target, the Target IBC or any Target IBC Member:

(i) to the effect that no action should be taken by Target Shareholders pending the assessment of a Competing Proposal by the Target IBC; or

(ii) permitted by clause 10.7(a),

shall not, by that statement alone, contravene clause 9.1 or clause 9.2.

10 Exclusivity

10.1 No existing discussions

Target represents and warrants to Bidder that, as at the date of this deed:

(a) neither Target nor any Restricted Representative is, directly or indirectly, in any negotiations or discussions, and have ceased any existing negotiations or discussions, in respect of any Competing Proposal with any Third Party or that would reasonably be expected to lead to a Competing Proposal (other than, for the avoidance of doubt, the discussions with Bidder and its Representatives in respect of the Transactions and the discussions between Target and its Representatives in respect of the Transactions);

(b) neither Target nor any Restricted Representative is a party to any agreement, or other binding arrangement, with any Third Party (other than a confidentiality agreement) in relation to any actual, proposed or potential Competing Proposal;

(c) any access to non-public information relating to the business, operations, assets or affairs of the Target Group (**Non-public Information**) granted by Target to any Third Party for the purpose of Target facilitating a Competing Proposal before the date of this deed has been terminated;

(d) any Third Party to which Non-public Information has been provided by or on behalf of Target under the terms of an Existing Confidentiality Agreement has been requested to return or destroy that Non-public Information (but only if, and to the extent that, the applicable Target Group Member has the right under the Existing Confidentiality Agreement to request the return or destruction of that Non-public Information by the relevant Third Party); and

(e) Target has not breached or failed to comply with the obligations set out in or the requirements of clause 7 (Exclusivity) of the Confidentiality and Exclusivity Deed (including, for the avoidance of doubt, the obligations of Target to ensure that Restricted Representatives comply with such requirements, but only where and to the extent stated in clause 7 (Exclusivity) of the Confidentiality and Exclusivity Deed) between the date of the Confidentiality and Exclusivity Deed and the date of this deed.

10.2 No-shop

During the Exclusivity Period, Target must not, and must ensure that each Restricted Representatives does not, directly or indirectly:

(a) solicit, invite or initiate any enquiry, expression of interest, proposal, offer, negotiation or discussion with or by any Third Party; or

(b) communicate to any Third Party any intention to do any of the things referred to in clause 10.2(a),

in relation to, or that would reasonably be expected to lead to the making of, or with a view to obtaining, an actual, proposed or potential Competing Proposal.

10.3 No-talk

Subject to clause 10.5, during the Exclusivity Period, Target must not, and must ensure that each Restricted Representative does not, directly or indirectly:

(a) negotiate or enter into or participate in negotiations or discussions with, or negotiate or enter into any agreement, arrangement or understanding with, any Third Party; or

(b) communicate to any Third Party any intention to do any of the things referred to in clause 10.3(a),

in relation to, or that would reasonably be expected to lead to the making of, an actual, proposed or potential Competing Proposal by a Third Party, even where that Third Party's actual, proposed or potential Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Target or any Restricted Representatives or that Third Party has publicly announced the Competing Proposal (provided that nothing in this clause 10.3 prevents or restricts Target or any Restricted Representative from responding to a Third Party in respect of an enquiry, expression of interest, proposal, offer, negotiation or discussion or other communication by that Third Party in relation to, or which would reasonably be expected to lead to the making of, a Competing Proposal to merely: (i) acknowledge receipt; and/or (ii) advise that Third Party that Target is bound by the provisions of this clause 10.3 and is only able to engage in negotiations, discussions or other communications if the fiduciary exception in clause 10.5 applies).

10.4 No due diligence

(a) Subject to clause 10.5, during the Exclusivity Period, Target must not, and must ensure that each Restricted Representative does not, directly or indirectly, in relation to an actual, proposed or potential Competing Proposal:

(i) enable any Third Party to undertake due diligence investigations on the Target Group by disclosing, providing or making available Non-public Information to that Third Party; or

(ii) disclose, provide or make available to a Third Party any Non-public Information,

with a view to obtaining, or which would reasonably be expected to:

(iii) lead to the making of; or

(iv) be used by such Third Party for the purpose of formulating, developing or finalising, or assisting in the formulation, development or finalisation of,

an actual, proposed or potential Competing Proposal by that Third Party (or, so far as the Target IBC was aware at the time the Non-public Information was disclosed, provided or made available to the relevant Third Party, for the purpose of the formulation, development, finalisation or announcement of an actual, proposed or potential Competing Proposal by that Third Party).

(b) If, during the Exclusivity Period, Target:

(i) enters into a confidentiality agreement with a Third Party for the purposes of providing Non-public Information to that Third Party in reliance on clause 10.5 or otherwise (subject, for the avoidance of doubt, to the provisions of clause 10) in connection with an actual, proposed or potential Competing Proposal, and that agreement contains confidentiality or standstill obligations on the Third Party (as recipient of that information) which are more favourable to that Third Party in any material respect than the confidentiality or standstill obligations (as applicable) under the Confidentiality and Exclusivity Deed are to Bidder, Target must promptly notify Bidder of the relevant terms and upon Bidder's written request Target must take all steps reasonably necessary (and within its control) to amend the Confidentiality and Exclusivity Deed to reflect and align with such terms (provided that Target's obligations under this clause 10.4(b)(i) will cease to apply in respect of a confidentiality agreement entered into with a Third Party during the Exclusivity Period if Bidder does not act reasonably and in good faith in relation to the negotiation of the documentation of any relevant amendment of this deed requested by Bidder); or

(ii) provides any Non-public Information to a Third Party in reliance on clause 10.5, then Target must within one Business Day of doing so also provide that Non-public Information to Bidder (unless the Non-public Information has already been provided to Bidder or its Representatives), provided that this clause 10.4(b)(ii) does not require Target to provide or make available to Bidder any information which the Target IBC reasonably considers is commercially sensitive or confidential information of that Third Party.

10.5 Fiduciary out

Each of clauses 10.3 and 10.4 do not apply to the extent that they prohibit or restrict Target or a Restricted Representative from taking or omitting (or failing or refusing) to take any action with respect to or in relation to an actual, proposed or potential Competing Proposal which was not solicited, invited, encouraged or initiated in contravention of clause 10.2, provided that the Target IBC has determined in good faith after:

(a) having consulted with its Financial Adviser, that such Competing Proposal is bona fide and is, or may reasonably be expected to lead to or become, a Superior Proposal; and

(b) having received written advice from its external Australian legal advisers specialising in the area of corporate law, that omitting (or failing or refusing) to take the action, or taking the action, (as applicable) in relation to the actual, proposed or potential Competing Proposal would, or would be reasonably likely to, constitute a breach of the fiduciary or statutory duties of the Target IBC Members.

10.6 Notification obligation

During the Exclusivity Period, Target must:

(a) notify Bidder in writing within one Business Day after Target receives from a Third Party a request or proposal, whether in writing or otherwise, that Target take any action that would breach Target's obligations under clause 10.3 or clause 10.4 (or

that would breach Target's obligations under clause 10.3 or clause 10.4 if clause 10.5 did not apply); and

(b) no later than one Business Day after Target receives a Competing Proposal, whether in writing or otherwise, from a Third Party, notify Bidder in writing of:

(i) the fact that Target has received the Competing Proposal;

(ii) the identity of the Third Party that made the Competing Proposal; and

(iii) the material terms of the Competing Proposal, including the offered or proposed price, form of consideration, break or reimbursement fee (if any), proposed timing and material conditions precedent (if any), in each case, to the extent known by the Target IBC.

10.7 Matching right

(a) Without limiting clauses 10.1 to 10.4 (inclusive) or clause 10.6, Target must:

(i) not, and must procure that each Target Group Member does not, enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which one or more of a Third Party, Target or any Target Group Member proposes or propose to undertake, implement or give effect to a Competing Proposal (which, for the avoidance of doubt, excludes a confidentiality (or similar) agreement entered into between a Target Group Member and a Third Party for the purpose of facilitating an actual, proposed or potential Competing Proposal, to the extent not prohibited under the terms of this clause 10); and

(ii) subject to any change, withdrawal, modification or qualification of a Target IBC Member's Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and/or Takeover Acceptance Intention (as applicable) by one or more Target IBC Members that is permitted by clause 9.2, use its reasonable endeavours to ensure that no Target IBC Member, in connection with a Competing Proposal, publicly:

(A) withdraws, adversely changes, adversely modifies or adversely qualifies his or her Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and/or Takeover Acceptance Intention (as applicable) (as set out in clause 9.1);

(B) recommends or endorses the Competing Proposal; or

(C) recommends against either Transaction,

or makes any public statement to the effect that he or she may do so at a future point (subject to any change of a Target IBC Member's Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and/or Takeover Acceptance Intention (as applicable) that is permitted by clause 9.2),

unless:

(iii) the Target IBC has complied with all requirements of clause 10.5 in respect of that Competing Proposal and has determined that the Competing Proposal is a Superior Proposal;

(iv) Target has provided Bidder with a notice stating that it is given for the purposes of this clause 10.7 and which sets out the material terms of the Competing Proposal, including those terms set out in clause 10.6(b)(iii) (in each case, to the extent known by Target);

(v) Target has given Bidder at least 3 Business Days after Target has provided to Bidder the notice referred to in clause 10.7(a)(iv) (**Bidder Counterproposal Deadline**) to announce or otherwise propose or provide to Target a counter-proposal to the Competing Proposal (**Bidder Counterproposal**); and

(vi) either:

(A) Bidder has not announced or otherwise proposed or provided to Target a Bidder Counterproposal before the Bidder Counterproposal Deadline; or

(B) if Bidder has announced or otherwise proposed or provided to Target a Bidder Counterproposal before the Bidder Counterproposal Deadline, both: (I) the Target IBC has under and in accordance with the requirements of clause 10.7(b) determined that the Bidder Counterproposal is not a Superior Bidder Counterproposal; and (II) Target has notified Bidder in accordance with clause 10.7(d)(i) that the Target IBC's determination is that the Bidder Counterproposal is not a Superior Bidder Counterproposal and, if applicable, Target has complied with its obligations under clause 10.7(d)(ii),

and provided that a statement that no action should be taken by Target Shareholders pending the assessment of a Competing Proposal by the Target IBC or the completion of the matching right process set out in this clause 10.7 shall not contravene this clause 10.7.

(b) If Bidder announces or otherwise proposes or provides to Target a Bidder Counterproposal before the Bidder Counterproposal Deadline, Target must procure that the Target IBC promptly considers the Bidder Counterproposal and, determines, acting in good faith, after consulting with Target's Financial Advisers and external Australian legal advisers specialising in the area of corporate law, whether the Bidder Counterproposal would provide an outcome that is no less favourable, or more favourable, for Target Shareholders (other than Excluded Target Shareholders) as a whole than the Competing Proposal, taking into account all terms and conditions and other aspects of:

(i) the Bidder Counterproposal (including the consideration, conditionality, funding, certainty and timing, the capability of the Bidder to complete the transaction(s) contemplated by the Bidder Counterproposal, the views of Target Shareholders (other than Excluded Target Shareholders) in relation to the Bidder Counterproposal compared to the Competing Proposal, and any other legal, financial, regulatory and other matters that the Target IBC determines to be relevant in the circumstances); and

(ii) the Competing Proposal (including the matters set out in subparagraph (b)(i) of the definition of "Superior Proposal"),

(**Superior Bidder Counterproposal**), such determination to be made by the Target IBC within 5 Business Days of receipt of the Bidder Counterproposal.

(c) If the Target IBC determines that a Bidder Counterproposal is a Superior Bidder Counterproposal, then:

(i) Target must promptly, and in any event within 1 Business Day, notify Bidder of the determination in writing; and

(ii) Target and Bidder must use their best endeavours to agree any amendments to this deed (and any other transaction documents required) and the contents of the Scheme Booklet which are reasonably necessary to reflect and document the Superior Bidder Counterproposal and, once agreed:

(A) Target and Bidder must enter into an appropriate amending deed (and any other transaction documents required) to give effect to those amendments; and

(B) Target must use its reasonable endeavours to ensure that the Target IBC recommends the Bidder Counterproposal to Target Shareholders (other than Excluded Target Shareholders) and does not recommend the applicable Competing Proposal,

in each case, as soon as reasonably practicable.

(d) If the Target IBC determines that a Bidder Counterproposal is not a Superior Bidder Counterproposal, then:

(i) Target must promptly, and in any event within 1 Business Day, notify Bidder of the determination in writing;

(ii) Target must allow Bidder a further 2 Business Days after Target gives Bidder notice of the Target IBC's determination under clause 10.7(d)(i) above to (acting in good faith) announce or otherwise propose or provide a revised, alternative or new Bidder Counterproposal to Target (**Revised Bidder Counterproposal**) and, if Bidder does so before the end of that 2 Business Day period:

(A) Target must follow, and must procure that the Target IBC follows, the process set out in clause 10.7(b) as if the Revised Bidder Counterproposal was a Bidder Counterproposal;

(B) if, after following the process set out in clause 10.7(b), the Target IBC determines that the Revised Bidder Counterproposal is not a Superior Bidder Counterproposal:

(1) Target must comply with its obligations under clauses 10.7(d)(i) and 10.7(d)(iii) as if the Revised Bidder Counterproposal was a Bidder Counterproposal; but

(2) Target is not required to allow Bidder a further 2 Business Days after Target gives Bidder notice of the Target IBC's determination in respect of the Revised Bidder Counterproposal under clause 10.7(d)(i) to announce or otherwise propose or provide a revised, alternative or new Bidder Counterproposal or Revised Bidder Counterproposal to Target, such that this clause 10.7(d)(ii) will not have any repeated application after Bidder has provided a Revised Bidder Counterproposal and the Target IBC has

determined that that Revised Bidder Counterproposal is not a Superior Bidder Counterproposal; and

(C) if, after following the process set out in clause 10.7(b), the Target IBC determines that the Revised Bidder Counterproposal is a Superior Bidder Counterproposal, Target and Bidder must follow the process set out in, and comply with their obligations under, clause 10.7(c) as if the Revised Bidder Counterproposal was a Bidder Counterproposal.

(iii) Target must not do any of the things referred to in clauses 10.7(a)(i), and must use its reasonable endeavours to ensure that the Target IBC Members do not do any of the things referred to in clause 10.7(a)(ii), before it has notified the Bidder of the Target IBC's determination under clause 10.7(d)(i) and, if applicable, Target has complied with its obligations under clause 10.7(d)(ii).

(e) For the purpose of this clause 10.7, each new Competing Proposal or successive material variation or amendment to a Competing Proposal (including, for the avoidance of doubt, any material change to any of the terms set out in clause 10.6(b)(iii)) will constitute a new Competing Proposal and the process set out in this clause 10.7 must again be followed prior to Target or the Target IBC taking any of the actions referred to in clauses 10.7(a)(i) or 10.7(a)(ii).

(f) Despite any other provision in this deed, a statement by Target, the Target IBC or any Target IBC Member only to the effect that:

(i) the Target IBC has determined that a Competing Proposal is a Superior Proposal and has commenced the matching right process set out in this clause 10.7; or

(ii) Target Shareholders should take no action pending the completion of the matching right process set out in this clause 10.7,

does not by itself:

(iii) constitute an adverse change, withdrawal, adverse modification or adverse qualification of the relevant Target IBC Member or Target IBC Members' Target Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and/or Takeover Acceptance Intention (as applicable);

(iv) contravene this deed;

(v) give rise to an obligation to pay the Break Fee under clause 11; or

(vi) give rise to a termination right under clause 15.1.

10.8 Compliance with law or determination of the Takeovers Panel

If it is determined by a court, or the Takeovers Panel, that the agreement by the parties under this clause 10 or any part of it:

(a) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Target IBC Members;

(b) constituted, or constitutes, or would constitute, "unacceptable circumstances", as defined in the Corporations Act; or

(c) was, or is, or would be, a breach of applicable law for any other reason,

then, to that extent (and only to that extent) Target will not be obliged to comply with that provision of this clause 10.

10.9 Exceptions to the exclusivity arrangement

(a) Nothing in this clause 10 prevents, restricts or prohibits Target or any Restricted Representative from (directly or indirectly):

(i) engaging with Target Shareholders (in their capacity as a Target Shareholder) in relation to the Target Group in the ordinary course of business, or responding to queries or discussion points from a Target Shareholder in respect of that Target Shareholder's shareholding (including in relation to that Target Shareholder's future intentions regarding its shareholding), provided that in each case:

(A) any such queries or discussion points were not initiated by Target or any Restricted Representative;

(B) any such engagement with a Target Shareholder does not, and any such queries or discussion points from that Target Shareholder or Target's responses to them do not, follow or relate to an actual, proposed or potential Competing Proposal (other than a Competing Proposal that the Target IBC has determined is, or may reasonably be expected to lead to or become, a Superior Proposal in accordance with clause 10.5); and

(C) any such engagement does not, and Target's responses to any such queries or discussion points do not, result in a breach of clause 10.2;

(ii) without limiting paragraph (i) above:

(A) approaching or contacting, or having discussions with, any person or entity that has a substantial holding in Target from time to time (including a Skip Entity as that expression is defined in the definition of 'Competing Proposal') (**Substantial Holder**) (or any Representative of a Substantial Holder) in relation to the Transactions; or

(B) without limiting subparagraph (A) above, disclosing or discussing details of the Transactions to or with any Substantial Holder or any of its Representatives,

in each case, solely for the purpose of canvassing for the Substantial Holder's support for the Transactions or soliciting any commitment, agreement or public statement from a Target Shareholder to vote in favour of, or accept, the Transactions and provided that such discussions and disclosures do not result in a breach of any of Target's obligations under clauses 10.2 to 10.4;

(iii) making presentations or providing information to, and/or responding to enquiries from, brokers, portfolio investors, analysts and institutional lenders in the ordinary course of business, provided that such action does not result in a breach of any of Target's obligations under clause 10.2;

(iv) promoting the merits of one or both Transactions;

(v) providing any information to the Target Group's customers, financiers (and/or potential financiers), joint venture partners, suppliers, other contractual counterparties or Target Shareholders in the ordinary course of business;

(vi) instructing, providing information to or receiving advice from its Representatives;

(vii) providing any information to any Government Agency;

(viii) providing any information to its auditor; or

(ix) providing any information required to be provided by any applicable law (including to fulfil Target's continuous disclosure and other obligations under the ASX Listing Rules).

(b) Notwithstanding anything else in this clause 10, no action taken or not taken (or omitted to refused to be taken) by Mr Kenichi Seshimo, non-executive Target Director and Representative of Bidder, or any other Target Director that is a nominee of Bidder or another Bidder Group Member from time to time (including the J-POWER Nominee Director), (**Bidder Nominee**) whether in their personal capacity or on behalf (or purported to be on behalf) of a Target Group Member or the Target Board, that would, but for this clause 10.9(b), be, constitute or result in a breach by Target of an obligation or representation or warranty under clause 10.1, 10.2, 10.3, 10.4, 10.6 or 10.7 will be deemed to be, constitute or result in a breach by Target of that obligation or representation or warranty (and will be disregarded for the purpose of assessing the operation of any such clause (and/or clause 10.5 or 10.6)).

11 Break Fee

11.1 Background

(a) Bidder and Target each acknowledge that Bidder has incurred, and will further incur, significant costs in connection with the Transactions (including those costs described in clause 11.4), which will include significant opportunity costs if either of the Transactions are not implemented.

(b) Target and Bidder acknowledge that, in the circumstances described in clause 11.1(a), Bidder has requested that provision be made for the payment of the Break Fee by Target in accordance with this clause 11, without which Bidder would not have entered into this deed and or agreed to assist Target to implement the Transactions.

(c) Target confirms that the Target IBC believes, having taken advice from its external legal advisers, that the implementation of either Transaction will provide significant benefits to Target and Target Shareholders, that consistent with clause 11.4 the Break Fee represents a genuine and reasonable pre-estimate of costs that would be incurred by Bidder if the Transactions are not implemented, and that it is reasonable and appropriate for Target to agree to the Break Fee in accordance with this clause 11, and if required under this clause 11 to pay the Break Fee, in order to secure Bidder's participation in the Transactions.

11.2 Break Fee triggers

Subject to clauses 11.3 to 11.8 (inclusive), Target must pay to Bidder the Break Fee if any of the following events occur:

(a) if, at any time before:

(i) in the case of the Scheme Recommendation and the Scheme Voting Intention, the Effective Date; or

(ii) in the case of the Takeover Recommendation and Takeover Acceptance Intention:

(A) if Bidder has complied with its obligations under clause 2.3(b)(ii)(B) and the end of the Offer Period has been extended to a date that is after the End Date, the end of the Offer Period; or

(B) otherwise, the earlier of the end of the Offer Period and the End Date,

any Target IBC Member:

(iii) fails to recommend the Scheme or the Takeover Bid (as applicable), or to make a Scheme Voting Intention or Takeover Acceptance Intention statement, in the manner described in clause 9.1(b) or 9.1(c) (as applicable);

(iv) publicly withdraws, adversely changes, adversely modifies, adversely qualifies, or otherwise makes any public statement that is inconsistent with, his or her Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention (as applicable);

(v) makes any public statement:

(A) endorsing or recommending a Competing Proposal; or

(B) to the effect that he or she no longer supports the Scheme or the Takeover Bid (as applicable),

or makes any public statement to the effect that he or she may do so at a future point; or

(vi) votes any of that Target IBC Member's Target IBC Member Shares in favour of a Competing Proposal (or any of that Target IBC Member's Target IBC Member Shares are voted in favour of a Competing Proposal) or any of such Target IBC Member Shares are accepted into a Competing Proposal), or otherwise publicly states an intention to accept or to vote in favour of a Competing Proposal in respect of any Target IBC Member Shares,

provided that Bidder has terminated this deed in accordance with clause 15.3 except:

(vii) following the Independent Expert concluding in the Independent Expert's Report (or any update of, or revision, amendment or supplement to, the Independent Expert's Report) that:

(A) in the case of the Scheme, the Scheme Recommendation and the Scheme Voting Intention, the Scheme is:

(1) not in the best interests of Target Shareholders (other than Excluded Target Shareholders); or

(2) not fair and/or not reasonable to, but is in the best interests of, Target Shareholders (other than Excluded Target Shareholders); or

(B) in the case of the Takeover Bid, the Takeover Recommendation and the Takeover Acceptance Intention, the Takeover Bid is not fair and/or not reasonable,

in each case, except where the Independent Expert's opinion or conclusion is due wholly or partly to the existence or announcement of a Competing Proposal or a Superior Proposal;

(viii) where the failure to make a Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention, or the adverse change, withdrawal, adverse modification or adverse qualification of a Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention is permitted by clause 9.2(c); or

(ix) in circumstances where Target is entitled to terminate this deed under clause 15.1(b) or clause 15.2(b),

provided that, for the avoidance of doubt, a statement made by Target, the Target IBC or any Target IBC Member: (A) to the effect that no action should be taken by Target Shareholders pending the assessment of a Competing Proposal by the Target IBC; or (B) permitted by clause 10.7(a) will not, by that statement alone, require Target to pay the Break Fee to Bidder;

(b) a Competing Proposal is publicly announced (whether or not such Competing Proposal is subject to any pre-conditions) at any time before the expiry of the Exclusivity Period and, within 12 months after that occurring, the Competing Bidder that made the Competing Proposal (either alone or together with one or more of its Associates):

(i) completes a transaction of the kind referred to in paragraph (a) of the definition of Competing Proposal, other than where the Competing Bidder's acquisition of a Relevant Interest in more than 20% of the aggregate number of Target Shares on issue:

(A) has occurred solely as a result of a Substantial Holder acquiring a Relevant Interest in Target Shares in reliance on section 611, item 9 of the Corporations Act, without: (I) the Target making an issue of new Target Shares after the date of this deed to the Competing Bidder (and/or its Associates) under the Competing Proposal; or (II) the Target IBC supporting, recommending or endorsing, or Target assisting, the Competing Bidder (and/or its Associates) in respect of the Competing Proposal; or

(B) has occurred as a result of the transaction the subject of the Competing Proposal being a takeover bid under Chapter 6 of the Corporations Act provided that: (I) such takeover bid is not declared, or otherwise does not become, unconditional during that 12-month period; and (II) the Competing Bidder (and/or its Associates) has (or

have) not, and the Competing Proposal has not, been supported, recommended or endorsed by the Target IBC or Target;

(ii) completes a transaction of the kind referred to in paragraphs (b), (c) or (d) of the definition of Competing Proposal; or

(iii) without limiting clause 11.2(b)(i) and 11.2(b)(ii), otherwise acquires a Relevant Interest in, or becomes the holder of, or otherwise acquires, directly or indirectly, more than 50% of Target Shares and that acquisition is (or becomes) unconditional;

(c) Bidder has terminated this deed under clause 15.1(b) and at the time of such termination neither Transaction has completed;

(d) Bidder has terminated this deed under clause 15.2(a) and at the time of such termination neither Transaction has completed; or

(e) Bidder has terminated this deed under clause 15.3(b) and at the time of such termination neither Transaction has completed.

11.3 Payment of Break Fee

(a) A demand by Bidder for payment of the Break Fee under clause 11.2 must:

(i) be in writing;

(ii) be made after the occurrence of the event in that clause giving rise to the right to the payment of the Break Fee;

(iii) state the circumstances which give rise to the demand; and

(iv) nominate an account in the name of Bidder or another Bidder Group Member into which Target is to pay the Break Fee.

(b) Target must pay the Break Fee into the account nominated by Bidder, without set-off or withholding, within 10 Business Days after receiving a demand for payment under clause 11.3(a) where Bidder is entitled to the Break Fee under clause 11.2 (for the avoidance of doubt, Target may be required to pay the Break Fee at an earlier time if Target terminates this deed in accordance with the provisions of clause 15.4).

11.4 Nature of Break Fee

Target and Bidder acknowledge and agree that the amount of the Break Fee has been calculated as an amount to compensate Bidder for the following costs and expenses:

(a) fees for legal, financial and other professional advice in connection with planning and implementing the Transactions (excluding success fees);

(b) reasonable opportunity costs incurred in engaging in the Transactions or in not engaging in other alternative acquisitions or strategic initiatives;

(c) costs of management and directors' time in planning and implementing the Transactions;

(d) out of pocket expenses incurred by Bidder in planning and implementing the Transactions;

(e) costs associated with the financing arrangements in respect of the Transactions; and

(f) any damage to Bidder's reputation associated with a failed transaction and the implications of that change to the Bidder's business,

in each case, incurred by Bidder directly or indirectly as a result of having entered into this deed and pursuing the Transactions, and Target and Bidder agree that:

(g) the costs actually incurred by Bidder will be of such a nature that they cannot all be accurately ascertained; and

(h) the Break Fee is a genuine and reasonable pre-estimate of those costs.

11.5 Compliance with law

(a) This clause 11 imposes obligations on Target only to the extent that the performance of all or part of those obligations:

(i) does not constitute “unacceptable circumstances” as declared by the Takeovers Panel; and

(ii) is not determined to be unenforceable or unlawful (including by virtue of it being a breach of the fiduciary or statutory duties of any Target IBC Member) by a court of competent jurisdiction.

(b) If:

(i) clause 11.5(a)(i) or clause 11.5(a)(ii) applies; and

(ii) the Takeovers Panel or a court of competent jurisdiction (as applicable) determines that an amount lower than the Break Fee does not constitute unacceptable circumstances or is not unenforceable or a breach of applicable law (as applicable) (**Permitted Break Fee Amount**),

then:

(iii) Target shall be required to pay the Permitted Break Fee Amount in accordance with clause 11.2; and

(iv) if the Break Fee has already been paid to Bidder, Bidder must refund an amount equal to the difference between the Break Fee and the Permitted Break Fee Amount to Target within 10 Business Days after receipt of a written demand from Target.

(c) Each of Bidder and Target must not make, or cause or permit to be made, any application to the Takeovers Panel or a court for or in relation to a declaration or determination referred to in clause 11.5(a).

11.6 Break Fee payable only once

Without limiting clause 11.7:

(a) Target can only ever be liable to pay the Break Fee once; and

(b) where the Break Fee becomes payable to Bidder under this clause 11 and is actually paid to Bidder, Bidder cannot make any claim against Target for payment of any subsequent Break Fee.

11.7 Exclusive remedy and limitation of liability

(a) Despite anything to the contrary in this deed (but subject to clauses 11.7(b), 11.7(c) and 11.7(e)), if:

(i) Target pays the Break Fee to Bidder in accordance with this clause 11 after receipt of a written demand from Bidder under clause 11.3(a); or

(ii) the Break Fee would be payable if Bidder made a written demand under clause 11.3(a),

then:

(iii) Bidder cannot make any Claim against Target or the other Target Indemnified Parties in relation to any event or occurrence referred to in clause 11.2; and

(iv) Target has no further liability to Bidder (or any Bidder Group Member) under or in connection with this deed, the Transactions, the Scheme or the Takeover Bid (including, but not limited to, for any Claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising in connection with this deed, the Transactions, the Scheme or the Takeover Bid).

(b) Nothing in clauses 11.7(a) or 11.7(d) in any way prevents either party (in its own right or as trustee for another person or entity, as the case may be under this deed) from seeking orders from a court of competent jurisdiction for the specific performance by the other party of its obligations under this deed or for injunctive relief in respect of any breach or threatened breach of this deed.

(c) Without limiting clause 11.7(b), Target acknowledges and agrees that monetary damages may not be a sufficient remedy for a breach of this deed by Target and that specific performance, injunctive relief or any other remedies that would otherwise be available in equity or law are available as a remedy for a breach or threatened breach of this deed by Target, notwithstanding the ability of Bidder to demand payment of the Break Fee under this clause 11 and the other provisions of this clause 11.

(d) Subject to clauses 11.7(b), 11.7(c) and 11.7(e):

(i) the maximum aggregate liability of Target (and the Target Group) under or in connection with this deed (including, but not limited to, for any and all Claims, actions, damages, losses, liabilities, costs, expenses or payments of whatever nature and however arising in connection with this deed) is the Break Fee; and

(ii) in no event will the aggregate liability of Target (and the Target Group) under or in connection with this deed (including, but not limited to, for any and all Claims, actions, damages, losses, liabilities, costs, expenses or payments of whatever nature and however arising in connection with this deed) or in connection with the Transactions, the Scheme or the Takeover Bid exceed the Break Fee.

(e) Clause 11.7(d) will not apply to:

(i) any order of a court of competent jurisdiction for (A) the specific performance by Target of its obligations under this deed or (B) injunctive relief in respect of any breach or threatened breach of this deed by Target; or

(ii) any Claim made by Bidder for or in respect of a breach of this deed by Target, or failure by Target to perform its obligations under this deed (including its obligations to procure that other Target Group Members, Representatives of Target Group Members or Target IBC Members do or do not make certain statements or take certain actions), where such breach or failure arises as a result of the wilful or intentional breach of this deed by Target, or the fraud of any Target Group Member or a Target Indemnified Party (and, for the avoidance of doubt, the amount of any loss or damage caused by the wilful or intentional breach of this deed by Target, or the fraud of any Target Group Member or a Target Indemnified Party, for or in respect of which such a Claim has been made shall be deemed to be reduced by the amount of any Break Fee actually paid to Bidder under this clause 11).

11.8 No Break Fee payable in certain circumstances

(a) Despite anything to the contrary in this deed, the Break Fee will not be payable to Bidder if:

(i) the Scheme becomes Effective;

(ii) Bidder becomes the holder of a Relevant Interest in at least 50.1% of the Target Shares on issue and the Offer has been declared or has otherwise become unconditional; or

(iii) at the time that the Break Fee becomes payable under this clause 11:

(A) Target was entitled to terminate this deed under:

(1) clause 15.1(b);

(2) clause 15.1(c)(i) or clause 15.1(c)(ii) in circumstances where the Takeover Bid Condition in clause 7(a) (Takeover Bid Transaction FIRB Approval) of Schedule 2 has not been satisfied or fulfilled (or has become incapable of being satisfied or fulfilled) prior to the End Date; or

(3) clause 15.2(b),

and has given the appropriate termination notice to Bidder; or

(B) either party has terminated this deed under clause 3.5 as a result of a breach or non-fulfilment before the End Date of the Scheme Condition in clause 3.1(g) (Scheme Transaction FIRB approval) (or where that Scheme Condition has become incapable of satisfaction or being fulfilled before the End Date). For the avoidance of doubt, and by way of example, this clause 11.8(a)(iii)(B) will not apply if a party has terminated this deed under clause 3.5 because of a breach of another

Scheme Condition and at the time of such breach the application for the FIRB Approval is still being considered by FIRB.

(b) If clause 11.8(a) applies, any amount or part of the Break Fee that has already been paid to Bidder must be refunded by Bidder:

(i) where clause 11.8(a)(i) applies, within 10 Business Days after the Scheme becomes Effective;

(ii) where clause 11.8(a)(ii) applies, within 10 Business Days after the Bidder becomes the holder of a Relevant Interest in at least 50.1% of the Target Shares on issue and the Offer has been declared or has otherwise become unconditional; or

(iii) where clause 11.8(a)(iii) applies, within 10 Business Days after the date Target gave Bidder the relevant termination notice referred to in clause 11.8(a)(iii).

12 Reverse Break Fee

12.1 Background to Reverse Break Fee

(a) Target and Bidder acknowledge that Target has incurred, and will further incur, significant costs in connection with the Transactions (including those costs described in clause 12.4), which will include significant opportunity costs if the Transactions are not implemented.

(b) Target and Bidder acknowledge that, in the circumstances described in clause 12.1(a), Target has requested that provision be made for the payment of the Reverse Break Fee by Bidder in accordance with this clause 12, without which Target would not have entered into this deed and or agreed to implement the Scheme or assist Bidder in making the Takeover Bid.

(c) Bidder confirms that it believes, having taken advice from its external legal advisers, that the implementation of either Transaction will provide significant benefits to Bidder, that consistent with clause 12.4 the Reverse Break Fee represents a genuine and reasonable pre-estimate of costs that would be incurred by Target if the Transactions are not implemented, and that it is reasonable and appropriate for Bidder to agree to the Reverse Break Fee in accordance with this clause 12, and if required under this clause 12 to pay the Reverse Break Fee, in order to secure Target's participation in the Transactions.

12.2 Reverse Break Fee triggers

Subject to clauses 12.3 to 12.7 (inclusive), Bidder must pay to Target the Reverse Break Fee if any of the following events occur:

(a) Target has terminated this deed pursuant to clause 15.1(b) or clause 15.2(b);

(b) the Scheme becomes Effective but Bidder does not pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll; or

(c) the Offer has been declared or has otherwise become unconditional and Bidder does not provide the Takeover Bid Consideration to Target Shareholders that have accepted the Offer in accordance with the Takeover Bid Terms.

12.3 Payment of Reverse Break Fee

(a) A demand by Target for payment of the Reverse Break Fee under clause 12.2 must:

(i) be in writing;

(ii) be made after the occurrence of the event in clause 12.2 giving rise to the right to payment of the Reverse Break Fee;

(iii) state the circumstances which give rise to the demand; and

(iv) nominate an account in the name of Target or another Target Group Member into which Bidder is to pay the Reverse Break Fee.

(b) Bidder must pay the Reverse Break Fee into the account nominated by Target, without set-off or withholding, within 15 Business Days after receiving a demand for payment under clause 12.3(a) where Target is entitled to the Reverse Break Fee under clause 12.2.

12.4 Nature of Reverse Break Fee

Bidder and Target acknowledge and agree that the amount of the Reverse Break Fee has been calculated as an amount to compensate Target for the following costs and expenses:

(a) fees for legal, financial and other professional advice in connection with planning and implementing the Transactions (excluding success fees);

(b) reasonable opportunity costs incurred in engaging in the Transactions or in not engaging in other alternative acquisitions or strategic initiatives;

(c) costs of management and directors' time in planning and implementing the Transactions;

(d) out of pocket expenses incurred by Target in planning and implementing the Transactions; and

(e) any damage to Target's reputation associated with a failed transaction and the implications of that damage to Target's business,

in each case, incurred by Target directly or indirectly as a result of having entered into this deed and pursuing the Transactions, and Bidder and Target agree that:

(f) the costs actually incurred by Target will be of such a nature that they cannot all be accurately ascertained; and

(g) the Reverse Break Fee is a genuine and reasonable pre-estimate of those costs.

12.5 No application to Takeovers Panel or court

Each of Bidder and Target must not make, or cause or permit to be made, any application to the Takeovers Panel or a court for or in relation to a declaration or determination that the Reverse Break Fee is invalid or unenforceable.

12.6 Reverse Break Fee payable only once

Without limiting clause 12.7:

(a) Bidder can only ever be liable to pay the Reverse Break Fee once; and

(b) where the Reverse Break Fee becomes payable to Target under clause 12.2 and is actually paid to Target, Target cannot make any claim against Bidder for payment of any subsequent Reverse Break Fee.

12.7 Exclusive remedy and limitation of liability

(a) Despite anything to the contrary in this deed (but subject to clauses 12.7(b), 12.7(c), 12.7(e) and 12.7(f)), if:

(i) Bidder pays the Reverse Break Fee to Target in accordance with this clause 12 after receipt of a written demand from Target under clause 12.3(a); or

(ii) the Reverse Break Fee would be payable if Target made a written demand under clause 12.3(a),

then:

(iii) Target cannot make any Claim against Bidder or the Bidder Indemnified Parties in relation to any event or occurrence referred to in clause 12.2; and

(iv) Bidder has no further liability to Target (or any Target Group Member) under or in connection with this deed, the Transactions, the Scheme or the Takeover Bid (including, but not limited to, for any Claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising in connection with this deed, the Transactions, the Scheme or the Takeover Bid).

(b) Nothing in clause 12.7(a) or 12.7(d) in any way prevents either party (in its own right or as trustee for another person or entity, as the case may be under this deed) from seeking orders from a court of competent jurisdiction for the specific performance by the other party of its obligations under this deed or for injunctive relief in respect of any breach or threatened breach of this deed.

(c) Without limiting clause 12.7(b), Bidder acknowledges and agrees that monetary damages may not be a sufficient remedy for a breach of this deed by Bidder and that specific performance, injunctive relief or any other remedies that would otherwise be available in equity or law are available as a remedy for a breach or threatened breach of this deed by Bidder, notwithstanding the ability of Target to demand payment of the Reverse Break Fee under this clause 12 and the other provisions of this clause 12.

(d) Subject to clauses 12.7(b), 12.7(c), 12.7(e) and 12.7(f):

(i) the maximum aggregate liability of Bidder (and the Bidder Group) under or in connection with this deed (including, but not limited to, for any and all Claims, actions, damages, losses, liabilities, costs, expenses or payments of whatever nature and however arising in connection with this deed) is the Reverse Break Fee; and

(ii) in no event will the aggregate liability of Bidder (and the Bidder Group) under or in connection with this deed (including, but not limited to, for any and all

Claims, actions, damages, losses, liabilities, costs, expenses or payments of whatever nature and however arising in connection with this deed) or in connection with the Transactions, the Scheme or the Takeover Bid exceed the Reverse Break Fee.

(e) Clause 12.7(d) will not apply to:

(i) any order of a court of competent jurisdiction for: (A) the specific performance by Bidder of its obligations under this deed; or (B) injunctive relief in respect of any breach or threatened breach of this deed by Bidder; or

(ii) any Claim made by Target for or in respect of a breach of this deed by Bidder, or failure by Bidder to perform its obligations under this deed (including its obligations to procure that other Bidder Group Members and Representatives of Bidder Group Members do or do not take certain actions), where such breach or failure arises as a result of the wilful or intentional breach of this deed by Bidder, or the fraud of any Bidder Group Member or a Bidder Indemnified Party (and, for the avoidance of doubt, the amount of any loss or damage caused by the wilful or intentional breach of this deed by Bidder, or the fraud of any Bidder Group Member or a Bidder Indemnified Party, for or in respect of which such a Claim has been made shall be deemed to be reduced by the amount of any Reverse Break Fee actually paid to Target under this clause 12).

(f) Nothing in clause 12.7(a) or otherwise in this deed will limit Bidder's liability under or in connection with a breach of clause 5.2 of this deed or the Deed Poll.

13 Representations and Warranties

13.1 Bidder Representations and Warranties

Subject to clauses 13.5 and 13.9, Bidder represents and warrants to Target (in its own right and separately as trustee or nominee for each Target Indemnified Party) that each Bidder Representation and Warranty is true and correct.

13.2 Bidder Indemnity

Bidder agrees with Target (in its own right and separately as trustee or nominee for each Target Indemnified Party) to indemnify Target and each of the Target Indemnified Parties against any Claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Target or any of the Target Indemnified Parties suffers, incurs or is liable for as a result of any breach of any of the Bidder Representations and Warranties.

13.3 Target Representations and Warranties

Subject to clauses 13.6 and 13.9, Target represents and warrants to Bidder (in its own right and separately as trustee or nominee for each Bidder Indemnified Party) that each Target Representation and Warranty is true and correct.

13.4 Target Indemnity

Subject to clause 13.6, Target agrees with Bidder (in its own right and separately as trustee or nominee for each Bidder Indemnified Party) to indemnify Bidder and each of the Bidder Indemnified Parties against any Claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Bidder or any of the

Bidder Indemnified Parties suffers, incurs or is liable for as a result of any breach of any of the Target Representations and Warranties.

13.5 Qualifications on Bidder Representations and Warranties

The Bidder Representations and Warranties made or given in clause 13.1 and the Bidder Indemnity are each subject to matters that:

(a) are, and only to the extent that they are, within the knowledge of Target as at the date of this deed (for this purpose, the knowledge that there is a risk of a matter occurring does not constitute knowledge that a matter will in fact occur);

(b) are expressly required or expressly permitted to be done or not done by the Bidder or another Bidder Group Member by this deed, the Scheme Transaction, the Takeover Bid Transaction or the transactions contemplated by any of these; or

(c) have been expressly agreed to in writing by Target.

13.6 Qualifications on Target Representations and Warranties

The Target Representations and Warranties made or given in clause 13.3 and the Target Indemnity are each subject to matters (other than to the extent to which they relate to actions that breach clause 7.4(k)) that:

(a) are expressly required or expressly permitted to be done or not done by a Target Group Member (including any action expressly required or expressly permitted to not be taken) by this deed, the Scheme Transaction, the Takeover Bid Transaction or the transactions contemplated by any of these;

(b) have, and only to the extent they have, been Fairly Disclosed in:

(i) the Disclosure Materials;

(ii) any written documents, written communications or other written materials provided by or on behalf of a Target Group Member to a Bidder Group Member (or a Representative of a Bidder Group Member) under an Existing J-POWER Agreement in the 12-month period ending on the date of this deed;

(iii) any announcement made by Target to ASX in the 24-month period ending on the date of this deed;

(iv) a publicly available document lodged with ASIC by or on behalf of Target or another Target Group Member (which would be disclosed in a search, conducted on the day 5 Business Days before the date of this deed, of ASIC's records that are open to public inspection) in the 24-month period ending on the day 5 Business Days before the date of this deed; or

(v) a publicly available document which would be disclosed in a search of:

(A) the PPS Register conducted on the Business Day before the date of this deed; or

(B) the following records open to public inspection:

(1) a search of the registry of each of Land Registry Services NSW and Titles Queensland (had the searches been conducted on 26 March 2024);

(2) a search of the registry of the High Court, the Federal Court, the Federal Circuit Court, and the Supreme Courts of New South Wales and Queensland, where those searches were conducted on 27 February 2024; or

(3) IP Australia, in respect of trade marks, where those searches were conducted five Business Days before the date of this deed,

in each case where the relevant searches are conducted against the names of the Target Group Members (as Fairly Disclosed in the Disclosure Materials);

(c) are, and only to the extent they are, within the knowledge of Bidder as at the date of this deed (for this purpose, the knowledge that there is a risk of a matter occurring does not constitute knowledge that a matter will in fact occur);

(d) have been expressly agreed to in writing by Bidder or specifically requested by Bidder in writing;

(e) are required by any applicable law, binding regulation, binding order or binding direction of a Government Agency.

13.7 Survival of Representations and Warranties

Subject to clauses 13.5 and 13.6 (as applicable), each Representation and Warranty given or made under clause 13.1 or 13.3 (as applicable):

(a) is severable;

(b) survives the termination of this deed;

(c) subject to this deed, is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed;

(d) is to be construed independently of all other Representations and Warranties; and

(e) is not limited by any other Representation and Warranty.

13.8 Survival of indemnities

Subject to clauses 13.5 and 13.6 (as applicable), each indemnity in this deed (including those in clauses 13.2 and 13.4):

(a) is severable;

(b) is a continuing obligation;

(c) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and

(d) survives the termination of this deed.

13.9 Timing of Representations and Warranties

(a) Each Representation and Warranty given or made under clause 13.1 or clause 13.3 (as applicable) is given:

(i) at the date of this deed;

(ii) at the date of despatch of the Transaction Booklet to the applicable Target Shareholders;

(iii) at the date of the Scheme Meeting;

(iv) at the Delivery Time;

(v) immediately before the time at which the Takeover Bid is declared or otherwise becomes unconditional; and

(vi) immediately before the end of the Offer Period,

except that:

(vii) if a Representation and Warranty is expressed to be given at, or in respect of, a particular time, it is given only at that time; and

(viii) for the avoidance of doubt, a Representation and Warranty that is expressed to be given "as at the date of this deed" is only given as at the date of this deed.

(b) For the purposes of clause 13.9(a), a Representation and Warranty shall be read with any necessary adjustments to the tense used in the Representation and Warranty.

14 Releases, deeds of access, indemnity and insurance and D&O Run-off Policy

14.1 Release of Target Indemnified Parties

(a) Subject to clauses 14.1(b) and 14.1(c), Bidder releases any and all rights that it may have, and agrees with Target that it will not make any Claim, against any Target Indemnified Party (other than a Target Group Member) as at the date of this deed and from time to time in connection with:

(i) Target's execution and delivery of this deed;

(ii) any breach of any:

(A) covenant, representation or warranty given by Target under this deed (including, but not limited to, a Target Representation and Warranty); or

(B) obligation of Target under this deed, the Scheme or the Takeover Bid;

(iii) the implementation of the Scheme or the Takeover Bid;

(iv) any disclosures containing any statement which is false or misleading (whether by omission or otherwise) in connection with the Scheme or the Takeover Bid; or

(v) any failure to provide information in connection with the Scheme or the Takeover Bid,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Target Indemnified Party has engaged in fraud or wilful concealment or wilful misconduct.

(b) To avoid doubt, nothing in clause 14.1(a):

(i) limits the rights of Bidder to terminate this deed under clause 15; or

(ii) limits, or constitutes a release or waiver of, any obligation, right or Claim arising under an Existing J-POWER Agreement.

(c) The releases in clauses 14.1(a) are subject to any restriction imposed by law (including, but not limited to, the Corporations Act) and will be read down to the extent that any such restriction applies.

(d) Target receives and holds the benefit of this clause 14.1 to the extent that they relate to each relevant Target Indemnified Party as trustee or nominee for that Target Indemnified Party.

14.2 Release of Bidder Indemnified Parties

(a) Subject to clauses 14.2(b) and 14.2(c), Target releases any and all rights that it may have, and agrees with Bidder that it will not make any Claim, against any Bidder Indemnified Party (other than Bidder and, if applicable, the Bidder Subsidiary) as at the date of this deed and from time to time in connection with:

(i) Bidder's execution and delivery of this deed;

(ii) any breach of any:

(A) covenant, representation or warranty given by Bidder under this deed (including, but not limited to, a Bidder Representation and Warranty); or

(B) obligation of Bidder under this deed, the Scheme or the Takeover Bid;

(iii) the implementation of the Scheme or the Takeover Bid;

(iv) any disclosures containing any statement which is false or misleading (whether by omission or otherwise) in connection with the Scheme; or

(v) any failure to provide information in connection with the Scheme or the Takeover Bid,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Bidder Indemnified Party has engaged in fraud or wilful concealment or wilful misconduct.

(b) To avoid doubt, nothing in this clause 14.2:

(i) limits the rights of Target to terminate this deed under clause 15; or

(ii) limits, or constitutes a release or waiver of, any obligation, right or Claim arising under an Existing J-POWER Agreement.

(c) The release in clause 14.2(a) is subject to any restriction imposed by law (including, but not limited to, the Corporations Act) and will be read down to the extent that any such restriction applies.

(d) Bidder receives and holds the benefit of clause 14.2 to the extent that it relates to each other Bidder Indemnified Party (other than, if applicable, the Bidder Subsidiary) as trustee or nominee for that Bidder Indemnified Party.

14.3 Deeds of access, indemnity and insurance

(a) Subject to:

(i) the Scheme becoming Effective; or

(ii) the Bidder having acquired a Relevant Interest in at least 50.1% of the Target Shares on issue and the Offer having been declared or otherwise having become unconditional,

Bidder undertakes in favour of Target and each other person who is a Target Indemnified Party (other than a Target Group Member) that it will:

(iii) for a period of 7 years from the first to occur of the Implementation Date and the event described in clause 14.3(a)(ii), ensure that the constitutions of Target and each other Target Group Member continue to contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify (and keep indemnified) each of its directors and officers (including, but not limited to, any directors and officers in office on the date of this deed and/or at the time of the first of the events in either clause 14.3(a)(i) or 14.3(a)(ii)) occurring) against any liability incurred by that person in her or his capacity as a director or officer of the company to any person other than a Target Group Member; and

(iv) procure that Target and each other Target Group Member complies with any deeds of access, indemnity and insurance made by them in favour of their respective directors and officers from time to time (including, but not limited to, any directors and officers in office on the date of this deed and/or at the time of the first of the events in either clause 14.3(a)(i) or 14.3(a)(ii) occurring).

(b) Without limiting clause 14.3(a), Bidder acknowledges that, notwithstanding any other provision of this deed, Target may, at any time after execution of this deed, enter into arrangements to secure run-off directors' and officers' liability insurance that covers claims made in a period of up to 7 years from the first of the events in either clause 14.3(a)(i) or 14.3(a)(ii) occurring (**D&O Run-off Policy**), provided that:

(i) the scope of cover of the D&O Run-off Policy is on the same or substantially the same terms (except in respect of the premium) as the directors' and officers' liability insurance policies in place for the benefit of directors or officers of Target and other Target Group Members at the date of this deed;

(ii) Target must use reasonable endeavours to obtain the most attractive commercial terms for the D&O Run-off Policy reasonably available from a reputable insurer, including by engaging a reputable insurance broker to obtain quotes and/or proposals from insurers in respect of the D&O Run-off Policy;

(iii) Target, in entering into arrangements to secure the D&O Run-off Policy with an insurer recommended by such reputable insurance broker and selected by Target, acts in good faith and reasonably, having regard to the insurer's proposed terms in respect of the D&O Run-off Policy (including in respect of the premium) and, if Target does so, it will be taken to have complied with its obligations under clause 14.3(b)(ii) above; and

(iv) the premium for the D&O Run-off Policy must not exceed the amount agreed between the parties in writing in the Disclosure Letter.

(c) The undertakings contained in clause 14.3(a) are subject to any Corporations Act restriction or any restriction in the law of a jurisdiction in which the relevant Target Group Member is incorporated, and will be read down accordingly.

(d) Target receives and holds the benefit of clause 14.3(a), to the extent it relates to any other relevant Target Indemnified Parties, as trustee for them.

15 Termination

15.1 Termination by either party

(a) Either party may terminate this deed in the circumstances set out in and in accordance with clause 3.5 (provided that the party purporting to terminate this deed under clause 3.5 has first complied with its applicable obligations under clause 3.5).

(b) Without prejudice to any other rights of termination under this deed:

(i) subject to clause 15.1(b)(ii), either party may terminate this deed at any time if the other party commits a breach of this deed (other than a breach of a Representation and Warranty (which is dealt with in clause 15.2 below) or a breach of this deed with respect to a Target Regulated Event (which is dealt with in clause 15.3(b))) that is, alone or together with any other such breaches that have occurred, material in the context of the Scheme (taken as a whole) or the Takeover Bid (taken as a whole), provided that:

(A) it has given written notice to the other party setting out the relevant circumstances and stating an intention to terminate this deed; and

(B) the relevant breach has not been remedied within 10 Business Days from the time such notice is given (or any shorter period ending at 5:00pm (Sydney time) on the Business Day before the Second Court Date or the end of the Offer Period (as applicable)); and

(ii) notwithstanding anything in clause 15.1(b)(i), neither Target nor Bidder may issue a notice to the other under clause 15.1(b)(i)(A), or terminate this deed under clause 15.1(b)(i), if the Court Approval Condition has been satisfied or fulfilled or the Scheme has become Effective.

Termination of this deed under this clause 15.1(b) will take effect at the expiry of the period referred to in clause 15.1(b)(i)(B).

For the purposes of this clause, the parties acknowledge and agree that any breach of clause 7.4(k) will be deemed to be a breach of this deed by Target that is alone material in the context of the Scheme (taken as a whole) or the Takeover Bid (taken as a whole).

(c) Without limiting clauses 3.5, 15.1(a) and 15.1(b), either party may terminate this deed by written notice to the other party if there has been a breach or non-fulfilment of the Scheme Condition in clause 3.1(a) (Target Shareholder Approval) or the Court Approval Condition, or either of those Scheme Conditions becomes incapable of satisfaction or being fulfilled before the End Date (and no party entitled to give the other party a Consultation Notice in respect of the relevant Scheme Condition under clause 3.5(a) has given such Consultation Notice), and:

(i) Bidder subsequently withdraws the Takeover Bid (or publicly states its intention to withdraw the Takeover Bid, whether or not such intention to withdraw the Takeover Bid is stated to be subject to the consent or approval of ASIC) or the Takeover Bid lapses for any reason (including the non-satisfaction or non-fulfilment of a Takeover Bid Condition); or

(ii) as at:

(A) if Bidder has complied with its obligations under clause 2.3(b)(ii)(B) and the Offer Period has been extended to a date that is after the End Date, the end of the Offer Period; or

(B) otherwise, the earlier to occur of the End Date and the end of the Offer Period,

Bidder has not acquired a Relevant Interest in 50.1% or more of the Target Shares on issue and the Offer has not been declared or has not otherwise become unconditional.

15.2 Termination for breach of Representation and Warranty

(a) Subject to clause 15.2(c), Bidder may, at any time before the later to occur of the Delivery Time and the close of the Offer Period, terminate this deed if a breach of a Target Representation and Warranty occurs, but only if:

(i) Bidder has given written notice to Target setting out, to the extent known to Bidder, the relevant facts, matters and circumstances that gave rise to the relevant breach and stating an intention to terminate this deed if the breach is not remedied;

(ii) the relevant breach continues to subsist 10 Business Days (or any shorter period ending at 5:00pm (Sydney time) on the Business Day before the Second Court Date or the end of the Offer Period (as applicable)) after the date on which the notice is given under clause 15.2(a)(i); and

(iii) the relevant breach is, alone or together with any other such breaches that have occurred, material in the context of the Scheme (taken as a whole) or the Takeover Bid (taken as a whole).

(b) Subject to clause 15.2(c), Target may, at any time before the later to occur of the Delivery Time and the close of the Offer Period, terminate this deed if a breach of a Bidder Representation and Warranty occurs, but only if:

(i) Target has given written notice to Bidder setting out, to the extent known to Target, the relevant facts, matters and circumstances that gave rise to the relevant breach and stating an intention to terminate this deed if the breach is not remedied;

(ii) the relevant breach continues to subsist 10 Business Days (or any shorter period ending at 5:00pm (Sydney time) on the Business Day before the Second Court Date or end of the Offer Period (as applicable)) after the date on which the notice is given under clause 15.2(b)(i); and

(iii) the relevant breach is, alone or together with any other such breaches that have occurred, material in the context of the Scheme (taken as a whole) or the Takeover Bid (taken as a whole).

(c) Notwithstanding anything in clause 15.2(a) or clause 15.2(b), neither Bidder nor Target may issue a notice to the other under clause 15.2(a)(i) or clause 15.2(b)(i) (as applicable), or terminate this deed under clause 15.2(a) or clause 15.2(b) (as applicable), if the Court Approval Condition has been satisfied or fulfilled or the Scheme has become Effective.

15.3 Termination by Bidder

(a) Subject to clause 15.3(c), Bidder may terminate this deed, with immediate effect, at any time before the later to occur of the Delivery Time and the end of the Offer Period by notice in writing to Target, if in any circumstances (including where clause 9.2 applies), any Target IBC Member:

(i) fails to recommend the Scheme or the Takeover Bid, or to make a Scheme Voting Intention or Takeover Acceptance Intention statement, in the manner described in clause 9.1(b) or 9.1(c) (as applicable);

(ii) publicly withdraws, adversely changes, adversely modifies or adversely qualifies, or otherwise makes any public statement that is inconsistent with, his or her Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention;

(iii) makes any public statement:

(A) supporting, endorsing or recommending a Competing Proposal; or

(B) to the effect that he or she no longer supports the Scheme or the Takeover Bid,

or makes any public statement to the effect that he or she may do so at a future point; or

(iv) votes any of that Target IBC Member's Target IBC Member Shares in favour of a Competing Proposal (or any of that Target IBC Member's Target IBC Member Shares are voted in favour of a Competing Proposal) or any of such Target IBC Member Shares are accepted into a Competing Proposal, or otherwise publicly states an intention to accept or to vote in favour of a Competing Proposal in respect of any Target IBC Member Shares,

for any reason and whether or not permitted to do so under this deed, other than:

(v) a statement made by Target, the Target IBC or any Target IBC Member:

(A) to the effect that no action should be taken by Target Shareholders pending the assessment of a Competing Proposal by the Target IBC; or

(B) permitted by clause 10.7(a); or

(vi) where the failure to make a Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention or the adverse change, withdrawal, adverse modification or adverse qualification of a Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention is permitted by clause 9.2(c).

(b) Subject to clause 15.3(c), Bidder may terminate this deed, with immediate effect, at any time before the later to occur of the Delivery Time and the end of the Offer Period by notice in writing to Target if:

(i) a Target Regulated Event has occurred;

(ii) Bidder has given written notice to Target setting out, to the extent known to Bidder, the relevant facts, matters and circumstances that gave rise to the occurrence of the Target Regulated Event and stating an intention to terminate this deed if the Target Regulated Event continues to subsist;

(iii) the Target Regulated Event continues to subsist 10 Business Days (or any shorter period ending at 5:00pm (Sydney time) on the Business Day before the Second Court Date or end of the Offer Period (as applicable) after the date on which the notice is given under clause 15.3(b)(ii); and

(iv) the Target Regulated Event is, alone or together with any other such Target Regulated Events that have occurred, material in the context of the Scheme (taken as a whole) or the Takeover Bid (taken as a whole). For the avoidance of doubt, the occurrence of a Target Regulated Event as set out in paragraph (f) (Net Debt) of Schedule 6, which continues to subsist as at the date determined under clause 15.3(b)(iii) in respect of such Target Regulated Event, shall be deemed to be material in the context of the Scheme (taken as a whole) and the Takeover Bid (taken as a whole).

(c) Notwithstanding anything in clause 15.3(a) or clause 15.3(b), Bidder is not entitled to terminate this deed under clause 15.3(a) or clause 15.3(b) if the Court Approval Condition has been satisfied or fulfilled or the Scheme has become Effective.

15.4 Termination by Target

Target may terminate this deed with immediate effect at any time before the later to occur of the Delivery Time and the end of the Offer Period by notice in writing to Bidder, if the Target IBC or such number of Target IBC Members as constitutes a majority of the Target IBC:

(a) fails to recommend the Scheme or the Takeover Bid, or to make a Scheme Voting Intention or Takeover Acceptance Intention statement, in the manner described in clause 9.1(b) or 9.1(c) (as applicable);

(b) publicly withdraws, adversely changes, adversely modifies or adversely qualifies his or her Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention; or

(c) makes any public statement:

(i) supporting, endorsing or recommending a Competing Proposal; or

(ii) to the effect that he or she no longer supports the Scheme,

in each case:

(d) following;

(i) the Target having received, other than as a result of a breach of clauses 10.2, 10.3 or 10.4, a Competing Proposal and the Target IBC having determined, after the procedures in clauses 10.5 and 10.7 have been complied with, that the Competing Proposal is a Superior Proposal; or

(ii) the Independent Expert having concluded in the Independent Expert's Report (or any update of, or revision, amendment or supplement to, the Independent Expert's Report) that:

(A) in respect of the Scheme Recommendation and the Scheme Voting Intention:

(1) the Scheme is not in the best interests of Target Shareholders (other than Excluded Target Shareholders); or

(2) the Scheme is not fair and/or not reasonable to, but is in the best interests of, Target Shareholders (other than Excluded Target Shareholders); or

(B) in respect of the Takeover Recommendation and the Takeover Acceptance Intention, the Takeover Bid is not fair and/or not reasonable; and

(e) provided that, if it is required to do so under clause 11 (or would be required to do so but for and excepting the requirement in clause 11.2(a) regarding the Bidder having terminated this deed in accordance with clause 15.3, and notwithstanding that a written demand for payment of the Break Fee has not been made by Bidder under clause 11.3), the Target has paid the Break Fee in accordance with clause 11; and

(f) provided that Target is not entitled to terminate this deed under this clause 15.4 if the Court Approval Condition has been satisfied or fulfilled or the Scheme has become Effective.

15.5 Termination by written agreement

This deed may be terminated by the written agreement of the parties, on such terms as the parties agree.

15.6 Effect of termination

If this deed is terminated by either party under clause 3.5 or this clause 15, this deed will cease to have force and effect without any liability or obligation on the part of any party, except that:

(a) this clause 15.6 and clauses 1, 2.3(b)(ii), 3.3(e)(iv) (to the extent that it applies to the Takeover Bid Condition in clause 7(a) (Takeover Bid Transaction FIRB approval) of Schedule 2 only), 3.4(h), 3.4(i), 11, 12, 13.5 to 13.9 (inclusive), 14, 16, 17, 18 and 19, and Schedule 1, will survive termination; and

(b) each party will retain any rights and remedies it has or may have against the other party that accrued prior to termination, including any rights and remedies in respect of any past breach of this deed or (if applicable) in respect of the breach giving rise to termination (if applicable).

15.7 No other termination

Neither party may terminate or rescind this deed except as permitted under clause 3.5 or this clause 15.

16 Confidentiality

(a) Each party acknowledges and agrees that, subject to clause 16(b):

(i) it continues to be bound by the Confidentiality and Exclusivity Deed after the date of this deed for so long as the Confidentiality and Exclusivity Deed binds that party in accordance with its terms;

(ii) nothing in this deed derogates from the rights and obligations of Bidder and Target under the Confidentiality and Exclusivity Deed, provided that this deed prevails to the extent of any inconsistency between this deed and the Confidentiality and Exclusivity Deed; and

(iii) subject to subparagraphs (i) and (ii) above, the rights and obligations of the parties under the Confidentiality and Exclusivity Deed survive termination of this deed for so long as the Confidentiality and Exclusivity Deed binds a party in accordance with its terms.

(b) Each of Target and Bidder acknowledge and agree that, on and from the execution of this deed, without limiting or otherwise affecting any other provision of the Confidentiality and Exclusivity Deed, the representations and warranties given, and obligations of, Target under clause 7 (Exclusivity) of the Confidentiality and Exclusivity Deed are terminated and cease to apply (and all of Target's obligations under clause 7 (Exclusivity) of the Confidentiality and Exclusivity Deed are discharged). Nothing in this clause 16(b) affects any right or remedy that a party has against the other in connection with any breach of the Confidentiality and Exclusivity Deed before the execution of this deed.

17 Duty, costs and expenses

17.1 Duty

(a) Bidder:

(i) must pay all Duties (and any fines, penalties and interest with respect to Duties) in respect of this deed, the Scheme or the Takeover Bid and:

(A) any transaction effected under this deed, the Scheme, the Deed Poll or the Takeover Bid (including the transfer of Target Shares to Bidder under the Scheme or the Takeover Bid); and

(B) steps to be taken under this deed, the Scheme, the Deed Poll or the Takeover Bid; and

(ii) indemnifies Target (in its own right and separately as trustee or nominee for each Target Shareholder) against any liability arising from or in connection with any failure by it to comply with clause 17.1(a)(i).

(b) Target holds Bidder's obligations under clause 17.1(a)(ii) as trustee or nominee for each Target Shareholder.

17.2 Costs and expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this deed and the proposed, attempted or actual implementation of this deed and the Transactions.

18 GST

(a) Any consideration or amount payable under this deed, including any non-monetary consideration (as reduced in accordance with clause 18(e) if required) (**Consideration**) is exclusive of GST.

(b) If GST is or becomes payable on a Supply made under or in connection with this deed, an additional amount (**Additional Amount**) is payable by the party providing Consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.

(c) The Additional Amount payable under clause 18(b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice. However, the Additional Amount is only payable on receipt of a valid Tax Invoice.

(d) If for any reason (including, without limitation, the occurrence of an Adjustment Event) the amount of GST payable on a Supply made under or in connection with this deed (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 18(b):

(i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as applicable;

(ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and

(iii) the Supplier must notify the Recipient of the refund, credit or further amount within 10 Business Days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within 5 Business Days after receiving such notification, as applicable. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 10 Business Days after becoming aware of the occurrence of the Adjustment Event.

(e) Despite any other provision in this deed if an amount payable under or in connection with this deed (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred.

(f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.

(g) Any term starting with a capital letter in this clause 18 that is not defined in this clause 18 has the same meaning as the term has in the GST Law.

19 General

19.1 Notices

(a) A notice, consent, approval, waiver or other communication sent by a party under this deed (**Notice**) must be:

(i) in writing in English;

(ii) sent by an authorised representative of the sender; and

(iii) marked for the attention of the person named below,

and must be:

(iv) delivered by hand or sent by express post or commercial courier to the address set out below; or

(v) sent by email to the address set out below.

Bidder

Attention:	Mr Shigetaka Nojiri
Address:	15-1, Ginza 6-Chome, Chuo-ku, Tokyo 104-8165, Japan
Email:	Shigetaka_Nojiri@jpower.co.jp

with a copy (for information purposes only) to: Geread Dooley, Partner, MinterEllison (geread.dooley@minterellison.com) and Con Boulougouris, Partner, MinterEllison (c.boulougouris@minterellison.com)

Target

Attention:	Dr Ralph Craven, Non-Executive Chairman Ana Gomiero, General Counsel
Address:	Suite 12.03, Level 12, 35 Clarence Street, Sydney NSW 2000, Australia
Email:	ralph.craven@bigpond.com ag@genexpower.com.au

with a copy (for information purposes only) to: John Williamson-Noble, Partner, Gilbert + Tobin (JWilliamson-Noble@gtlaw.com.au) and Chris Morse, Partner, Gilbert + Tobin (CMorse@gtlaw.com.au)

(b) Subject to clause 19.1(c), a Notice is taken to be received:

(i) if delivered by hand or commercial courier, when it is delivered; and

(ii) in the case of delivery by express post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country);

(iii) if sent by email:

(A) when the sender receives an automated message confirming delivery; or

(B) one hour after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,

whichever happens first.

(c) If a Notice is taken to be received under clause 19.1(b):

(i) before 9:00am on a Business Day, it will be taken to be received at 9:00am on that Business Day; or

(ii) after 5:00pm on a Business Day or on a non-Business Day, it will be taken to be received at 9:00am on the next Business Day.

19.2 Governing law and jurisdiction

(a) This deed is governed by the law in force in New South Wales, Australia.

(b) Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

19.3 No representation or reliance

(a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.

(b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other person, except for any representation or inducement expressly set out in this deed.

19.4 No merger

The rights and obligations of the parties do not merge on implementation or completion of the Transactions. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transactions.

19.5 Waivers and consents

(a) Failure to exercise or enforce, a delay in exercising or enforcing, or the partial exercise or enforcement of any right (including a right to rely on this clause 19.5), power or remedy provided by law or under this deed by any party does not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.

(b) Any waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.

(c) No waiver of a breach of any term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.

(d) Except where this deed expressly provides otherwise, where the consent, approval or agreement of a party is required under this deed, such consent, approval or agreement may be given or withheld in that party's absolute discretion and (except where this deed expressly provides otherwise) a party is not required to act reasonably in giving or withholding any consent, approval or agreement or exercising any other right, power, authority, discretion or remedy, under or in connection with this deed. Except where this deed expressly provides otherwise, a party may (without any requirement to act reasonably) also impose conditions on the grant by it of any consent, approval or agreement, or any waiver or any right, power, authority, discretion or remedy, under or in connection with this deed. Any such conditions must be complied with by the party relying on the consent, approval, agreement or waiver (to the extent that the relevant party seeks to rely on the consent, approval, agreement or waiver).

(e) For the purpose of this clause 19.5, a 'waiver' includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

(f) Without limiting paragraphs (a) to (e) (inclusive) above, where the consent, approval or agreement of Target is required or may be given under this deed, that consent, approval or agreement (as the case may be) may not be given by a J-POWER Nominee Director, and any such consent, approval or agreement purported to be given by the J-POWER Nominee Director will be invalid and of no effect and may not be relied upon by Bidder, any other Bidder Group Member, or any of its or their Representatives.

19.6 Variation

This deed may only be varied by a document signed by or on behalf of each of the parties.

19.7 Assignment of rights

(a) A party may not assign, novate, declare a trust over or otherwise transfer or deal with any of its rights or obligations under this deed without the prior written consent of the other party or as expressly provided in this deed.

(b) A breach of clause 19.7(a) by a party shall be deemed to be breach that is material in the context of the Scheme (taken as a whole) or the Takeover Bid (taken as a whole) for the purposes of clause 15.1(b).

(c) Clause 19.7(b) does not affect the construction of any other part of this deed.

19.8 Further action

Each party will do all things and execute all further documents necessary to give full effect to this deed.

19.9 Entire agreement

Other than the Confidentiality and Exclusivity Deed (and subject, for the avoidance of doubt, to clause 19.12(b)), this deed supersedes all previous agreements, understandings, negotiations or deeds in respect of its subject matter and embodies the entire agreement between the parties in respect of that subject matter.

19.10 Severability

(a) If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction but only to the extent that it is void, unenforceable or illegal and provided that it will have full force and effect in any other jurisdiction. Where a provision (or any part thereof) is severed in a jurisdiction, the remainder of this deed will have full force and effect in that (and any other) jurisdiction.

(b) This clause 19.10 does not apply to any severance that alters the basic nature of this deed or is contrary to public policy.

19.11 No agency of partnership

Nothing in this deed is to be construed as constituting an agency, partnership, joint venture, or any other form of association between the parties in which one party may be liable for the acts or omissions of any other party. No party has the authority to incur any obligation or make any representation or warranty on behalf of, or to pledge the credit of, any other party.

19.12 Remedies cumulative

(a) The rights, powers and remedies provided to each party in this deed are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

(b) For the avoidance of doubt, nothing in this deed will be taken to amend, vary, limit, waive or otherwise affect the rights or obligations of any parties to an Existing J-POWER Agreement (including in relation to the enforcement of any security interests under an Existing J-POWER Agreement), and the parties acknowledge and agree that:

(i) there is nothing in this deed that restricts Bidder or any other Bidder Group Member, or any Representative of a Bidder Group Member, from taking, or that requires any of them to forbear or omit from taking, any action to exercise, enforce or defend any of its rights (including any security interests) under an Existing J-POWER Agreement; and

(ii) Bidder (and, if applicable, the Bidder Subsidiary) will not be, or be deemed to be, in breach of any of its obligations under this deed or the Deed Poll, by reason or as a result of Bidder or any other Bidder Group Member, or any Representative of a Bidder Group Member, taking or omitting to take any action to exercise, enforce or defend any rights (including any security interests) under an Existing J-POWER Agreement.

19.13 Action or inaction by a Bidder Nominee

Notwithstanding anything else in this deed (and without limiting clause 10.9(b)), no action taken or not taken (or omitted to refused to be taken) by a Bidder Nominee, whether in their personal capacity or on behalf (or purported to be on behalf) of a Target Group Member or the Target Board, that would, but for this clause 19.13, be, constitute or result in:

(a) a breach by Target of an obligation or representation or warranty under this deed; or

(b) a Target Material Adverse Change, a Target Prescribed Occurrence or a Target Regulated Event,

will be deemed to be, constitute or result in (i) a breach by Target of that obligation or representation or warranty or (ii) a Target Material Adverse Change, a Target Prescribed Occurrence or a Target Regulated Event (and will be disregarded for the purpose of assessing the operation of any such clause or defined term).

19.14 Counterparts

This deed may be executed in any number of counterparts, each of which:

(a) may be executed electronically or in handwriting;

(b) will be deemed an original whether kept in electronic or paper form, and all of which taken together will constitute one and the same document; and

(c) may be exchanged by PDF versions attached to emails.

Without limiting the foregoing, if the signatures on behalf of one party are on more than one copy of this deed, this shall be taken to be the same as, and have the same effect as, if all of those signatures were on the same counterpart of this deed.

Schedule 1 Dictionary and interpretation

1 Dictionary

Acceptance Form means the acceptance form in respect of the Offer that will be enclosed with the Bidder's Statement or that may otherwise be completed and lodged online in accordance with the requirements set out in the Bidder's Statement.

Accounting Standards means:

(a) the requirements of the Corporations Act about the preparation of financial reports; and

(b) the accounting standards and any authoritative interpretations issued by the Australian Accounting Standards Board.

Additional Amount has the meaning given to that term in clause 18(b).

Adviser means, in relation to an entity, any expert adviser or consultant who provides advisory services in a professional capacity to the market in general and who has been engaged by that entity in connection with the Transactions.

AED means Asia Ecoenergy Development Limited (which was formerly known as Zhefu Hydropower International Engineering Corporation Limited).

Aggregate Scheme Consideration means the aggregate of the Scheme Consideration payable to all Scheme Shareholders under the Scheme (and in accordance with the terms of the Scheme).

Agreed Public Announcement means an announcement in a form agreed between Bidder and Target prior to execution of this deed, to be released by Target to the ASX in accordance with clause 8.1(a).

Amount Incurred has the meaning given to that term in clause 18(e).

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given to that term in section 12 of the Corporations Act.

ASX means ASX Limited (ABN 98 008 624 691) or, where the context requires, the financial market operated by it known as the "Australian Securities Exchange".

ASX Listing Rules means the official listing rules of ASX from time to time, as modified by any express written waiver or exemption given by ASX.

Authorisation means any authorisation, consent, approval, registration, agreement, notice of non-objection, notarisation, certificate, licence, permit, authority or exemption from, by or with a Government Agency.

Bidder has the meaning given to that term in the Parties section of this deed.

Bidder Board means the board of directors of Bidder.

Bidder Counterproposal has the meaning given to that term in clause 10.7(a)(v).

Bidder Counterproposal Deadline has the meaning given to that term in clause 10.7(a)(v).

Bidder Group means, collectively, Bidder and each of its Related Entities (other than a Target Group Member, even if that Target Group Member is a Controlled Entity of Bidder at the relevant time) and **Bidder Group Member** means any one of them.

Bidder Indemnified Party means Bidder (and if applicable, the Bidder Subsidiary) and a director, officer or employee of a Bidder Group Member.

Bidder Indemnity means the indemnity given by Bidder in clause 13.2.

Bidder Information means information regarding the Bidder Group provided by or on behalf of Bidder to Target or its Representatives in writing for inclusion in a Scheme Booklet (and, for the avoidance of doubt, excludes the Target Information, the Independent Expert's Report and any description of the taxation effect of the Scheme on Target Shareholders prepared by an external tax Adviser to Target (if any)).

Bidder Nominee has the meaning given to that term in clause 10.9(b).

Bidder Public Announcement means an announcement in a form agreed between Bidder and Target prior to execution of this deed, which may be released by Bidder as contemplated by clause 8.1(b).

Bidder Representation and Warranty means a representation and warranty of Bidder set out in Schedule 7.

Bidder's Statement means the bidder's statement of Bidder in relation to the Takeover Bid.

Bidder Subsidiary has the meaning given to that term in clause 2.5(a).

Break Fee means the amount of A$3,515,014.

Business Day means a day that is a Trading Day and is not a Saturday, Sunday or public holiday in New South Wales, Australia or Tokyo, Japan.

Change of Control Provision has the meaning given to that term in clause 7(i) (Identified Contracts) of Schedule 2.

Change of Control Requirements has the meaning given to that term in clause 7.7(a)

Claim means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

Competing Bidder means:

(a) a person other than Bidder or another Bidder Group Member and their respective Associates; or

(b) an Associate of a person referred to in paragraph (a).

Competing Proposal means any offer, expression of interest, proposal (including a non-binding, indicative proposal or offer), transaction, agreement or arrangement that, if

entered into or completed in accordance with its terms, would mean a Third Party (either alone or with any Associate(s)):

(a) would acquire a Relevant Interest in more than 20% of the aggregate number of Target Shares on issue;

(b) would directly or indirectly acquire or become the holder of any legal, beneficial or economic interest in, or Control of, all or more than 20% of the business conducted by, or assets of, the Target Group (taken as a whole);

(c) would acquire Control of Target;

(d) would merge or be stapled with Target; or

(e) would cause or require Target to abandon, or otherwise not, or fail to, proceed with, the Transactions,

whether by way of takeover bid, members' or creditors' scheme of arrangement, capital reduction, buy-back or sale or purchase of assets, sale of securities, strategic alliance, dual listed company structure (or other synthetic merger), joint venture, partnership, any proposal by Target to implement any reorganisation of capital or debt for equity arrangement, recapitalisation, refinancing or any other transaction or arrangement, and on the basis that each successive material modification or variation of any proposal, offer, arrangement, expression of interest, agreement or transaction in respect of a Competing Proposal will constitute a new Competing Proposal. For the avoidance of doubt, any of the transactions, agreements or arrangements set out in limbs (a) to (e) of the definition of Competing Proposal, if undertaken, offered or proposed or the subject of an expression of interest by Skip EIF Enterprises Pty Ltd ACN 660 952 465 as trustee of the SKIP EIF Trust or Skip Enterprises Pty Ltd ACN 108 337 113 as trustee of the Farquhar Trust (each a **'Skip Entity'**) or a Related Entity or any one or more of the Skip Entities, after the date of the Confidentiality and Exclusivity Deed would constitute a Competing Proposal.

Conditions means the Scheme Conditions and the Takeover Bid Conditions (and **Condition** means a Scheme Condition or a Takeover Bid Condition).

Confidentiality and Exclusivity Deed means the agreement between Target and Bidder in relation to the Transactions, dated 3 March 2024, as amended from time to time.

Consideration has the meaning given to that term in clause 18(a).

Consultation Notice has the meaning given to that term in clause 3.5(a).

Control has the meaning given in section 50AA of the Corporations Act, and **Controlled** has the corresponding meaning.

Controlled Entity means, in relation to an entity, another entity that is a Subsidiary of it, or that is Controlled (within the meaning of section 50AA of the Corporations Act, but read as though section 50AA(4) were omitted) by it but:

(a) a trust may be a Subsidiary if that trust would have been a Subsidiary if it were a corporation, for the purposes of which a unit or other beneficial interest will be regarded as a share;

(b) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation; and

(c) each fund or limited partnership managed or advised by Bidder or a Related Entity of Bidder is a Controlled Entity of Bidder.

Corporations Act means the *Corporations Act 2001* (Cth), as amended from time to time.

Corporations Regulations means the *Corporations Regulations 2001* (Cth), as amended from time to time.

Court means the Supreme Court of New South Wales or such other court of competent jurisdiction under the Corporations Act as agreed in writing between Target and Bidder.

Court Approval Condition has the meaning given to that term in clause 3.1(b).

Court Documents means the documents required for the purposes of a Court Hearing, including (as applicable) originating process, affidavits, submissions and draft minutes of Court orders.

Court Hearing means the First Court Hearing or the Second Court Hearing (as applicable), and **Court Hearings** means both of them.

Deed Poll means the deed poll to be entered into by Bidder (and, if applicable, the Bidder Subsidiary) in the form of Attachment A to the Scheme (or such other form as agreed in writing between Bidder and Target), under which Bidder (and, if applicable, the Bidder Subsidiary) covenants and undertakes in favour of the Scheme Shareholders to perform the obligations attributed to Bidder (and/or the Bidder Subsidiary, if applicable and as the case may be) under the Scheme.

Delivery Time means, in relation to the Second Court Date, 2 hours before the commencement of the Second Court Hearing (or, if the commencement of the Second Court Hearing is adjourned, 2 hours before the commencement of the adjourned Second Court Hearing).

Disclosing Party has the meaning given to that term in clause 8.3(b)(i).

Disclosure Letter means a letter identified as such provided by Target to Bidder on or prior to the date of this deed and countersigned by Bidder.

Disclosure Materials means the information in relation to the Target Group disclosed in writing by or on behalf of Target to Bidder and Bidder's Representatives prior to the date of this deed in:

(a) the Online Data Room as at 11:59pm (Sydney time) on 5 April 2024 (a copy of which has been provided by Target's Representatives to Bidder's Representatives on a USB drive or other agreed format before the date of this deed);

(b) any written responses to questions or requests for further information made by Bidder Group and its Representatives, as contained in the Online Data Room as at 11:59pm (Sydney time) on 5 April 2024 (a copy of which has been provided by Target's Representatives to Bidder's Representatives on a USB drive or other agreed format before the date of this deed);

(c) the Disclosure Letter; and

(d) the Target Incentive Securities Disclosure Letter.

D&O Run-off Policy has the meaning given to that term in clause 14.3(b).

Duty means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them.

Effective means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme.

Effective Date means the date on which the Scheme becomes Effective.

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means 5:00pm (Sydney time) on 30 November 2024, or such later date as Bidder and Target agree in writing.

Excluded Target Shareholder means any Target Shareholder that:

(a) is Bidder or another Bidder Group Member (including, if applicable, Bidder Subsidiary); or

(b) holds any Target Shares on behalf of, or for the benefit of, any Bidder Group Member and does not hold Target Shares on behalf of, or for the benefit of, any other person,

in each case, at the applicable time, and, for the avoidance of doubt:

(c) such a Target Shareholder at the Scheme Record Date will not be a Scheme Shareholder; and

(d) as at the date of this deed, JPGA Partners is an Excluded Target Shareholder.

Exclusivity Period means the period commencing on the execution of this deed and ending at the earliest to occur of:

(a) the valid termination of this deed under clause 15;

(b) the Effective Date;

(c) the first date on which both:

(i) the Offer has been declared or otherwise becomes unconditional; and

(ii) Bidder has acquired a Relevant Interest in at least 50.1% of the Target Shares on issue; and

(d) either:

(i) if Bidder has complied with its obligations under clause 2.3(b)(ii)(B) and the end of the Offer Period has been extended to a date that is after the End Date, the end of the Offer Period; or

(ii) otherwise, the End Date.

Existing Confidentiality Agreement means a confidentiality agreement entered into between a Target Group Member and a Third Party in the 18 months before the date of this deed for the purpose of Target facilitating a Competing Proposal (which, for the purposes of this definition only and notwithstanding the final paragraph of the definition of Competing Proposal, includes a Competing Proposal made by a Skip Entity (as that expression is defined in the definition of 'Competing Proposal') prior to the date of this deed).

Existing J-POWER Agreement means an agreement or deed (other than this deed and the Confidentiality and Exclusivity Deed) the parties to which include one or more Target Group Members and one or more of Bidder and its Controlled Entities (including, for the avoidance of doubt, the J-POWER Subscription Agreement), and any agreement or deed under or in connection with such agreement entered into by one or more Target Group Members for the benefit of (among other persons) one or more of Bidder and its Controlled Entities.

Existing Relevant Interests means the Relevant Interests in Target Shares held by the relevant Bidder Group Members disclosed in the Form 603 (Notice of initial substantial holder) lodged by those Bidder Group Members with the ASX on 19 May 2021.

Existing Target Group Projects means the following projects in respect of the Target Group:

(a) the Kidston Hydro Project;

(b) the Kidston Solar Project;

(c) the Jemalong Solar Project;

(d) the Target Group's 50MW Bouldercombe Battery Project (and any expansion thereof), located at Bouldercombe Queensland which is in operation as at the date of this deed;

(e) the Target Group's 258MW Kidston Stage 3 Wind Project, located south of the Kidston Hydro Project near Kidston, Queensland which is under development as at the date of this deed; and

(f) the Target Group's multi-stage, up to 2GW Bulli Creek Solar and Battery Project, located immediately south of the Bulli Creek substation in Queensland, which is under development as at the date of this deed,

and **Existing Target Group Project** means any one of them.

Fairly Disclosed means, in relation to a fact, matter, circumstance, event or information, or an action that a Target Group Member or a Representative of a Target Group Member will or proposes to take on or after the date of this deed, such fact, matter, circumstance, event, information or action being disclosed to a sufficient extent and in sufficient detail and context to enable a reasonable and sophisticated person that is experienced in transactions that are similar to the Transactions to identify the nature, scope and significance of that fact, matter, circumstance, event, information or action and reach a reasonably informed view of whether such fact, matter, circumstance, event, information or action is material in the context of the Target Group.

FATA has the meaning given to that term in clause 3.1(g)(i).

Financial Adviser means a financial adviser engaged by a Target Group Member to provide financial or strategic advice to Target or the Target IBC on the Transactions.

Financial Indebtedness means any debt or other monetary liability (whether actual or contingent), together with all interest, fees and penalties accrued thereon, in respect of moneys borrowed or raised or any financial accommodation including under or in respect of any:

(a) bill, bond, debenture, note or similar instrument;

(b) acceptance, endorsement or discounting arrangement;

(c) guarantee or letter of credit;

(d) finance or capital lease;

(e) swap, option, hedge, forward, futures or similar transaction;

(f) redeemable share or security;

(g) obligation to deliver assets or services paid for in advance by a financier, or any guarantee of the obligations of another person with respect to the foregoing;

(h) deferral of a purchase price or other payment in relation to the acquisition of any financier;

(i) all interest and non-interest bearing loans or other financing liabilities or obligations, including overdrafts and any other liabilities in the nature of borrowed money (whether secured or unsecured); or

(j) liabilities arising from any transaction relating to the securitisation or assignment of receivables for financing purposes to a Third Party, including factoring agreements and similar agreements executed for the purpose of obtaining financing and amounts raised pursuant to any such agreements or arrangements (whether or not recognised on a balance sheet).

FIRB has the meaning given to that term in clause 3.3(e)(iv)(A).

FIRB Approval has the meaning given to that term in clause 3.3(e)(i) .

First Court Date means the first day of the hearing of an application made to the Court by Target for orders, pursuant to section 411(1) of the Corporations Act, convening the Scheme Meeting (or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing), with such hearing being the **First Court Hearing**.

FY23 Financial Statements means Target's audited financial statements contained in the financial report in Target's annual report for the financial year ended 30 June 2023.

Government Agency means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including FIRB, ASIC, the ASX and the Takeovers Panel).

GST means goods and services tax or similar value added tax levied or imposed in Australia under the GST Law.

GST Law has the meaning given in the A *New Tax System (Goods and Services Tax) Act 1999* (Cth).

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of Target Shareholders (other than Excluded Target Shareholders) present and voting, either in person or by proxy.

HY24 Financial Statements means Target's reviewed financial statements contained in the financial report in Target's half yearly report for the six-month period ended 31 December 2023, a copy of which was released to the ASX by Target on 26 February 2024.

Identified Contracts means a contract identified as an 'Identified Contract' in the Disclosure Letter.

Implementation Date means the date on which the Scheme is implemented in accordance with its terms, being the date that is five Business Days after the Scheme Record Date, or such other date as Target and Bidder may agree in writing or ordered by the Court.

Independent Expert means the independent expert to be appointed by Target to prepare the Independent Expert's Report in accordance with clause 5.3(a).

Independent Expert's Report means a report of the Independent Expert stating whether, in its opinion:

(a) the Scheme is fair and/or reasonable and/or in the best interests of Target Shareholders (other than Excluded Target Shareholders); and

(b) the Takeover Bid is fair and reasonable to Target Shareholders, other than Excluded Target Shareholders and any other Target Shareholders that are Associates of Bidder (or, if applicable, Bidder Subsidiary),

and includes any update of, or revision, amendment or supplement to, the Independent Expert's Report that the Independent Expert issues prior to the Scheme Meeting.

Insolvency Event means, in relation to any entity:

(a) the entity resolving that it be wound up or a court making an order for the winding up or dissolution of the entity;

(b) a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the entity or in relation to the whole, or a substantial part, of its assets;

(c) the entity executing a deed of company arrangement;

(d) the entity ceasing, or threatening to cease, carrying on substantially all the businesses conducted by it as at the date of this deed;

(e) the entity is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation) or is otherwise presumed to be insolvent under the Corporations Act (or, if appropriate, legislation of its place of incorporation), unless the entity has committed financial support from its parent entity such that it is able to pay its debts; or

(f) the entity being deregistered as a company or otherwise dissolved.

Jemalong Solar Project means the Target Group's 50MW solar project, located near Forbes in New South Wales which is in operation as at the date of this deed.

JPGA Partners means JPGA Partners Pty Ltd (ACN 643 855 618).

J-POWER Nominee Director means Mr Kenichi Seshimo, Non-executive Target Director (or such other Target Director nominated by Bidder or another Bidder Group Member in accordance with the J-POWER Subscription Agreement).

J-POWER Subscription Agreement means the "Subscription Agreement" between Bidder and Target dated 24 March 2021 (as amended from time to time).

Kidston Hydro Project means the Target Group's 250MW pumped storage hydro project located at Kidston, Queensland, Australia, which is under construction as at the date of this deed.

Kidston Solar Project means the Target Group's 50MW solar project, located at Kidston Queensland which is in operation as at the date of this deed.

Material Authorisation has the meaning given to that term in paragraph (q) of Schedule 8.

Material Contract means a contract identified as a 'Material Contract' in the Disclosure Letter.

Material Public Announcement has the meaning given to that term in clause 9.1(b).

Non-public Information has the meaning given to that term in clause 10.1(c).

Notice has the meaning given to that term in clause 19.1(a).

Offer has the meaning given to that term in clause 2.3(a)(i).

Offer Period means the period that the Offer is open for acceptance.

Official List means the Official List of the ASX.

Official Quotation means the quotation of securities on the Official List and **Officially Quoted** has a corresponding meaning.

Online Data Room means the documents and information (including, for the avoidance of doubt, information and responses to questions or requests for information from the Bidder and its Representatives provided by the Target or its Representatives via the "Q&A" function) contained in the online data room operated by Ansarada and entitled "Project Copperfield" to which Bidder and its Representatives were given access prior to the date of this deed, an electronic copy of the index of which has been provided to Bidder by Target or its Representatives on or before the date of this deed.

Permitted Break Fee Amount has the meaning given to that term in clause 11.5(b)(ii).

Permitted Encumbrance means:

(a) a charge or lien arising in favour of a Government Agency by operation of statute in the ordinary course of the business of the Target Group, where such charge or lien secures amounts payable to a Government Agency that are not yet due;

(b) any mechanic's, workmen's or other like lien arising in the ordinary course of the business of the Target Group;

(c) any retention of title arrangement or purchase money security interest (including arising from any lease of goods or consignment arrangement), in each case, arising in favour of a trade supplier to the business of the Target Group in the ordinary course of that business;

(d) a PPS Lease (as defined in the PPS Act);

(e) any security interest which would be an Encumbrance only by virtue of the operation of section 12(3) of the PPS Act;

(f) any Encumbrance registered by Bidder;

(g) any Encumbrance created in the ordinary course of business (and substantially consistent with the past practice of the Target Group) after the execution of this deed that:

(i) secures amounts not yet due; and

(ii) does not secure the payment of any Financial Indebtedness;

(h) any Encumbrance approved in writing by Bidder;

(i) any Encumbrance granted under or in connection with an Existing J-POWER Agreement or which otherwise directly relates to a project being developed by one or more Target Group Members under an Existing J-POWER Agreement;

(j) any Encumbrance relating to any specific Financial Indebtedness that is agreed in writing between Bidder and Target prior to the date of this deed as not being paid out in connection with implementation of the Scheme or the Takeover Bid; and

(k) a lien securing an obligation that is not yet due which arises by operation of law or legislation.

PPS Act means the *Personal Property Securities Act 2009* (Cth).

PPS Register means the Personal Property Securities Register established under the PPS Act.

Proceeding has the meaning given to that term in paragraph (o)(i) of Schedule 8.

Proposed Public Announcement has the meaning given to that term in clause 8.2(a).

Recipient has the meaning given to that term in clause 18(b).

Register Date means the relevant date and time that will be set by Bidder for the purposes of section 633(2) of the Corporations Act, which date is to be consistent with the Timetable.

Regulator's Draft has the meaning given to that term in clause 5.3(b).

Related Body Corporate has the meaning given to that term in section 50 of the Corporations Act.

Related Entity means, in relation to an entity (the first entity):

(a) a Controlled Entity of the first entity;

(b) an entity of which the first entity is a Controlled Entity; or

(c) a Controlled Entity of another entity of which the first entity is also a Controlled Entity,

provided that, in respect of Target only, no Target Shareholder or any Related Entity of a Target Shareholder shall be deemed to be a Related Entity of Target.

Relevant Interest has the meaning given to that term in the Corporations Act.

Relevant Person has the meaning given to that term in clause 7.6(f)(i).

Representation and Warranty means a Bidder Representation and Warranty or a Target Representation and Warranty.

Representative means, in relation to an entity:

(a) a Related Entity, or Adviser of that entity or of a Related Entity of that entity; or

(b) a director, officer, employee, consultant, partner, agent, investment committee member or advisory board member of that entity or of a Related Entity of that entity or Adviser of that entity.

Requisite Majorities means, in relation to the Scheme Resolution to be put to Target Shareholders (other than Excluded Target Shareholders) at the Scheme Meeting, the resolution being passed by:

(a) a majority in number (more than 50%) of Target Shareholders (other than Excluded Target Shareholders) who are present and voting at the Scheme Meeting, either in person or by proxy, attorney or in the case of a corporation its duly appointed corporate representative; and

(b) at least 75% of the votes cast on the resolution by Target Shareholders (other than Excluded Target Shareholders) who are present and voting at the Scheme Meeting, either in person or by proxy, attorney or in the case of a corporation its duly appointed corporate representative.

Restricted Representative means:

(a) a Controlled Entity of Target;

(b) a Target IBC Member;

(c) an employee of Target or a Controlled Entity of Target; or

(d) a professional third-party adviser engaged by a Target Group Member to provide advice to one or more Target Group Members or the Target IBC on or in relation to the Transactions (including a Financial Adviser) or an actual, proposed or potential Competing Proposal.

Reverse Break Fee means the amount of A$3,515,014.

Revised Bidder Counterproposal has the meaning given to that term in clause 10.7(d)(ii).

RG 60 means Regulatory Guide 60 issued by ASIC and dated September 2020.

Rights means all rights or benefits attaching to, or arising from, Target Shares directly or indirectly after the date of this deed, including but not limited to, all dividends or other distributions, other than voting rights attaching to Target Shares during the period commencing on the date of this deed and expiring at the later of the end of the Scheme Meeting and the day after the date on which all of the Takeover Bid Conditions have been satisfied or waived.

Scheme means a members' scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders under which all of the Scheme Shares will be transferred to Bidder and the Scheme Shareholders will be entitled to receive the Scheme Consideration, in the form of Attachment A, together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by Target and Bidder in accordance with clause 5.1(b).

Scheme Booklet means the explanatory statement in respect of the Scheme to be prepared by Target pursuant to section 412 of the Corporations Act and in accordance with clause 4, and to be despatched to Target Shareholders (other than Excluded Target Shareholders) in accordance with clause 5.3(g), which will contain (among other things) the Scheme, the Independent Expert's Report, and a notice of meeting in respect of the Scheme Meeting.

Scheme Conditions means the conditions set out in clause 3.1 and **Scheme Condition** means any one of them.

Scheme Consideration means, in respect of each Scheme Share, A$0.275 in cash.

Scheme Meeting means the meeting of Target Shareholders (other than Excluded Target Shareholders) ordered by the Court to be convened under section 411(1) of the Corporations Act to consider the Scheme Resolution, and includes any adjournment of that meeting.

Scheme Recommendation has the meaning given to that term in clause 9.1(b)(i).

Scheme Record Date means the time and date for determining entitlements to receive the Scheme Consideration, being 7:00pm on the second Business Day after the Effective Date, or such other date after the Effective Date as:

(a) Target and Bidder may agree in writing;

(b) may be ordered by the Court; or

(c) may be required by the ASX.

Scheme Resolution means the resolution to approve the Scheme to be considered by Target Shareholders (other than Excluded Target Shareholders) at the Scheme Meeting.

Scheme Share means a Target Share held by a Scheme Shareholder as at the Scheme Record Date (but, for the avoidance of doubt, does not include a Target Share held by an Excluded Target Shareholder).

Scheme Shareholder means a Target Shareholder as at the Scheme Record Date (other than an Excluded Target Shareholder).

Scheme Transaction means the acquisition of all of the Scheme Shares by Bidder, in accordance with the terms and conditions of this deed, by means of the Scheme.

Scheme Voting Intention has the meaning given to that term in clause 9.1(b)(ii).

Second Court Date means the first day on which an application made to the Court by Target for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard (or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **Second Court Hearing**.

Security Interest has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

Share Splitting means the splitting by a Target Shareholder (other than Excluded Target Shareholders) of a holding of Target Shares into two or more parcels of Target Shares whether or not it results in any change in beneficial ownership of the Target Shares.

Subsidiary has the meaning given to that term in section 46 of the Corporations Act.

Substantial Holder has the meaning given to that term in clause 10.9(a)(ii)(A).

Superior Bidder Counterproposal has the meaning given to that term in clause 10.7(b).

Superior Proposal means a bona fide Competing Proposal which in the determination of the Target IBC, acting in good faith and in order to satisfy what the Target IBC Members consider to be their fiduciary or statutory duties (after having received advice from their external Australian legal advisers specialising in the area of corporate law and, if the Target IBC considers it appropriate to do so in the circumstances, advice from its Financial Adviser):

(a) is reasonably capable of being completed substantially in accordance with its terms, taking into account all of the relevant terms, conditions and other aspects of the Competing Proposal, including the matters set out in paragraph (b)(i) below; and

(b) would, if completed substantially in accordance with its terms, result or be reasonably likely to result in a transaction that is more favourable to Target Shareholders (other than Excluded Target Shareholders) as a whole than the Transactions, taking into account all of the relevant terms and conditions and other aspects of:

(i) the Competing Proposal, including consideration, conditionality, funding, certainty and timing, the capability of the Third Party that made the Competing Proposal to complete the transaction(s) contemplated by the Competing Proposal, the views of Target Shareholders (other than Excluded Target Shareholders and the Competing Bidder that made the Competing Proposal or any Associate of such Competing Bidder) in relation to the Competing Proposal compared to the Transactions, and any other legal, financial, regulatory and other matters that the Target IBC determines to be relevant in the circumstances; and

(ii) the Transactions (including the matters described in subparagraph (i) above in respect of the Transactions).

Supplier has the meaning given to that term in clause 18(b).

TAA means the *Taxation Administration Act 1953* (Cth).

Takeover Acceptance Intention has the meaning given to that term in clause 9.1(c)(ii).

Takeover Bid means a takeover bid by Bidder for the Target Shares that satisfies the requirements in clause 2.3.

Takeover Bid Acceptance Facility has the meaning given to that term in clause 3.4(i)(i).

Takeover Bid Conditions means the conditions to the Takeover Bid set out in clause 7 of Schedule 2 and **Takeover Bid Condition** means any one of them.

Takeover Bid Consideration means A$0.270 per Target Share in cash.

Takeover Bid Minimum Acceptance Condition has the meaning given to that term in clause 3.4(i).

Takeover Bid Terms means the terms and conditions of the Takeover Bid set out in Schedule 2.

Takeover Bid Transaction means the acquisition of Target Shares by Bidder (or, if applicable, the Bidder Subsidiary) under the Takeover Bid.

Takeover Recommendation has the meaning given to that term in clause 9.1(c)(i).

Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Target has the meaning given to that term in the Parties section of this deed.

Target Board means the board of directors of Target.

Target Change of Control has the meaning given to that term in clause 3.1(k)(i).

Target Constitution means the constitution of Target, as amended from time to time.

Target Director means a director of Target.

Target Group means, collectively, Target and each of its Controlled Entities (and **Target Group Member** means any one of them).

Target HY24 Report means Target's half yearly report in respect of the 6-month period ended 31 December 2023 (a copy of which was disclosed by Target to the ASX on 26 February 2024).

Target IBC means the independent committee of the Target Board (from time to time) established to (among other related matters) consider and evaluate the Transactions (which, as at the date of this deed, comprises Dr Ralph Craven (non-executive Target Director and Chairman of the Target Board), Ms Teresa Dyson (non-executive Target Director), Mr Ben Guo (non-executive Target Director) and Mr Simon Kidston (non-executive Target Director)), and **Target IBC Member** means a member of the Target IBC.

Target IBC Member Share means, in respect of a Target IBC Member, any Target Share:

(a) held by or on behalf of, or Controlled by, that Target IBC Member; or

(b) in which the Target IBC Member otherwise has a Relevant Interest and in respect of which the Target IBC Member has the power to exercise, or control the exercise of, the voting rights attached to that Target Share.

Target Indemnified Party means a Target Group Member and a director, officer or employee of a Target Group Member.

Target Indemnity means the indemnity given by Target in clause 13.4.

Target Information means all the information in the Scheme Booklet other than the Bidder Information and the Independent Expert's Report.

Target Material Adverse Change means an event, change in condition, matter, occurrence or circumstance (including, for the avoidance of doubt, a one-off or non-recurring event, and any matter or event involving or relating to a geotechnical issue or water ingress) that individually, or when aggregated with all such events, changes, matters, occurrences or circumstances that have occurred, has had, or would be reasonably likely to have the effect (whether now or in the future) of a diminution in the consolidated net assets of the Target Group (taken as a whole) by an amount equal to $19,150,000 or more compared to what the consolidated net assets of the Target Group (taken as a whole) would otherwise have been or have reasonably been expected to have been, but for such event, change, matter, occurrence or circumstance (determined after excluding the impact of the relevant event, change, matter, occurrence or circumstance to the extent that any loss incurred by the Target Group in connection with that relevant event, change, matter, occurrence or circumstance is recovered, or is reasonably expected to be recoverable, under a Target Group Member's (or a Target Group) insurance policy), other than those events, changes in condition, matters, occurrences or circumstances:

(a) which are expressly required or expressly permitted to be done or not done by a Target Group Member (including any action expressly required or expressly permitted to not be taken) by this deed, the Scheme Transaction, the Takeover Bid Transaction or the transactions contemplated by any of these;

(b) which have, and only to the extent they have, been Fairly Disclosed in:

(i) the Disclosure Materials;

(i) any written documents, written communications or other written materials provided by or on behalf of a Target Group Member to a Bidder Group Member (or a Representative of a Bidder Group Member) under an Existing J-POWER Agreement in the 12-month period ending on the date of this deed;

(ii) any announcement made by Target to ASX in the 24-month period ending on the date of this deed; or

(iii) a publicly available document lodged with ASIC by or on behalf of Target or another Target Group Member (which would be disclosed in a search, conducted on the day 5 Business Days before the date of this deed, of ASIC's records that are open to public) in the 24-month period ending on the day 5 Business Days before the date of this deed;

(c) which are, and only to the extent that they are, within the knowledge of Bidder as at the date of this deed (for this purpose, the knowledge that there is a risk of an event, change, matter, occurrence or circumstance occurring does not constitute

knowledge that the event, change, matter, occurrence or circumstance will in fact occur);

(d) have been expressly agreed to in writing by Bidder or specifically requested by Bidder in writing;

(e) which are, and only to the extent they are, the result of a Bidder Group Member that is party to an Existing J-POWER Agreement taking an action, or omitting to take an action, that breaches an obligation of that Bidder Group Member under the relevant Existing J-POWER Agreement (provided that, for the avoidance of doubt, this will not include any action taken by a Bidder Group Member to validly exercise, enforce or defend any of its rights (including any security interests) under an Existing J-POWER Agreement, provided the relevant action does not breach an obligation of that Bidder Group Member under the relevant Existing J-POWER Agreement);

(f) which are, and only to the extent they are, required by an actual change in any applicable law, binding regulation or the Accounting Standards, or by a binding order or binding direction of a Government Agency;

(g) which arise, and only to the extent that they arise:

(i) from any determinations, announcements or rulings made by:

(A) the Australian Energy Regulator, the Australian Energy Market Commission, the Australian Energy Market Operator or the Energy Security Board; or

(B) any other Government Agency, to the extent that the determination, announcement or ruling affects regulated energy (including electricity) networks (or the operation of a renewable energy generation and/or energy storage business to a material extent),

in each case, other than such determinations, announcements or rulings that specifically apply to the Target Group to the exclusion of, or have a disproportionate effect on the Target Group compared to, other entities that operate renewable energy generation and/or energy storage businesses in Australia; or

(ii) as a result of a change, deterioration, or disruption to:

(A) or condition of, financial, commodity or energy markets or economic, industry, political, market or business conditions; or

(B) rates or prices (including, but not limited to, interest rates, exchange rates, energy prices, and/or commodity prices),

and which, in each case, do not affect the Target Group disproportionately compared to other entities that operate renewable energy generation and/or energy storage businesses in Australia; or

(h) which arise, and only to the extent that they arise:

(i) from:

(A) any act of terrorism, outbreak or escalation of war (whether or not declared) or major hostilities (including, but not limited to, the conflict

and hostilities in Ukraine, Palestine, Yemen and the Red Sea that persist on the date of this deed);

(B) an act of God, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, landslide, drought or other natural disaster; or

(C) changes in the levels of solar irradiance or wind from time to time; or

(ii) from a disease epidemic or pandemic, including the outbreak, escalation or any impact of, or recovery from, the Coronavirus or Covid-19 pandemic (or any mutation, variation or derivative of the Covid-19 pandemic), including the outbreak, escalation or any impact of, or recovery from, the Covid-19 pandemic (or any mutation, variation or derivative of the Covid-19 pandemic).

Target Non-Project Performance Rights has the meaning given to that term in clause 7.2(a)(i).

Target Option means an option in respect of a Target Share, with such options on issue as at the date of this deed being those set out in Schedule 3.

Target Option ASX Listing Rule 6.23 Waiver has the meaning given to that term in clause 7.3(a)(i)(A).

Target Option Cancellation Consideration has the meaning given to that term in clause7.3(a)(i).

Target Option Cancellation Deed has the meaning given to that term in clause 7.3(a).

Target Optionholder means, in relation to a Target Option, each person or entity that:

(a) is the person with respect to whom the grant or issue of that Target Option was made; or

(b) if applicable, was nominated by the person or entity referred to in paragraph (a) of this definition to be issued or hold that Target Option.

Target Performance Right means a performance or other right in respect of a Target Share issued under the Target Performance Rights Plan, with such rights on issue as at the date of this deed being those set out in Schedule 3.

Target Incentive Securities Disclosure Letter means a letter identified as such provided by Target to Bidder on or prior to the date of this deed and countersigned by Bidder.

Target Performance Right ASX Listing Rule 6.23 Waiver has the meaning given to that term in clause 7.2(a)(iii)(A).

Target Performance Right Cancellation Consideration has the meaning given to that term in clause 7.2(a).

Target Performance Right Deed has the meaning given to that term in clause 7.2(a).

Target Performance Right Holder means, in relation a Target Performance Right, each person or entity that:

(a) is the participant under the Target Performance Rights Plan in relation to the Target Performance Right; or

(b) if applicable, was nominated by the person or entity referred to in paragraph (a) of this definition under the Target Performance Rights Plan to be granted, issued or hold the Target Performance Right.

Target Performance Rights Plan means the Target's employee securities incentive plan which was approved by Target Shareholders on 30 November 2022, a copy of which is disclosed in the Online Data Room at document 06.03.03.

Target Prescribed Occurrence means the occurrence of any of the circumstances, events or matters set out in Schedule 5, other than any occurrences, circumstances, events, actions or matters (provided that they do not breach clause 7.4(k)) which:

(a) are expressly required or expressly permitted to be done by a Target Group Member (including any action expressly required or expressly permitted to not be taken) by this deed, the Scheme Transaction, the Takeover Bid Transaction or the transactions contemplated by any of these;

(b) have, and only to the extent they have, been Fairly Disclosed in:

(i) the Disclosure Materials;

(ii) any written documents, written communications or other written materials provided by or on behalf of a Target Group Member to a Bidder Group Member (or a Representative of a Bidder Group Member) under an Existing J-POWER Agreement in the 12-month period ending on the date of this deed;

(iii) any announcement made by Target to ASX in the 24-month period ending on the date of this deed; or

(iv) a publicly available document lodged with ASIC by or on behalf of Target or another Target Group Member (which would be disclosed in a search, conducted on the day 5 Business Days before the date of this deed, of ASIC's records that are open to public inspection) in the 24-month period ending on the day 5 Business Days before the date of this deed;

(c) are, and only to the extent they are, within the knowledge of Bidder as at the date of this deed (for this purpose, the knowledge that there is a risk of an occurrence, circumstance, event, action or matter occurring does not constitute knowledge that the occurrence, circumstance, event, action or matter will in fact occur);

(d) have been expressly agreed to in writing by Bidder (in its absolute discretion) or specifically requested in writing by Bidder; or

(e) are required by any applicable law, order of a court, binding regulation or binding order or binding direction of a Government Agency.

Target Project Performance Rights has the meaning given to that term in clause 7.2(a)(ii).

Target Regulated Event means the occurrence of any of the circumstances, events or matters set out in Schedule 6, other than any occurrences, circumstances, events, actions or matters (provided that they do not breach clause 7.4(k)) which:

(a) are expressly required or expressly permitted to be done by a Target Group Member (including any action expressly required or expressly permitted to not be taken) by this deed or the Scheme Transaction, the Takeover Bid Transaction or the transactions contemplated by any of these;

(b) have, and only to the extent they have, been Fairly Disclosed in:

(i) the Disclosure Materials;

(ii) any written documents, written communications or other written materials provided by or on behalf of a Target Group Member to a Bidder Group Member (or a Representative of a Bidder Group Member) under an Existing J-POWER Agreement in the 12-month period ending on the date of this deed;

(iii) any announcement made by Target to ASX in the 24-month period ending on the date of this deed; or

(iv) a publicly available document lodged with ASIC by or on behalf of Target or another Target Group Member (which would be disclosed in a search, conducted on the day 5 Business Days before the date of this deed, of ASIC's records that are open to public inspection) in the 24-month period ending on the day 5 Business Days before the date of this deed;

(c) are, and only to the extent they are, within the knowledge of Bidder as at the date of this deed (for this purpose, the knowledge that there is a risk of an occurrence, circumstance, event, action or matter occurring does not constitute knowledge that the occurrence, circumstance, event, action or matter will in fact occur);

(d) have been expressly agreed to in writing by Bidder (such agreement not to be unreasonably withheld, conditioned or delayed) or specifically requested in writing by Bidder;

(e) are expressly required by:

(i) a contractual obligation under a contract to which a Target Group Member is a party as at the date of this deed, which has, and only to the extent it has, been Fairly Disclosed in the Disclosure Letter; or

(ii) an Existing J-POWER Agreement (provided that such action or inaction does not cause a breach by a Target Group Member of the relevant Existing J-POWER Agreement), or have been expressly agreed or consented to in writing by a Bidder Group Member, or specifically requested in writing by a Bidder Group Member, under or for the purpose of an Existing J-POWER Agreement; or

(f) are required by any applicable law, order of a court, binding regulation or binding order or binding direction of a Government Agency.

Target Representation and Warranty means a representation and warranty of Target set out in Schedule 8, as each is qualified by clause 13.6.

Target Share means a fully paid ordinary share in the capital of Target.

Target Shareholder means a person or entity that is registered in the Target Share Register as the holder of a Target Share.

Target Share Register means the register of Target Shareholders maintained in accordance with the Corporations Act.

Target Share Registry means Boardroom Pty Limited (ACN 003 209 836) in its capacity as provider of registry services in respect of the Target Share Register.

Target's Statement means the target's statement of Target in relation to the Takeover Bid.

Terminating Party has the meaning given to that term in clause 3.5(b).

Termination Event has the meaning given to that term in clause 3.5(a).

Termination Notice has the meaning given to that term in clause 3.5(b).

Third Party means any person other than:

(a) Target or Bidder (or a Related Entity or Representative of Target or Bidder); or

(b) a consortium, partnership, limited partnership, syndicate or other group formed for the purpose of acquiring a Relevant Interest in Target Shares or a legal, beneficial or economic interest in the business or assets of the Target Group in which Bidder or any of its Related Entities is a participant.

Timetable means the indicative timetable for the implementation of the Transactions set out in Schedule 4, as amended by or in accordance with clause 7.1 (or such amended or other timetable for the implementation of the Scheme and/or the Takeover Bid as may be agreed between the parties in writing from time to time, whether for the specific purpose of a provision of this deed or otherwise).

Trading Day has the meaning given in the ASX Listing Rules.

Transactions means the Scheme Transaction and the Takeover Bid Transaction and **Transaction** means any one of them.

Transaction Booklet has the meaning given to that term in clause 2.4(a).

Treasurer means the Treasurer of the Commonwealth of Australia or their delegate.

Trust Account has the meaning given to that term in the Scheme.

2 Interpretation

In this deed, the following rules of interpretation apply unless the contrary intention appears:

(a) headings are for convenience only and do not affect the interpretation of this deed;

(b) the singular includes the plural and vice versa;

(c) words that are gender neutral or gender specific include each gender;

(d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;

(e) words and phrases not specifically defined in this deed have the same meanings (if any) given to them in the Corporations Act;

(f) the words 'such as', 'including', 'particularly' and similar expressions are not used as, nor are intended to be interpreted as, words of limitation;

(g) a reference to:

(i) a person includes a natural person, partnership, joint venture, government agency, association, corporation, trust or other body corporate;

(ii) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;

(iii) a party includes its agents, successors and permitted assigns;

(iv) a document includes all amendments or supplements to that document;

(v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this deed;

(vi) this deed includes all schedules and attachments to it;

(vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;

(viii) a statute includes any regulation, ordinance, by-law or other subordinate legislation made under it;

(ix) an agreement other than this deed includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing;

(x) writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form;

(xi) an asset includes any real or personal, present or future, tangible or intangible property or asset (including intellectual property) and any right, interest, revenue or benefit in, under or derived from the property or asset; and

(xii) a monetary amount is in Australian dollars;

(h) an agreement on the part of two or more persons binds them jointly;

(i) an 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 jointly and severally;

(j) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;

(k) a reference to time is to Sydney, Australia time;

(l) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

Schedule 2 Takeover Bid Terms

1 The Offer

(a) Bidder will offer to acquire all (but not some only) of the Target Shares on and subject to the terms and conditions set out in this Schedule 2.

(b) The consideration under the Offer will be the Takeover Bid Consideration.

(c) By accepting the Offer, each Target Shareholder will undertake to transfer to Bidder not only the Target Shares to which the Offer relates, but also all Rights attached to those Target Shares.

(d) The Offer will be made to each person registered as the holder of Target Shares in the Target Share Register on the Register Date. It will also extend to:

(i) holders of securities or derivatives or rights (including Target Performance Rights and Target Options) that come to be Target Shares during the period from the Register Date to the end of the Offer Period (inclusive) due to the conversion or vesting of, or exercise of rights conferred by, such securities and which are on issue as at the Register Date (such that the Offer will extend to those Target Shares); and

(ii) any person who becomes registered as the holder of Target Shares during the Offer Period.

(e) The Offer will, subject to clause 7.1, be dated in accordance with the Timetable.

2 Offer Period

(a) Unless withdrawn in accordance with the Corporations Act, the Offer will remain open for acceptance during the period commencing on the date of the Offer and ending at 7:00pm (Sydney time) on the later of:

(i) the date set pursuant to the Timetable; or

(ii) any date to which the Offer Period is extended (including, for the avoidance of doubt, any date to which the Offer Period is automatically extended as a result of the operation of section 624(2) of the Corporations Act).

(b) Despite anything else in this Schedule 2:

(i) the Offer Period must not expire prior to the date that is 20 Business Days after the date of the Scheme Meeting; and

(ii) Bidder must not extend the Offer Period to a date that is after the latest to occur of:

(A) the date that is 3 months after the date of the Scheme Meeting;

(B) the End Date; and

(C) the date to which the end of the Offer Period is automatically extended as a result of the operation of section 624(2) of the Corporations Act,

without the prior written consent of Target.

3 How the Offer will be accepted

(a) A Target Shareholder will be required to accept the Offer for all (but not some only) of their Target Shares.

(b) A Target Shareholder will be allowed to accept the Offer at any time during the Offer Period.

(c) Bidder may establish an institutional acceptance facility to facilitate the acceptance of the Offer by institutional shareholders of Target.

4 Validity of acceptances

(a) Bidder will be entitled to determine, in its sole discretion, all questions as to the form of documents, eligibility to accept the Offer and time of receipt of an acceptance of the Offer. The determination of Bidder will be final and binding on all parties.

(b) Bidder will be entitled, in its sole discretion, at any time and without further communication to Target Shareholders, to deem any Acceptance Form it receives to be a valid acceptance in respect of Target Shares, even if a requirement for acceptance has not been complied with but the payment of the Takeover Bid Consideration in accordance with the Offer may be delayed until any irregularity has been resolved or waived and any other documents required to procure registration have been received by Bidder.

(c) Where a Target Shareholder satisfies the requirement for acceptance in respect of only some of its Target Shares, Bidder will be entitled, in its sole discretion, to regard the Offer to be accepted in respect of those Target Shares but not the remainder.

5 The effect of acceptance

Target Shareholders who have accepted the Offer will be able to revoke their acceptance at any time until the Takeover Bid Condition in clause 7(a) (Takeover Bid Transaction FIRB approval) of this Schedule 2 has been satisfied in accordance with this deed and the Corporations Act. When the Takeover Bid Condition in clause 7(a) (Takeover Bid Transaction FIRB approval) of this Schedule 2 has been satisfied, a Target Shareholder that has accepted the Offer will be unable to revoke its acceptance and the contract resulting from their acceptance will be binding on them and they will be unable to withdraw their Target Shares from the Offer or otherwise dispose of their Target Shares, except as permitted under the Corporations Act.

6 Payment of Takeover Bid Consideration

Bidder will provide the Takeover Bid Consideration due to Target Shareholders that have accepted the Offer for their Target Shares within the time required under the Corporations Act.

7 Takeover Bid Conditions

(a) (**Takeover Bid Transaction FIRB approval**) before the end of the Offer Period, one of the following has occurred:

(i) Bidder has received written notice under the FATA, by or on behalf of the Treasurer, advising that the Commonwealth has no objections to the

Takeover Bid Transaction, either unconditionally or, subject to clause 3.3(e)(iv), on terms and conditions that are acceptable to Bidder;

(ii) the Treasurer becomes precluded by the passage of time from making an order or decision under Part 3 of the FATA in relation to the Takeover Bid Transaction and the Takeover Bid Transaction is not prohibited by section 82 of the FATA; or

(iii) where an interim order is made under section 68 of the FATA in respect of the Takeover Bid Transaction, the subsequent period for making an order or decision under Part 3 of the FATA elapses without the Treasurer making such an order or decision;

(b) (**Target Performance Rights**) as at the end of the Offer Period:

(i) Target has entered into a Target Performance Right Deed with each Target Performance Right Holder, and has not done any thing that is expressed under the terms of a Target Performance Right Deed to require Bidder's prior written consent (except where Bidder's prior written consent has been provided);

(ii) ASX has issued or provided, and has not adversely amended (in a material respect), withdrawn or revoked, the Target Performance Right ASX Listing Rule 6.23 Waiver; and

(iii) no Target Shares or other securities (as that expression is defined in section 92 of the Corporations Act) in a Target Group Member have been issued, transferred or granted to any person under the Target Performance Rights Plan between (and including) the date of this deed and the end of the Offer Period and, other than as expressly set out in the Target Incentive Securities Disclosure Letter (and subject to any qualifications in the Target Incentive Securities Disclosure Letter), there is no obligation on a Target Group Member to issue any Target Share or any such securities on or as a result or in satisfaction of the vesting, exercise, conversion, lapsing, extinguishment or cancellation of any Target Performance Right including as a consequence of Target amending, waiving or exercising any discretion in connection with the Target Performance Rights Plan or any Target Performance Right);

(c) (**Target Options**) as at the end of the Offer Period:

(i) Target has entered into a Target Option Cancellation Deed with each Target Optionholder, and has not done any thing that is expressed under the terms of a Target Option Cancellation Deed to require Bidder's prior written consent (except where Bidder's prior written consent has been provided);

(ii) ASX has issued or provided, and has not adversely amended (in a material respect), withdrawn or revoked, the Target Option ASX Listing Rule 6.23 Waiver; and

(iii) no Target Shares or other securities (as that expression is defined in section 92 of the Corporations Act) in a Target Group Member have been issued or transferred to any person between (and including) the date of this deed and the end of the Offer Period as a result of the vesting, exercise, conversion or cancellation of any Target Option and, other than as expressly set out in the Target Incentive Securities Disclosure Letter (and subject to any qualifications in the Target Incentive Securities Disclosure Letter), there is no obligation on a Target Group Member to issue any Target Share or any such

securities on or as a result or in satisfaction of the vesting, exercise, conversion, lapsing, extinguishment or cancellation of any Target Option (including as a consequence of Target amending, waiving or exercising any discretion in connection with the Target Performance Rights Plan);

(d) (**No Target Prescribed Occurrence**) no Target Prescribed Occurrence occurs during the period commencing on the date of this deed and ending at the end of the Offer Period (each inclusive);

(e) (**Restraints**) at the end of the Offer Period, there is not in effect any:

(i) permanent or temporary restraining order, injunction or other decision, order or decree issued by any court of competent jurisdiction or by any Government Agency;

(ii) law, rule or regulation; or

(iii) other legal restraint or prohibition,

that restrains, prevents or prohibits the Takeover Bid or the completion of contracts formed by the acceptance of Offers by Target Shareholders;

(f) (**Scheme fails**) either:

(i) the Scheme is not approved by Target Shareholders (other than Excluded Target Shareholders) at the Scheme Meeting by the Requisite Majorities (except to the extent the Court orders otherwise under section 411(4)(a)(ii)(A) of the Corporations Act); or

(ii) following the approval of the Scheme by Target Shareholders (other than Excluded Target Shareholders) at the Scheme Meeting by the Requisite Majorities, the Court does not approve the Scheme in accordance with section 411(4)(b) of the Corporations Act;

(g) (**Minimum acceptance**) Bidder has a Relevant Interest in at least 50.1% of the Target Shares on issue;

(h) (**No Target Material Adverse Change**) no event, change in condition, matter, occurrence or circumstances that is a Target Material Adverse Change occurs:

(i) during the period commencing on the date of this deed and ending at the end of the Offer Period (each inclusive); or

(ii) before the execution of this deed but which is first discovered by Bidder to be a Target Material Adverse Change, is first announced or disclosed to Bidder by Target in a manner that makes known to the Bidder that a Target Material Adverse Change has occurred, or otherwise first becomes known to the Bidder to be a Target Material Adverse Change, during the period commencing on the execution of this deed and ending at the end of the Offer Period (each inclusive);

(i) (**Identified Contracts**) between the date of this deed and the end of the Offer Period (each inclusive) no counterparty to an Identified Contract exercises or states an intention to exercise any rights (whether or not subject to contingencies or

conditions, or to the effluxion of time) under any provision in the relevant Identified Contract to:

(i) terminate, cancel or rescind that Identified Contract;

(ii) vary, amend or modify that Identified Contract in a manner that is materially adverse to any Target Group Member;

(iii) require any monies borrowed by any Target Group Member under that Identified Contract to be repayable earlier than the payment date specified in that Identified Contract (or cause the repayment of those monies borrowed to be otherwise accelerated); or

(iv) terminate, cancel or suspend any commitment to provide financial accommodation to a Target Group Member under that Identified Contract,

in each case that arise or will arise as a result of:

(v) Bidder acquiring, or acquiring a Relevant Interest in, any Target Shares or any number or percentage of them under the Takeover Bid that may occur as a result of acceptances of the Offer; or

(vi) Bidder acquiring control or ownership of, or there otherwise being a change in control or ownership of, Target or any other Target Group Member under the Takeover Bid that may occur as a result of acceptances of the Offer,

(each such provision in an identified Contract being a **Change of Control Provision**), other than where that counterparty has provided:

(vii) a written, enforceable and unconditional waiver or release of such rights under the relevant Change of Control Provision and:

(A) Target has provided a copy of that waiver or release to Bidder; and

(B) that waiver or release has not been withdrawn, cancelled, revoked or adversely modified as at the end of the Offer Period; or

(viii) without limiting paragraph (vii) above, its written:

(A) consent, waiver, approval or other confirmation under the relevant Identified Contract to the change of control or ownership of Target (or another Target Group Member); or

(B) confirmation that it will not exercise, or a written waiver of the right to exercise, a right to terminate the relevant Identified Contract,

in each case in a form acceptable to Bidder (acting reasonably), and that consent, waiver, approval or confirmation has not been withdrawn, cancelled, revoked or adversely modified as at the end of the Offer Period;

(j) (**Termination of the Transaction Implementation Deed**) this deed is not terminated by Bidder under clause 15.1(b), clause 15.2(a) or clause 15.3(b) before the end of the Offer Period.

8 Nature and waiver of Takeover Bid Conditions

(a) Each of the Takeover Bid Conditions, apart from the Takeover Bid Condition in clause 7(a) (Takeover Bid Transaction FIRB approval) of this Schedule 2, will be conditions subsequent. The non-fulfilment of any condition subsequent does not, until the end of the Offer Period (or in the case of the Takeover Bid Condition in clause 7(d) (No Target Prescribed Occurrence) of this Schedule 2, until the end of the third Business Day after the end of the Offer Period), prevent a contract to sell Target Shares from arising, but will entitle Bidder by written notice to Target Shareholders, to rescind the contract resulting from Target Shareholders' acceptance of the Offer.

(b) The Takeover Bid Condition in clause 7(a) (Takeover Bid Transaction FIRB approval) of this Schedule 2 is a condition precedent to the acquisition of any interest in Target Shares by Bidder and will prevent a contract to sell Target Shares from arising until it is satisfied in accordance with this deed and the Corporations Act. Notwithstanding the acceptance of the Offer by a Target Shareholder, unless and until the condition in that clause is fulfilled:

(i) no contract for the sale of the Target Shares to Bidder under the Takeover Bid will come into force or be binding on the Target Shareholder or on Bidder; and

(i) Bidder will have no rights (conditional or otherwise), including Rights, in relation to the Target Shares.

(c) Subject to the Corporations Act and clauses 8(d) and 8(e) of this Schedule 2, Bidder may declare the Takeover Bid to be free from any Takeover Bid Condition by giving written notice to Target declaring the Offer to be free from the relevant Condition or Conditions specified, in accordance with section 650F of the Corporations Act. This notice may be given:

(i) in the case of the Takeover Bid Condition in clause 7(d) (No Target Prescribed Occurrence) of this Schedule 2, not later than three Business Days after the end of the Offer Period; and

(ii) in the case of all the other Takeover Bid Conditions in clause 7 of this Schedule 2, not less than seven days before the end of the Offer Period.

(d) The Takeover Bid Condition in clause 7(f) (Scheme fails) of this Schedule 2 may only be waived by Bidder (where, for the purpose of this clause, such 'waiver' includes Bidder freeing the Offer from that Takeover Bid Condition) with the prior written consent of Target (in its absolute discretion).

(e) The Takeover Bid Minimum Acceptance Condition may only be waived by Bidder (where, for the purpose of this clause, such 'waiver' includes Bidder freeing the Offer from that Takeover Bid Condition):

(i) if Bidder has a Relevant Interest in at least 40% of Target Shares on issue, where, for the purpose of this paragraph 8(e), Bidder's Relevant Interest is to be determined as if section 609A of the Corporations Act was omitted from the Corporations Act and disregarded in relation to a Takeover Bid Acceptance Facility, provided that the waiver of the Takeover Bid Minimum Acceptance Condition (together with the waiver of any other applicable Takeover Bid Conditions at the same time as such waiver) causes acceptances under the Takeover Bid Acceptance Facility to be unable to be withdrawn; or

(ii) otherwise (and in all circumstances other than those expressly stated in clause 8(e)(i) of this Schedule 2) with the prior written consent of Target (in its absolute discretion).

(f) If a Scheme Condition is waived or satisfied, Bidder must declare the Takeover Bid free from the corresponding Takeover Bid Condition.

(g) If, at the end of the Offer Period (or in the case of the Takeover Bid Condition in clause 7(d) (No Target Prescribed Occurrence) of this Schedule 2, at the end of the third Business Day after the end of the Offer Period), the Takeover Bid Conditions have not been fulfilled and Bidder has not declared the Offer (or it has not become) free from those Conditions, all contracts resulting from the acceptance of the Offer will be automatically void.

9 Withdrawal of the Offer

(a) Bidder will be entitled to withdraw the Offer with the consent in writing of ASIC, which consent may be subject to conditions. If ASIC gives such consent, Bidder will give notice of the withdrawal to the ASX and to Target and will comply with any conditions imposed by ASIC.

(b) If, at the time the Offer is withdrawn, the Offer has been freed from all the Takeover Bid Conditions, all contracts arising from acceptance of the Offer before it was withdrawn will remain enforceable.

(c) If, at the time the Offer is withdrawn, the Offer remains subject to one or more of the Takeover Bid Conditions, all contracts arising from the acceptance of the Offer will become void (whether or not the events referred to in the relevant Conditions have occurred).

(d) A withdrawal of the Offer pursuant to this clause 9 of this Schedule 2 will be deemed to take effect:

(i) if ASIC's consent to the withdrawal of the Offer is not subject to conditions imposed by ASIC, on and after the date on which that consent in writing is given by ASIC; or

(ii) if ASIC's consent to the withdrawal of the Offer is subject to conditions imposed by ASIC, on and after the date on which those conditions are satisfied.

10 Notice on status of Takeover Bid Conditions

The date for giving the notice on the status of the Takeover Bid Conditions required by section 630(1) of the Corporations Act will be determined in accordance with the Timetable (subject to extension in accordance with section 630(2) of the Corporations Act if the Offer Period is extended).

11 Variation of the Offer

Bidder will be entitled to vary the Offer in accordance with the Corporations Act.

12 Power of attorney

(a) Immediately upon the Offer being declared or becoming unconditional and until Target registers Bidder as the holder of the relevant Target Shares in the Target Share Register, each Target Shareholder that has accepted the Offer:

(i) is deemed to have appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the relevant Target Shares registered in their name and sign any shareholders' resolution or document;

(ii) must not attend or vote at any of those meetings or sign any resolutions, whether in person, by direct vote, by proxy or by corporate representative (other than pursuant to clause 12(a)(i) of this Schedule 2);

(iii) must take all other actions in the capacity of a registered holder of the relevant Target Shares as Bidder reasonably directs; and

(b) acknowledges and agrees that in exercising the powers referred to in clause 12(a)(i) of this Schedule 2, Bidder and any director, officer, secretary or agent nominated by Bidder under clause 12(a)(i) of this Schedule 2 may act in the best interests of Bidder as the intended registered holder of the relevant Target Shares.

13 Offerees

(a) Registered holders

Offers will be made to each person registered as the holder of at least one Target Share in the Target Share Register at 7:00pm (Sydney time) on the Register Date. Offers will also extend to:

(i) holders of Target Shares issued during the period from the Register Date to the end of the Offer Period (inclusive) as a result of the exercise or vesting of Target Performance Rights and/or Target Options that are on issue as at the Register Date; and

(ii) any person who becomes registered, or entitled to be registered, as the holder of Target Shares during the Offer Period.

(b) Transferees

Offers will extend to all persons who, during the Offer Period, are able to give good title to a parcel of Target Shares as if those persons held the Target Shares on the Register Date.

(c) Trustees and nominees

Offers will be made to persons who hold Target Shares in two or more separate parcels within the meaning of section 653B of the Corporations Act (for example, because a person is a trustee or nominee for several distinct beneficial owners), in accordance with section 653B of the Corporations Act so that:

(i) Bidder will be taken to have made a separate Offer for each separate parcel of Target Shares; and

(ii) acceptance of the Offer for any distinct parcel of Target Shares will be ineffective unless:

(A) the Target Shareholder gives Bidder notice in accordance with the Offer in the Bidder's Statement stating that the Target Shares consist of separate parcels; and

(B) the acceptance specifies the number of Target Shares in each separate parcel to which the acceptance relates.

14 Foreign laws

Bidder will not be required to register the Offer in any jurisdiction outside Australia (unless an applicable foreign law treats it as registered as a result of the Bidder's Statement being lodged with ASIC).

15 Stamp duty

Bidder will pay any stamp duty on the transfer of the Target Shares to Bidder as a result of the acceptance of the Offer by a Target Shareholder.

16 Governing law

The Offer and any contract that results from an acceptance of the Offer will be governed by the laws in force in New South Wales, Australia.

Schedule 3 Target equity capital structure

Class of security	Number of securities on issue as at the date of this deed
Securities Officially Quoted on ASX	
Target Shares	1,385,177,140
Securities not Officially Quoted on ASX	
Target Performance Rights	9,660,586
Target Options	14,500,000

Schedule 4 Timetable

Event	Target date or period
Execution of this deed	Friday, 12 April 2024
Target lodges Regulator's Draft (to be included in the Transaction Booklet) with ASIC	Late May 2024
First Court Date	Early June 2024
Despatch Transaction Booklet to Target Shareholders	Early to mid June 2024
Offer Period commences	
Scheme Meeting	Mid July 2024
If the Scheme is approved by the Requisite Majorities of Target Shareholders (other than Excluded Target Shareholders) at the Scheme Meeting	
Second Court Date	Mid July 2024
Effective Date	Mid July 2024
Scheme Record Date	Late July 2024
Implementation Date	Late July 2024
If the Scheme is <u>not</u> approved by the Requisite Majorities of Target Shareholders (other than Excluded Target Shareholders) at the Scheme Meeting or the Court Approval Condition is not satisfied	
End of the Offer Period (unless the Offer Period is extended or withdrawn by Bidder in accordance with the Corporations Act and this deed)	At least 20 Business Days after the date of the Scheme Meeting

Schedule 5 Target Prescribed Occurrences

(a) **Conversion of securities:** Target converting all or any of its securities (including the Target Shares) into a larger or smaller number of securities;

(b) **reducing or changing share capital:** any Target Group Member resolving to reduce its share capital in any way;

(c) **buy-backs:** any Target Group Member entering into a buy-back agreement in respect of Target Shares or resolving to approve the terms of a buy-back agreement under subsections 257C(1) or 257D(1) of the Corporations Act;

(d) **new shares and options:** any Target Group Member issuing shares (including, in respect of Target, Target Shares), or options over its shares (including, in respect of Target, Target Shares), or agreeing to make such an issue or grant such an option, other than (except in the case of Target Shares) to another Target Group Member that is directly or indirectly wholly-owned by Target;

(e) **convertible securities:** any Target Group Member issuing, or agreeing to issue, convertible notes or any other security convertible into shares (including, in respect of Target, Target Shares), other than (except in the case of Target Shares) to another Target Group Member that is directly or indirectly wholly-owned by Target;

(f) **dividends and other distributions:** Target announcing, declaring, making, paying or distributing any dividend or other distribution (whether cash or in specie) to Target Shareholders, or incurring a liability or requirement to make or pay any such dividend or other distribution;

(g) **disposal of business:** any Target Group Member disposing, or agreeing to dispose, of all, or a substantial part, of its business;

(h) **Encumbrances:** any Target Group Member granting or agreeing to grant an Encumbrance over all, or a substantial part, of its business or property, other than a Permitted Encumbrance;

(i) **Insolvency Events:** an Insolvency Event occurring in respect of a Target Group Member.

Schedule 6 Target Regulated Events

(a) **Changes to Target Constitution:** Target making any change to the Target Constitution that materially affects either Transaction.

(b) **Official Quotation**: Target Shares ceasing to be Officially Quoted.

(c) **Acquisitions and disposals:** any Target Group Member:

(i) acquiring, leasing, licensing or disposing of; or

(ii) agreeing to acquire, lease, licence or dispose of,

any business, asset or entity which individually has a value of, or the consideration payable for that individual business, asset or entity, exceeds A$2,000,000 (individually) or A$5,000,000 (in aggregate), other than:

(iii) in connection with the incurrence of capital expenditure, if and to the extent such acquisition, lease, licence or disposal is permitted, or is not prohibited or restricted, under paragraph (f) below and otherwise not prohibited or restricted by this deed; or

(iv) where the relevant acquisition, lease, licence or disposal is contemplated by the terms of an Existing J-POWER Agreement and either: (A) the relevant Bidder Group Member has consented to or approved the relevant acquisition, lease, licence or disposal for the purpose of; or (B) the consent or approval of the relevant Bidder Group Member to or for the relevant acquisition, lease, licence or disposal is not required to be given or obtained under, that Existing J-POWER Agreement.

(d) **Material contracts:** any Target Group Member:

(i) entering into a new contract or binding commitment; or

(ii) renewing, materially varying or terminating any contract or binding commitment existing as at the date of this deed,

in each case:

(iii) under which the Target Group will receive, or is expected to receive, A$2,000,000 or more in revenue in any financial year during the term of that contract (when averaged over the term of that contract);

(iv) under which the Target Group will incur, or is expected to incur, A$2,000,000 or more in gross costs or expenditure in any financial year during the term of that contract (when averaged over the term of that contract);

(v) under which a Target Group Member would expressly be restrained from competing with a Third Party or conducting activities in any market;

(vi) under which any Target Group Member gives any guarantee or indemnity on behalf of any Third Party or provides security for the obligations of any Third Party of a value of A$2,000,000; or

(vii) where the relevant new contract or binding commitment, or amended existing contract or binding commitment:

(A) has a term or is expected to have a term of more than three years; and

(B) will result in the Target Group incurring A$250,000 or more in gross costs or expenditure in any financial year during the term of that contract (when averaged over the term of that contract),

in each case, other than:

(viii) a contract or binding commitment in respect of the acquisition, disposal, lease or licence of any business, asset or entity, if and to the extent such acquisition or disposal is permitted, or is not prohibited or restricted, under paragraph (c) above and otherwise not prohibited or restricted by this deed;

(ix) a contract or binding commitment in respect of Financial Indebtedness, if and to the extent such Financial Indebtedness is permitted, or is not prohibited or restricted, under paragraph (e) below and otherwise not prohibited or restricted by this deed;

(x) a contract or binding commitment in respect of capital expenditure, if and to the extent such capital expenditure is permitted, or is not prohibited or restricted, under paragraph (f) below and otherwise not prohibited or restricted by this deed;

(xi) a contract or binding commitment in respect of the settlement of any legal proceeding, claim, investigation or arbitration, if and to the extent such settlement is permitted, or is not prohibited or restricted, under paragraph (i) below and otherwise not prohibited or restricted by this deed;

(xii) where a contract or binding commitment is contemplated by the terms of an Existing J-POWER Agreement and either: (A) the relevant Bidder Group Member has consented to or approved the relevant action for the purpose of; or (B) the consent or approval of the relevant Bidder Group Member to or for the relevant acquisition, lease, licence or disposal is not required to be given or obtained under, that Existing J-POWER Agreement;

(xiii) without limiting Target's obligations under clause 10, a confidentiality agreement solely for the purpose of facilitating the exchange of information between the Target Group Member and the relevant Third Party; or

(xiv) a contract with an Adviser in connection with the Transactions or a Competing Proposal (provided that, for the avoidance of doubt, such contract or variation does not result in a breach of or non-compliance with paragraph (l) below).

(e) **Financial Indebtedness:** any Target Group Member entering into any new contract or binding commitment, or materially varying a contract or binding commitment in existence at the date of this deed, in each case under which one or more Target Group Members incurs, or has incurred, Financial Indebtedness of an amount in excess of A$2,000,000 (individually) or A$5,000,000 (in aggregate), other than:

(i) for the avoidance of doubt, a Target Group Member drawing down on any debt facilities in existence on the date of this deed;

(ii) a contract or binding commitment (including, but not limited to, an Existing J-POWER Agreement) under which a Bidder Group Member provides debt funding to one or more Target Group Members (including, for the avoidance of doubt, any such contract or binding commitment (or amendment or variation to any such contract or binding commitment) that gives effect to an increase in debt funding provided by a Bidder Group Member to one or more Target Group Members);

(iii) a contract or binding commitment in respect of, or for the purpose of financing, capital expenditure, if and to the extent such capital expenditure is permitted, or is not prohibited or restricted, under paragraph (g) below and otherwise not prohibited or restricted by this deed;

(iv) a contract or binding commitment in connection with an Existing Target Group Project, to the extent that it is (and the relevant key commercial terms are) specifically identified in the Disclosure Letter and the terms of the contract or binding commitment are consistent in all material respects those described in the Disclosure Letter;

(v) a contract or binding commitment to give effect or relating to the refinancing of senior or subordinated loan facilities in respect of the Kidston Solar Project and/or the Jemalong Solar Project, provided that Target has consulted with Bidder in good faith in advance of any such refinancing, and, in negotiating and agreeing the terms of such contract or binding commitment, consider in good faith any comments or views expressed by Bidder in such advance consultation; or

(vi) a contract or commitment solely with or to another Target Group Member that is wholly owned (directly or indirectly) by Target.

(f) **Net debt**: any Target Group Member:

(i) taking any action, omitting to take any action, or otherwise incurring any cost or liability that results or would be reasonably likely to result in the net debt of the Target Group (taken as a whole) increasing to more than A$693.4 million before:

(A) if Bidder has complied with its obligations under clause 2.3(b)(ii)(B) and the end of the Offer Period has been extended to a date that is after the End Date, the end of the Offer Period; or

(B) otherwise, the earlier of the end of the Offer Period and the End Date; or

(ii) committing or agreeing to take any action, omit to take any action, or otherwise incurring any cost or liability that results or would be reasonably likely to result in the net debt of the Target Group (taken as a whole) increasing to more than A$693.4 million before:

(A) if Bidder has complied with its obligations under clause 2.3(b)(ii)(B) and the end of the Offer Period has been extended to a date that is after the End Date, the end of the Offer Period; or

(B) otherwise, the earlier of the end of the Offer Period and the End Date,

including, for the avoidance of doubt, any action, omission or incurrence that may otherwise be permitted, or not restricted, by this deed) other than solely and directly as a result of:

(iii) the use of cash on hand of a Target Group Member in the ordinary course of the Target Group's business; or

(iv) a Target Group Member drawing down on any debt facilities or utilising securitisation programs in existence on the date of this deed for the purposes of the construction of the Kidston Hydro Project.

(g) **Capital expenditure:** any Target Group Member incurring or committing to incur any expenditure in respect of capital expenditure items for an amount in excess of A$2,000,000 (individually) or A$5,000,000 (in aggregate), other than any:

(i) actual, estimated or proposed capital expenditure identified or forecast or budgeted to be incurred (including any budgeted contingency amount in respect of an individual item or in aggregate) in document 05.01.02.02.35 in the Online Data Room (whether on a capital expenditure item or whole of project basis); or

(ii) reasonable capital expenditure which directly relates to a project being developed by one or more Target Group Member under an Existing J-POWER Agreement, provided that a Target Group Member incurring or committing to incur that capital expenditure does not cause a breach by a Target Group Member of the relevant Existing J-POWER Agreement.

(h) **Third Party defaults:** any Target Group Member waiving any Third Party default, or accepting as a compromise of a Third Party default less than the full compensation due to the Target Group Member in respect of such a default, where the amount due to that Target Group Member in respect of that Third Party default, or the difference between the amount accepted and the full compensation due to the Target Group Member in respect of the Third Party default, as applicable, is, or is reasonably likely to be, in excess of A$1,000,000 (individually) or A$3,000,000 (in aggregate with all other such amounts).

(i) **Legal proceedings:** a Target Group Member:

(i) commencing any Proceeding; or

(ii) settling any Proceeding, claim made by a Third Party against a Target Group Member or any other claim involving a Target Group Member where a Target Group Member has liability to a Third Party (**Legal Claim**) or investigation,

where, in the case of commencing, the claimed amount, or, in the case of settling, the settlement amount, is in excess of A$1,000,000 (individually) or A$3,000,000 (in aggregate with all other such amounts), other than:

(iii) as claimant in respect of the collection of debts arising in the ordinary course of the Target Group's business;

(iv) in respect of an actual Proceeding or Legal Claim on foot as at the date of this deed under which a Target Group Member is the plaintiff, claimant or applicant (or similar) and for which an expected, estimated or provisioned settlement, claimed or judgment (or similar) amount (or range of such amounts) has been Fairly Disclosed in the Disclosure Materials, provided

that the relevant Target Group Member does not settle that actual or potential Proceeding or Legal Claim, for a settlement amount that is 10% (or more) less than the expected, estimated or provisioned settlement, claimed or judgment (or similar) amount Fairly Disclosed in the Disclosure Materials (or, if a range has been Fairly Disclosed in the Disclosure Materials, of the lowest amount in that range); or

(v) in respect of an actual or potential Proceeding or Legal Claim under which a Target Group Member is or is expected to be the defendant or respondent (or similar), where the claimed or settlement amount paid or payable by a Target Group Member is fully recovered, or is otherwise wholly set-off by a Target Group Member recovering any amount in respect of the claimed or settlement amount, under an insurance policy (or the insurer in respect of that insurance policy has otherwise confirmed that the claimed or settlement amount is fully covered by that insurance policy).

(j) **Accounting policies:** the Target Group changing in any material respect any accounting policy applied by it in the preparation of its audited financial statements in respect of the financial year that ended on 30 June 2023, other than any change required by a change in the Accounting Standards, or applicable law or regulation.

(k) **Employment contracts and employee incentives:** a Target Group Member:

(i) entering into a new employment agreement, or materially varying an employment agreement in existence at the date of this deed, with an employee of the Target Group whose annual fixed remuneration is (or, in the case of an employment agreement not in existence on the date of this deed, would be) greater than A$150,000, other than to replace such an employee who ceased to be an employee of a Target Group Member;

(ii) accelerating, or otherwise increasing, the employment-related compensation or benefits of an employee of the Target Group, other than:

(A) in the ordinary course of the Target Group's business and materially consistent with the Target Group's past practice over the 12-month period immediately prior to the date of this deed; or

(B) in accordance with terms agreed with Bidder in writing in the Target Incentive Securities Disclosure Letter; or

(iii) paying or agreeing to pay any retention payments or similar payments to employees of the Target Group in connection with the Transactions (other than, for the avoidance of doubt, the Target Performance Right Cancellation Consideration and the Target Option Cancellation Consideration and any retention payments or similar payments to employees of the Target Group in connection with the Transactions disclosed in the Online Data Room at document 04.03.01.01 and 04.03.01.04).

(l) **Transaction costs**: any Target Group Member paying, incurring or agreeing to pay (including by exercising or not exercising any discretion under any engagement letter or terms or other agreement) to pay or incur, any fees costs (including all financial advisory, legal, accounting and other costs or fees payable to Advisers) to an Adviser or other Third Party directly in connection with the Transactions (other than under or in connection with (including the premium for) the D&O Run-off Policy, under a Target Option Cancellation Deed (including the Target Option Cancellation Consideration) or Target Performance Right Deed (including the Target Performance Right Cancellation Consideration), or to a Government

Agency) that results in the aggregate of all such costs and fees paid, incurred or agreed to be paid by the Target Group exceeding the relevant amount specified in the Disclosure Letter, other than any such reasonable costs or fees that a Target Group Member pays, incurs, or agrees to pay in good faith and directly in connection with or as a direct result of:

(i) a Competing Proposal; or

(ii) any approvals, consents, clearances, waivers, rulings, reliefs, confirmations, exemptions, declarations or notices from a Government Agency required in connection with a Transaction that, as at the date of this deed, were not reasonably expected to be paid, incurred or agreed to be paid by the Target Group on or before the Implementation Date or the end of the Offer Period.

Schedule 7 Bidder Representations and Warranties

(a) (**Validly existing**) Bidder is a validly existing corporation registered under the laws of its place of incorporation.

(b) (**Power**) Bidder has full corporate power and lawful authority to execute, deliver and perform this deed and the Deed Poll.

(c) (**Corporate action**) Bidder has taken all necessary corporate action to authorise the entry into, and delivery of, this deed and the Deed Poll and has taken or will take all necessary corporate action to authorise the performance of this deed and the Deed Poll.

(d) (**Bidder shareholder approval**) Bidder does not require the approval of its shareholders (or other securityholders) or the approval or consent of any other person or entity to enter into or perform any of its obligations under this deed, the Deed Poll or the Transactions;

(e) (**Binding**) This deed constitutes (and the Deed Poll will constitute) legal, valid and binding obligations on Bidder and is enforceable in accordance with its terms.

(f) (**Performance**) The execution and performance by Bidder of this deed did not and will not, and the execution and performance by Bidder of the Deed Poll will not, violate or breach any provision of:

(i) a law, regulation, treaty, writ, judgment, ruling, order or decree:

(A) binding on Bidder; or

(B) to which Bidder is subject; or

(ii) Bidder's constitution or other constituent documents.

(g) (**Bidder Information**) The Bidder Information included in the Scheme Booklet with Bidder's consent pursuant to clause 4.3(b), and any other information provided by Bidder pursuant to clause 4.3(e) and included in any supplementary disclosure to Target Shareholders (other than Excluded Target Shareholders) with the Bidder's consent, will not, as at the date the Scheme Booklet or other supplementary disclosure is despatched to Target Shareholders (other than Excluded Target Shareholders) (as applicable), be misleading or deceptive in any material respect (with any statement of belief or opinion being honestly held and having been formed on reasonable grounds), including by way of omission or otherwise;

(h) (**Basis of Bidder Information**) The Bidder Information provided for inclusion in the Scheme Booklet with Bidder's consent pursuant to clause 4.3(b), and any other information provided by Bidder pursuant to clause 4.3(e) and for inclusion in any supplementary disclosure to Target Shareholders (other than Excluded Target Shareholders) with the Bidder's consent:

(i) will be provided to Target in good faith and on the understanding that it will be included in the Scheme Booklet despatched to Target Shareholders (other than Excluded Target Shareholders) and that Target and each Target Indemnified Party will rely on that information for the purposes of preparing the Scheme Booklet and proposing the Scheme; and

(ii) will comply in all material respects with the relevant requirements of the Corporations Act, Corporations Regulations, RG 60 and the ASX Listing Rules.

(i) (**Relevant Documents**) As at the date the Target's Statement and the Bidder's Statement are despatched to Target Shareholders, the information contained in each such Relevant Document for which Bidder was responsible for preparing under clause 4.2 or clause 4.3 (and which, in the case of the Target's Statement, the Bidder has consented to being included in the Target's Statement pursuant to clause 4.3(b)):

(i) was prepared and included in the Relevant Document in good faith;

(ii) complies in all material respects with the relevant requirements of the Corporations Act, the Corporations Regulations, the ASX Listing Rules and relevant ASIC regulatory guides and Takeovers Panel guidance notes (as applicable); and

(iii) is not misleading or deceptive in any material respect (with any statement of belief or opinion being honestly held and having been formed on reasonable grounds), including by way of omission or otherwise.

(j) (**Information provided to the Independent Expert**) All information provided by Bidder to the Independent Expert will not be misleading or deceptive in any material respect (whether by omission or otherwise) and will be provided in good faith and on the understanding that, to the extent accepted or agreed or consented to by the Independent Expert, the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet and the Target's Statement.

(k) (**New information**) Bidder will, as a continuing obligation, provide to Target all further or new information which arises, and of which the Bidder has actual knowledge, after the Scheme Booklet has been despatched to Target Shareholders (other than Excluded Target Shareholders) until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading or deceptive (including by way of omission) in any material respect.

(l) (**Insolvency Event or regulatory action**) No Insolvency Event has occurred in relation to Bidder (or, if applicable Bidder Subsidiary), nor, as far as Bidder is aware, has any regulatory action of any nature been taken that would prevent or restrict or be likely to prevent or restrict Bidder's ability to fulfil its obligations under this deed, the Deed Poll or the Transactions.

(m) (**No regulatory approvals**) Bidder does not require any approval, consent, clearance, waiver, ruling, relief, confirmation, exemption, declaration or notice from any Government Agency in order to execute and perform this deed or otherwise comply with its obligations under the Deed Poll, except as expressly contemplated by this deed or as may be agreed from time to time between Bidder and Target for the purposes of the Scheme Condition in clause 3.1(h) (ASIC and ASX).

(n) (**Reasonable basis**) As at the date of this deed:

(i) and at all times between the date of this deed and the Delivery Time, Bidder has a reasonable basis to expect that it (and the Bidder Subsidiary, if applicable) will, on the Business Day before the Implementation Date, have available to it on an unconditional basis sufficient cash amounts (whether from internal Bidder Group cash resources or external funding arrangements

or a combination of both) to satisfy Bidder's obligation (and the Bidder Subsidiary's obligation, if applicable) to provide the Aggregate Scheme Consideration in accordance with its obligations (and at the relevant time(s) required) under this deed, the Scheme and the Deed Poll; and

(ii) and at all times between the date of this deed and end of the Offer Period, Bidder has a reasonable basis to expect that it (or the Bidder Subsidiary, if applicable) will have available to it on an unconditional basis sufficient cash amounts (whether from internal Bidder Group cash resources or external funding arrangements or a combination of both) to satisfy Bidder's obligation (or the Bidder Subsidiary's obligation, if applicable) to pay the Takeover Bid Consideration in accordance with the terms of the Takeover Bid and the requirements in the Corporations Act in respect of the timing of the payment of the Takeover Bid Consideration to Target Shareholders that have accepted the Offer.

(o) (**financing**):

(i) at the Delivery Time, Bidder (and the Bidder Subsidiary, if applicable) will have available to it, on an unconditional basis (other than: (A) conditions relating to the approval of the Scheme by the Court; or (B) procedural or documentary matters the satisfaction of which is within the control of Bidder and which can only be satisfied or performed after the Second Court Date), sufficient cash amounts (whether from internal Bidder Group cash resources or external funding arrangements or a combination of both) to satisfy Bidder's obligations (and the Bidder Subsidiary's obligation, if applicable) to provide the Aggregate Scheme Consideration in accordance with its obligations (and the Bidder Subsidiary's obligations, if applicable) (and at the relevant time(s) required) under this deed, the Scheme and the Deed Poll;

(ii) on the Business Day prior to the Implementation Date, Bidder (or the Bidder Subsidiary, if applicable) will have available to it on an unconditional basis sufficient cash amounts (whether from internal Bidder Group cash resources or external funding arrangements or a combination of both) to satisfy the Bidder's obligations (and the Bidder Subsidiary's obligation, if applicable) to pay the Aggregate Scheme Consideration in accordance with its obligations (and the Bidder Subsidiary's obligations, if applicable) (and at the relevant time(s) required) under this deed, the Scheme and the Deed Poll;

(iii) at and from the time at which the Takeover Bid is declared or otherwise becomes unconditional, Bidder (or the Bidder Subsidiary, if applicable) will have available to it on an unconditional basis sufficient cash amounts (whether from internal Bidder Group cash resources or external funding arrangements or a combination of both) to satisfy Bidder's obligation (or the Bidder Subsidiary's obligations, if applicable) to pay the Takeover Bid Consideration in accordance with, and as and when such obligations arise under, the terms of the Takeover Bid and the requirements in the Corporations Act in respect of the timing of the payment of the Takeover Bid Consideration to Target Shareholders that have accepted the Offer; and

(iv) no Bidder Group Member is or will be a party to any agreement, arrangement or understanding (whether written or oral) with a Third Party equity financier in connection with the Transactions, and Bidder has fully disclosed to Target all agreements, arrangements or understandings (whether written or oral) with any Third Party equity financier to a Bidder Group Member in connection with the Transactions.

(p) (**Dealings in Target Shares**):

(i) the only Excluded Target Shareholder as at the date of this deed is JPGA Partners and other than the Existing Relevant Interests (and any Relevant Interests in the Target Shares the subject of the Form 603 (Notice of initial substantial holder) lodged by relevant Bidder Group Members with the ASX on 19 May 2021 which arise because of a Bidder Group Member having become a Related Entity of the Bidder since that date) no Bidder Group Member (or any Associate or Associates of a Bidder Group Member):

(A) has a Relevant Interest in any Target Shares (other than the Existing Relevant Interests);

(B) has a right to acquire any Target Shares (whether issued or not or held by Bidder or not); or

(C) has entered into any agreement, arrangement or understanding that confers rights the economic effect of which is equivalent or substantially equivalent to holding, acquiring, or disposing of Target Shares, including, but not limited to, cash-settled derivative contracts, contracts for difference or other derivative contracts;

(ii) no Bidder Group Member (or any Associate or Associates of a Bidder Group Member) has entered into any agreement, arrangement or understanding that confers rights the economic effect of which is equivalent or substantially equivalent to holding, acquiring, or disposing of:

(A) securities in Target (including, but not limited to, Target Shares) or another Target Group Member; or

(B) any assets of Target or another Target Group Member,

including, but not limited to, cash-settled derivative contracts, contracts for difference or other derivative contracts;

(iii) other than:

(A) as disclosed to Target in writing by or on behalf of Bidder on or before the date of this deed; or

(B) as contemplated by this deed or the Scheme,

no Bidder Group Member has any written agreement, arrangement or understanding with any Target Shareholder in relation to the securities, business, operations or assets of a Target Group Member or the performance or conduct of the business of the Target Group (in whole or in part); and

(iv) neither Bidder nor any other Bidder Group Member has any agreement, arrangement or understanding with any Target Shareholder (other than an Excluded Target Shareholder) under which:

(A) that Target Shareholder (or an Associate of that Target Shareholder) would be entitled to receive any collateral benefit in relation to either Transaction, or any consideration for their Target Shares that is different from the Scheme Consideration or the Takeover Bid Consideration; or

(B) that Target Shareholder agrees to vote in favour of the Scheme (or against any Competing Proposal) or accept the Takeover Bid.

Schedule 8 Target Representations and Warranties

(a) (**Validly existing**) Target and each other Target Group Member is a validly existing corporation registered under the laws of its place of incorporation.

(b) (**Power**) Target has full capacity, corporate power and lawful authority to execute, deliver and perform this deed and the Scheme.

(c) (**Corporate action**) Target has taken all necessary corporate action to authorise the entry into, and delivery of, this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Scheme.

(d) (**Binding**) This deed constitutes legal, valid and binding obligations on Target and is enforceable in accordance with its terms.

(e) (**Performance**) The execution and performance by Target of this deed did not and will not, and the performance of Target's obligations under the Scheme will not, violate or breach any provision of:

(i) a law, regulation, treaty, writ, judgment, ruling, order or decree:

(A) binding on a Target Group Member; or

(B) to which a Target Group Member is subject; or

(ii) the Target Constitution.

(f) (**Equity capital structure**) The total number of each type of equity security, and any other security convertible into or exchangeable for an equity security, on issue in Target (including all issued Target Shares, Target Performance Rights and Target Options) as at the date of this deed is set out in Schedule 3 and:

(i) Target has not issued or agreed to issue any other Target Shares (other than any Target Shares that may be required to be issued on valid exercise of the Target Options in accordance with their terms or on vesting of the Target Performance Rights, in each case as set out in Schedule 3), Target Performance Rights, Target Options or other securities, rights or instruments which are still outstanding and may convert into, or give the holder the right to be issued, Target Shares; and

(ii) Target is not under any obligation to issue and has not committed or undertaken to any person to issue, and no person has any right to require or call for the issue of, any Target Shares (except for on valid exercise of the Target Options in accordance with their applicable terms or on vesting of the Target Performance Rights, in each case as set out in Schedule 3), Target Performance Rights, Target Options or other securities, rights or instruments issuable by Target (whether such obligation or right is conditional or otherwise).

(g) (**Target Information**) The Target Information included in the Scheme Booklet, and any supplementary disclosure made to Target Shareholders (other than Excluded Target Shareholders) pursuant to clause 4.2(e) (excluding any information provided by or on behalf of Bidder or another Bidder Group Member), will not, as at the date the Scheme Booklet or other supplementary disclosure is despatched to Target Shareholders (other than Excluded Target Shareholders) (as applicable) be misleading or deceptive in any material respect (with any statement of belief or

opinion being honestly held and having been formed on reasonable grounds), including by way of omission or otherwise.

(h) (**Basis of Target Information**) The Target Information:

(i) will be prepared and included in the Scheme Booklet in good faith and on the understanding that Bidder and each other Bidder Indemnified Party will rely on that information for the purpose of determining to proceed with the Transactions; and

(ii) will comply in all material respects with the relevant requirements of the Corporations Act, the Corporations Regulations, RG 60 and the ASX Listing Rules.

(i) (**Relevant Documents**) as at the date the Target's Statement and the Bidder's Statement are despatched to Target Shareholders, the information contained in each such Relevant Document for which Target was responsible for preparing under clause 4.2 or clause 4.3 (and which, in the case of the Bidder's Statement, Target has consented to being included in the Bidder's Statement in accordance with clause 4.3(b)):

(i) was prepared and included in the Relevant Document in good faith;

(ii) complies in all material respects with the relevant requirements of the Corporations Act, the Corporations Regulations, the ASX Listing Rules and relevant ASIC regulatory guides and Takeovers Panel guidance notes (as applicable); and

(iii) is not misleading or deceptive in any material respect (with any statement of belief or opinion being honestly held and having been formed on reasonable grounds), including by way of omission or otherwise.

(j) (**Information provided to the Independent Expert**) all information provided by Target to the Independent Expert will not be misleading or deceptive in any material respect (whether by omission or otherwise) and will be provided in good faith and on the understanding that, to the extent accepted by the Independent Expert, the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet and the Target's Statement.

(k) (**New information**) Target will, as a continuing obligation (but in respect of the Bidder Information, only to the extent that Bidder provides Target with updates to the Bidder Information), ensure that the Scheme Booklet is updated or supplemented to include all further or new information which arises after the Scheme Booklet has been despatched to Target Shareholders (other than Excluded Target Shareholders) until the date of the Scheme Meeting of which Target has actual knowledge and which is necessary to ensure that the Scheme Booklet is not misleading or deceptive (including by way of omission) in any material respect.

(l) (**Continuous disclosure and ASX Listing Rules**) As at the date of this deed Target has in all material respects complied and is in compliance with, and is not in breach of, its continuous disclosure and other obligations under the ASX Listing Rules and, following the release of the Agreed Public Announcement, there will be no material information (other than any such information Fairly Disclosed in the Disclosure Materials) which Target is withholding from disclosure in reliance on ASX Listing Rule 3.1A.

(m) (**Insolvency Event or regulatory action**) No Insolvency Event has occurred in relation to Target or another Target Group Member, nor, as far as Target is aware, has any regulatory action of any nature been taken that would prevent or restrict or be likely to prevent or restrict Target's ability to fulfil its obligations under this deed or under the Scheme or the Takeover Bid.

(n) (**Compliance**) Each Target Group Member has complied in all material respects with all Australian and foreign laws and regulations applicable to it and material orders of Australian and foreign Government Agencies having jurisdiction over it, and, as at the date of this deed, no Target Group Member has received a written notice from a Government Agency of any actual or alleged material breach of or material non-compliance with any such laws, regulations or orders by a Target Group Member.

(o) (**No Proceeding or notice of outstanding or unsatisfied Judgement**) As at the date of this deed, no Target Group Member:

(i) is a party to any formal legal proceeding, arbitration, mediation, dispute resolution procedure or litigation relating to the Target Group (**Proceeding**) that has not been Fairly Disclosed in the Disclosure Materials; or

(ii) has received written notice from a Third Party of any outstanding or unsatisfied judgment, order, declaration or decree by any court of competent jurisdiction that is binding on any Target Group Member (**Judgement**) that has not been Fairly Disclosed in the Disclosure Materials,

and, as at the date of this deed, no Target Group Member has received written notice from a Third Party under which that Third Party threatens to commence any Proceeding against any Target Group Member.

(p) (**Financial statements**) Each of the HY24 Financial Statements and FY23 Financial Statements have been prepared in accordance with the Corporations Act, the Corporations Regulations, and the applicable Accounting Standards and, so far is Target is aware, there has not been any event, change, effect or development which would require Target to restate the HY24 Financial Statements or the FY23 Financial Statements.

(q) (**Material Authorisations**)

(i) As at the date of this deed, the Target Group has all Authorisations that are necessary for the Target Group to conduct the business of the Target Group in substantially the same manner as it is and was conducted as at the date of this deed (**Material Authorisations**); and

(ii) no Target Group Member:

(A) is in material breach of, or material default under, any Material Authorisation; or

(B) as at the date of this deed, has received any written notice from a Government Agency that states that the Government Agency will or intends to terminate or revoke, or not renew, any Material Authorisation, and so far as the Target is aware there is no proposal or intention from a Government Agency to terminate, revoke or not renew any Material Authorisation.

(r) (**Material Contracts**) With respect to Material Contracts (including, for the avoidance of doubt, any Identified Contract and any debt financing arrangements that are Material Contracts):

(i) the Material Contracts are all contracts (that are not Existing J-POWER Agreements) to which a Target Group Member is a party as at the date of this deed that are material in the context of the Target Group (taken as a whole);

(ii) true copies of the Material Contracts as at the date of this deed have been included in the Disclosure Materials;

(iii) so far as Target is aware, no Target Group Member is in material default or material breach of its obligations under any Material Contract, and so far as Target is aware nothing has occurred which does (or would with the giving by a counterparty or the relevant Target Group Member of notice, or the lapse of time) constitute a material breach or material default or, in respect of a debt financing arrangement that is a Material Contract, mandatory prepayment event or other requirement of a Target Group Member to repay a loan before its due date, under any Material Contract, other than (in each case) a default, event of default, prepayment event or similar event, or a termination right or right to accelerate any right of obligation of the applicable Third Party, arising or occurring solely as a result of the announcement of the Transactions, the execution of this deed, the Scheme becoming Effective, the implementation of the Scheme, or completion of the Takeover Bid, which default, event of default, prepayment event or similar event, or termination right or right to accelerate (as the case may be) is Fairly Disclosed in the Disclosure Materials;

(iv) so far as Target is aware, no counterparty to a Material Contract is in material default (or would with the giving by a counterparty or the relevant Target Group Member of notice, or the lapse of time) be in material default under a Material Contract;

(v) as at the date of this deed, no Target Group Member has received, or given, any valid written notice of termination of any Material Contract; and

(vi) no Target Group Member is in breach of any financial covenant (or other substantially similar undertaking) under a Material Contract under which that Target Group Member has received debt financing where such breach would trigger a mandatory prepayment event or other requirement of a Target Group Member to repay the relevant debt financing before its due date (including by the breach being an event of default or similar event).

(s) (**Encumbrances**) There are no Encumbrances over the assets of any Target Group Member, other than:

(i) Permitted Encumbrances; and

(ii) any Encumbrances that are Fairly Disclosed in:

(A) the Disclosure Materials; or

(B) a publicly available document which would be disclosed in a search of the PPS Register conducted on the Business Day before the date of this deed.

(t) (**Insurance**) So far as Target is aware:

(i) all insurance premiums that are due and payable by a Target Group Member have been paid by the relevant Target Group Member to the applicable insurer or insurers;

(ii) no Target Group Member has received any written notice from an insurer or any Government Agency requiring it to make improvements or changes in its business or operations where material expenditure would reasonably be expected to be required by the Target Group to comply with that notice; and

(iii) as at the date of this deed, no Target Group Member has any outstanding material insurance claim that has not been Fairly Disclosed in the Disclosure Materials, and, so far as Target is aware, no circumstance exists which would reasonably be expected to give rise to any material insurance claim by a Target Group Member under any contract of insurance to which it is party as at the date of this deed.

(u) (**No Target Material Adverse Change**) So far as Target is aware, no Target Material Adverse Change has occurred as at the date of this deed, and there is no information directly relating to the Target Group that could be reasonably be expected to result in a Target Material Adverse Change that has not been Fairly Disclosed in the Disclosure Materials;

(v) (**Terms of Target Options, Target Performance Rights and incentive payments**) The Disclosure Materials include:

(i) the terms of and applying to all Target Options and Target Performance Rights;

(ii) all agreements and commitments made by a Target Group Member to pay or grant any bonuses, incentive payments or severance pay to the senior management employees of the Target Group; and

(iii) all material agreements entered into by Target Group Members with Advisers and other Third Parties directly in connection with the Transactions,

in each case, as at the date of this deed; and

(w) (**Online Data Room Materials**):

(i) The Disclosure Materials referred to in paragraphs (a) and (b) of the definition of 'Disclosure Materials' (**Online Data Room Materials**) were:

(A) collated and made available to Bidder with reasonable care and in good faith to respond to Bidder's written requests for due diligence information in respect of the Target Group before the date of this deed (**Bidder's Due Diligence Information Requests**) and constitute a materially complete response to the Bidder's Due Diligence Information Requests (when taken as a whole); and

(B) where they consist of documents prepared by the Target Group's management or employees, prepared with reasonable care.

(ii) So far as Target is aware, the Online Data Room Materials are not, and do not contain any information that is, misleading or deceptive in any material respect, whether by way of omission or otherwise.

For the avoidance of doubt, Target does not make or give any representation or warranty as to:

(iii) the accuracy, completeness or reasonableness of any projection, forecast or other forward-looking information or statement (including, but not limited to, in respect of the future financial position, performance or prospects of the Target Group) or of any assumptions on which they are based or that any such projection, forecast, information or statement will, or is likely to be, achieved; or

(iv) the adequacy or sufficiency of the Disclosure Materials for the purpose of Bidder acquiring Target Shares (which is matter of which Bidder must satisfy itself),

and Bidder acknowledges that it is solely for Bidder to consider and determine the materiality and relevance of the information in the Disclosure Materials for the purposes of evaluating the Target Group and proceeding with the Transactions.

Execution page

Executed as a deed.

Signed, sealed and delivered by **Genex Power Limited (ACN 152 098 854)** in accordance with section 127 of the *Corporations Act 2001* (Cth) and by:

[redacted]

Signature of director

[redacted]

Signature of director/secretary

[redacted]

Name of director (print)

[redacted]

Name of director/secretary (print)

Signed, sealed and delivered by **Electric Power Development Co., Ltd.** in the presence of:

Seal

Signature of witness

Signature of authorised signatory

Name of witness (print)

Name of authorised signatory (print)

Execution page

Executed as a deed.

Signed, sealed and delivered by **Genex Power Limited (ACN 152 098 854)** in accordance with section 127 of the *Corporations Act 2001* (Cth) and by:

Signature of director	Signature of director/secretary
Name of director (print)	Name of director/secretary (print)

Signed, sealed and delivered by **Electric Power Development Co., Ltd.** in the presence of:

Seal

[redacted]

Signature of witness

[redacted]

Name of witness (print)

[redacted]

Signature of authorised signatory

[redacted]

Name of authorised signatory (print)

Attachment A Scheme

Scheme of Arrangement

made under section 411 of the Corporations Act

Genex Power Limited (ACN 152 098 854)

Each Scheme Shareholder

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Attachment A Deed Poll

Parties

1 **Genex Power Limited (ACN 152 098 854)** of Suite 12.03, Level 12, 35 Clarence Street, Sydney NSW 2000 (**Target**)

2 **Each Scheme Shareholder**

Background

A Target and Bidder have entered into the Transaction Implementation Deed, pursuant to which, amongst other things, Target has agreed to propose this Scheme to Target Shareholders (other than Excluded Target Shareholders) and each of Target and Bidder has agreed to take certain steps to give effect to this Scheme.

B If this Scheme becomes Effective, then:

(a) all of the Scheme Shares (together with all of the rights and entitlements attaching to them on the Implementation Date) will be transferred to Bidder; and

(b) Bidder will provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the provisions of this Scheme; and

(c) Bidder will acquire all of the Scheme Shares and Target will enter Bidder in the Target Share Register as the holder of the Scheme Shares with the result that Target will become a wholly-owned subsidiary of Bidder.

C This Scheme is made under section 411 of the Corporations Act.

The parties agree

1 Defined terms, interpretation and Scheme components

1.1 Defined terms

A term or expression starting with a capital letter which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this Scheme.

1.3 Scheme components

This Scheme includes any schedule to it.

2 Preliminary matters

2.1 Target

(a) Target is a public company limited by shares, incorporated in Australia and registered in the State of Victoria.

(b) Target is admitted to the Official List and Target Shares are quoted on the Official List.

(c) As at the date of the Transaction Implementation Deed, Target had the following equity securities on issue:

(i) 1,385,177,140 Target Shares;

(ii) 9,660,586 Target Performance Rights; and

(iii) 14,500,000 Target Options.

2.2 Bidder

Bidder is a public company listed on the Tokyo Stock Exchange and incorporated in Japan.

2.3 Transaction Implementation Deed

Bidder and Target have entered into the Transaction Implementation Deed in respect of (among other things) the implementation of this Scheme.

2.4 Deed Poll

Bidder has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme, including (but not limited to) the obligation to provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the terms of this Scheme.

3 Conditions Precedent

3.1 Conditions Precedent

This Scheme is conditional on, and will have no force or effect (and will not become Effective) until, the satisfaction of each of the following conditions precedent:

(a) (**Transaction Implementation Deed Scheme Conditions**) all of the Transaction Implementation Deed Scheme Conditions (other than the Transaction Implementation Deed Scheme Condition in clause 3.1(b) of the Transaction Implementation Deed) are satisfied or, if applicable, waived in accordance with the terms of the Transaction Implementation Deed by the Delivery Time;

(b) (**no termination of Transaction Implementation Deed or Deed Poll**) neither the Transaction Implementation Deed nor the Deed Poll is terminated in accordance with its terms before the Delivery Time;

(c) (**Court approval**) the Court approves this Scheme in accordance with section 411(4)(b) of the Corporations Act (either unconditionally and without modification or with modifications or conditions consented to by Target and Bidder in writing in accordance with clause 5.1(b) of the Transaction Implementation Deed); and

(d) (**Court orders become effective**) the orders of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act approving this Scheme coming into effect pursuant to section 411(10) of the Corporations Act,

(each, a **Condition Precedent**).

3.2 Certificates in relation to Conditions Precedent

(a) Each of Target and Bidder must provide a certificate to the Court at the Second Court Hearing confirming (in respect of matters within their respective knowledge), as at the Delivery Time, whether or not:

(i) the Condition Precedent in clause 3.1(a) has been satisfied; and

(ii) the Condition Precedent in clause 3.1(b) has been satisfied.

(b) The giving of certificates by Target and Bidder to the Court under clause 3.2(a) constitutes conclusive evidence that the Conditions Precedent in clauses 3.1(a) and 3.1(b) have been satisfied or, if applicable, waived as at the Delivery Time.

4 Scheme becoming Effective

4.1 Effective Date

Subject to:

(a) the satisfaction of the Conditions Precedent set out in clause 3.1 of this Scheme; and

(b) clause 4.2 of this Scheme,

this Scheme will become Effective on and from the Effective Date.

4.2 End Date

Without limiting any rights of Bidder and Target under the Transaction Implementation Deed, this Scheme will lapse and be of no further force or effect if:

(a) as at the End Date, this Scheme has not become Effective; or

(b) the Transaction Implementation Deed or the Deed Poll is terminated in accordance with their respective terms,

unless Target and Bidder otherwise agree in writing.

5 Implementation of this Scheme

5.1 Lodgement of Court orders with ASIC

For the purposes of section 411(10) of the Corporations Act, Target must lodge with ASIC an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme by 5.00pm (Sydney time) on the first Business Day after the day on which such office copy is received by Target (or such later date as Target and Bidder agree in writing).

5.2 Consequences of this Scheme becoming Effective

If this Scheme becomes Effective:

(a) it will override the Target Constitution, to the extent of any inconsistency;

(b) subject to the terms of this Scheme, in consideration for the transfer to Bidder of the Scheme Shares, each Scheme Shareholder will be entitled to the Scheme Consideration in respect of each Scheme Share in accordance with the terms and conditions of this Scheme;

(c) Bidder must (pursuant to its obligations under this Scheme and the Deed Poll) provide or procure the provision of the Scheme Consideration in the manner contemplated by this Scheme; and

(d) subject to the provision of the Scheme Consideration as contemplated by clause 5.2(c), all the Scheme Shares (together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date) will be transferred to Bidder in the manner contemplated by this Scheme.

5.3 Provision of Scheme Consideration

Subject to this Scheme becoming Effective, in consideration for the transfer to Bidder of the Scheme Shares held by each Scheme Shareholder under the terms of this Scheme, Bidder will provide, or procure the provision, to each applicable Scheme Shareholder the Scheme Consideration to which that Scheme Shareholder is entitled (as determined in accordance with clause 6) on the Implementation Date by complying with its obligations under clause 7.1 (and otherwise in accordance with this Scheme).

5.4 Transfer of Scheme Shares

On the Implementation Date, subject to, and after, the provision of the Scheme Consideration to Scheme Shareholders in the manner contemplated by this Scheme:

(a) all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, must be transferred to Bidder without the need for any further act by any Scheme Shareholder (other than acts performed by Target or any of its directors, secretaries and officers as agent and attorney of the Scheme Shareholders under clause 9.6, or otherwise) by:

(i) Target duly completing and executing the Scheme Transfer on behalf of the Scheme Shareholders (as transferors) and delivering it to Bidder; and

(ii) Bidder duly executing the Scheme Transfer (as transferee) and delivering it to Target for registration; and

(b) immediately after receipt of the Scheme Transfer in accordance with clause 5.4(a)(ii), but subject to the stamping of the Scheme Transfer (if required), Target must enter, or procure the entry of, the name of Bidder in the Target Share Register as the registered holder of all of the Scheme Shares.

5.5 Suspension of trading of Target Shares on ASX

Target must apply to ASX for the suspension of trading in Target Shares on ASX with effect from the close of trading on ASX on the Effective Date.

5.6 Removal of Target from Official List of ASX

Target must apply, and take all other steps reasonably necessary:

(a) for the Official Quotation of Target Shares to be terminated; and

(b) to have Target removed from the Official List,

in each case, with effect on and from the Business Day immediately following the Implementation Date (or such other Business Day notified by Bidder to Target in writing), including by lodging a request for the termination of Official Quotation of Target Shares and the removal of Target from the Official List with ASX on or before the Implementation Date, and Target must satisfy any conditions reasonably required by ASX for it to act on that application.

6 Scheme Consideration

6.1 Scheme Consideration

Under this Scheme (but subject to the terms of the Scheme), each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder at the Scheme Record Date.

6.2 Fractional entitlements

Where the calculation of the Scheme Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent (after applying the Scheme Shareholder's entitlement (prior to rounding) to its entire holding of Scheme Shares), the fractional entitlement will be rounded down to the nearest whole cent.

7 Provision of Scheme Consideration

7.1 Provision of Aggregate Scheme Consideration

(a) Bidder must deposit, or procure the deposit, in cleared funds an amount equal to the Aggregate Scheme Consideration into the Trust Account by no later than two Business Days before the Implementation Date, such amount to be held by Target on trust for Scheme Shareholders (provided that any interest on such amount(s) deposited (less bank fees and other charges) will be credited to Bidder's account).

(b) Bidder must notify Target in writing as soon as practicable after it has complied with its obligations under clause 7.1(a).

7.2 Provision of Scheme Consideration to Scheme Shareholders

(a) On the Implementation Date, subject to clause 7.2(b) and Bidder having complied with its obligations under clause 7.1, Target must pay or procure the payment of the Scheme Consideration from the Trust Account to each Scheme Shareholder who is entitled to receive the Scheme Consideration (in accordance with the terms of this Scheme), by paying or procuring the payment of such amount of cash as is due to that Scheme Shareholder as Scheme Consideration in respect of all of that Scheme Shareholder's Scheme Shares.

(b) The obligations of Target under clause 7.2(a) will be satisfied by Target (in its absolute discretion, and despite any election referred to in clause 7.2(b)(i) or authority referred to in clause 7.2(b)(ii) made or given by the Scheme Shareholder):

(i) if a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Target Share Registry to receive dividend payments from Target by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election;

(ii) if a Scheme Shareholder has otherwise nominated a bank account for the purpose of receiving the Scheme Consideration by an appropriate authority from the Scheme Shareholder to Target (or the Target Share Registry), paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to that bank account; or

(iii) otherwise, whether or not the Scheme Shareholder has made an election referred to in clause 7.2(b)(i) or a valid nomination referred to in clause 7.2(b)(ii), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address, such cheque being drawn in the name of the Scheme Shareholder (or, in the case of joint holders, in accordance with the procedures set out in clause 7.4).

(c) For the purposes of clauses 7.2(b)(i) and 7.2(b)(ii) (as applicable):

(i) if a Scheme Shareholder has validly elected in accordance with the requirements of the Target Share Registry (and, if applicable, the Third Party Currency Conversion Service Provider (as defined below)):

(A) to receive dividend payments from Target by electronic funds in Australian currency to a bank account operated by a third-party service provider (**Third Party Currency Conversion Service Provider**) (or otherwise nominated the Third Party Currency Conversion Service Provider to receive that Scheme Shareholder's dividend payments from Target) which must (in accordance with the agreement between the Scheme Shareholder and the Third Party Currency Conversion Service Provider) then convert those payments into the Scheme Shareholder's nominated non-Australian currency (**Elected Foreign Currency**) and transfer the converted amount(s) (in the Elected Foreign Currency) to a bank account (denominated in the Elected Foreign Currency) nominated by the Scheme Shareholder for that purpose; or

(B) otherwise nominated (by an appropriate authority from the Scheme Shareholder to Target or the Target Share Registry) to receive the Scheme Consideration by electronic funds to a bank account operated by a Third Party Currency Conversion Service Provider (or otherwise nominated the Third Party Currency Conversion Service Provider to receive that Scheme Shareholder's Scheme Consideration) which must (in accordance with the agreement between the Scheme Shareholder and the Third Party Currency Conversion Service Provider) then convert the Scheme Consideration into the Scheme Shareholder's Elected Foreign Currency and transfer the converted amount(s) (in the Elected Foreign Currency) to a bank account (denominated in the Elected Foreign Currency) nominated by the Scheme Shareholder for that purpose,

then, without limiting clause 7.2(b), the obligations of Target under clause 7.2(a) will be satisfied by Target paying, or procuring the payment of, the Scheme Consideration to which a Scheme Shareholder is entitled (in accordance with this terms of this Scheme) in Australian currency by electronic means to the bank account operated by (or otherwise to) the Third Party Currency Conversion Service Provider; and

(ii) each Scheme Shareholder that has made a valid election described in clause 7.2(c)(i)(A) or clause 7.2(c)(i)(B) above acknowledges and agrees that, if Target pays or procures the payment of the Scheme Consideration to which a Scheme Shareholder is entitled (in accordance with the terms of this Scheme) in Australian currency by electronic means to the bank account operated by (or otherwise to) the Third Party Currency Conversion Service Provider in accordance with clause 7.2(c)(i):

(A) the obligations of Target under clause 7.2(a) will be satisfied (in their entirety) in respect of that Scheme Shareholder;

(B) the aggregate Scheme Consideration to which the Scheme Shareholder is entitled will be converted from Australian currency to the relevant Elected Foreign Currency at an exchange rate determined or achieved by the Third Party Currency Conversion Service Provider (**Scheme Consideration Exchange Rate**);

(C) the Target has no control over, cannot and does not make any representations or warranties in respect of, and will not be responsible for, the Scheme Consideration Exchange Rate; and

(D) Target has no responsibility, and accepts no liability, for the conduct, acts or omissions of the Third Party Currency Conversion Service Provider (including in relation to the conversion of the Scheme Consideration into the Scheme Shareholder's Elected Foreign Currency, the Scheme Consideration Exchange Rate actually achieved, and/or the transfer of the converted amount (in the Elected Foreign Currency) to a bank account (denominated in the Elected Foreign Currency) nominated by the Scheme Shareholder for that purpose), and the Scheme Shareholder hereby waives its right to make any Claim against Target in relation to any such conduct, act or omission of the Third Party Currency Conversion Service Provider.

(d) Subject to clauses 7.2(e) to 7.2(i) (inclusive), if Bidder is required by section 260-5 or Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (Cth) (**Subdivision 14-D**), or section 255 of the *Income Tax Assessment Act 1936* (Cth), to pay to the Commissioner of Taxation (**Commissioner**) an amount in respect of the acquisition of Scheme Shares from any Scheme Shareholder (the **Withholding Amount**), Bidder is permitted to deduct the Withholding Amount from the payment of the Scheme Consideration otherwise payable in respect of those Scheme Shares and remit that Withholding Amount to the Commissioner. The aggregate sum payable to that Scheme Shareholder under this Scheme shall not be increased to reflect the deduction of the Withholding Amount and the net sum payable to the Scheme Shareholder to which the Withholding Amount relates in respect of Scheme Consideration under this Scheme shall be taken to be in full and final satisfaction of the amounts owing to those Scheme Shareholders in respect of Scheme Consideration under this Scheme.

(e) Bidder must pay any Withholding Amount to the Commissioner in the time required by law and, if requested in writing by the relevant Scheme Shareholder (or Target), provide a receipt or other appropriate evidence of such payment (or procure the provision of such receipt or other evidence) to the relevant Scheme Shareholder (or Target, as applicable).

(f) Bidder acknowledges and agrees that Bidder must not pay any Withholding Amount to the Commissioner with respect to a Scheme Shareholder where it receives an entity declaration from the Scheme Shareholder prior to the Implementation Date where:

(i) the entity declaration is made in accordance with the requirements of section 14-225 of Subdivision 14-D and covers, at a minimum, the period between (and including):

(A) either: (1) if the Scheme Shareholder was a Target Shareholder on the date of the Transaction Implementation Deed, the date of the Transaction Implementation Deed; or (2) if the Scheme Shareholder became a Target Shareholder after the date of the Transaction Implementation Deed, the date on which the Scheme Shareholder became a Target Shareholder; and

(B) the Implementation Date,

(**Entity Declaration**); and

(ii) Bidder does not know the Entity Declaration to be false.

(g) For the avoidance of doubt, if the period between (and including) the date of the Transaction Implementation Deed and the Implementation Date is more than 6 months, Bidder acknowledges and agrees that Bidder must not pay any Withholding Amount to the Commissioner with respect to a Scheme Shareholder where it receives a new entity declaration from the Scheme Shareholder prior to the Implementation Date where:

(i) the entity declaration is made in accordance with the requirements of section 14-225 of Subdivision 14-D and covers, at least, the period between (and including) the last day of the period referred to in clause 7.2(f)(i) and the Implementation Date (**New Entity Declaration**); and

(ii) Bidder does not know that the New Entity Declaration to be false.

(h) Target and Bidder agree to consult in good faith as to the application of Subdivision 14-D to the Scheme and to take all actions that they agree (each acting reasonably and in good faith) are necessary or desirable following that consultation, which may include, without limitation, making amendments to the Scheme to ensure that relevant representations required or contemplated by Subdivision 14-D are obtained from Scheme Shareholders.

(i) To the extent Bidder determines that it is required to pay a Withholding Amount to the Commissioner:

(i) Bidder must give Target, at least 10 Business Days prior to the Implementation Date, information which identifies (in reasonable detail) the reasons as to why a liability arises under Subdivision 14-D in respect of the relevant Scheme Shareholder(s) and the basis of the calculation of the Withholding Amount;

(ii) Target may, at least 5 Business Days prior to the Implementation Date, give information to Bidder which, in Target's reasonable opinion, demonstrates that there should not be a liability under Subdivision 14-D in respect of the relevant Scheme Shareholder(s); and

(iii) Bidder must have reasonable regard to, and consider in good faith, the information provided by Target under paragraph (ii) above before making its final decision on whether a Withholding Amount is required to be paid to the Commissioner under Subdivision 14-D in respect of the relevant Scheme Shareholder.

7.3 Cancellation and re-issue of cheques, right to credit Separate Account, and treatment of unclaimed monies

(a) Target may cancel a cheque issued under clause 7.2(b)(iii) if the cheque:

(i) is returned to Target or the Target Share Registry; or

(ii) has not been presented for payment within six months after the date on which the cheque was sent.

(b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Target or the Target Share Registry (which request may not be made until the date which is 15 Business Days after the Implementation Date), a cheque that was previously cancelled under clause 7.3(a) must be reissued.

(c) In the event that:

(i) either:

(A) a Scheme Shareholder does not have a Registered Address; or

(B) Target, as trustee for the Scheme Shareholders, believes that a Scheme Shareholder is not known at the Scheme Shareholder's Registered Address,

and no account has been notified in accordance with clause 7.2(b)(i) or clause 7.2(b)(ii) or a deposit into such an account is rejected or refunded; or

(ii) a cheque issued under this clause 7 has been cancelled in accordance with clause 7.3(a),

Target, as the trustee for the Scheme Shareholders, may credit the amount payable to the relevant Scheme Shareholder to a separate bank account of Target (**Separate Account**) to be held until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 1995* (NSW) (however, to avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 1995* (NSW)).

(d) Without limiting clause 7.3(f), if the Target credits an amount payable to a Scheme Shareholder to a Separate Account under clause 7.3(c), until such time as the amount is dealt with in accordance with the *Unclaimed Money Act 1995* (NSW), Target must hold the amount on trust for the relevant Scheme Shareholder, but any interest or other benefit accruing from the amount will be to the benefit of Bidder.

(e) An amount credited to a Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Shareholder when credited to the Separate Account or Trust Account (as applicable). Target must maintain records of the amounts paid to or from the Separate Account, the people who are entitled to those amounts and any transfers of those amounts.

(f) Subject to clause 7.3(d), the *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).

(g) To the extent that, following the satisfaction of Target's obligations under the other provisions of this clause 7 (and provided that Bidder has by that time acquired all of the Scheme Shares in accordance with this Scheme), there is a surplus in the amount held by Target (as trustee for the Scheme Shareholders) in the Trust Account (which, for the avoidance of doubt, excludes any amount payable to a Scheme Shareholder (whether Scheme Consideration or otherwise) under this Scheme (including, but not limited to, any amount payable to a Scheme Shareholder that Target may credit to a Separate Account under clause 7.3(c)), then, subject to compliance with applicable laws, the other terms of this Scheme, the Deed Poll and the Transaction Implementation Deed, that surplus may be paid by Target (as trustee for the Scheme Shareholders) to Bidder.

7.4 Joint holders

In the case of Scheme Shares held in joint names:

(a) subject to clause 7.2(b), any Scheme Consideration payable in respect of those Scheme Shares is payable to the joint holders of those Scheme Shares;

(b) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Target Share Register as at the Scheme Record Date; and

(c) any other document required to be sent under this Scheme will be forwarded to the holder whose name appears first in the Target Share Register as at the Scheme Record Date.

7.5 Orders or directions of a court or Government Agency

If written notice is given to Target (or the Target Share Registry) of an order or direction made by a court of competent jurisdiction or a Government Agency that:

(a) requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which sum would otherwise be payable to that Scheme Shareholder by Target in accordance with this clause 7, then Target will be entitled to make that payment (or procure that it is made) in accordance with that order or direction; or

(b) prevents Target from making a payment to a particular Scheme Shareholder in accordance with clause 7.2, or such payment is otherwise prohibited by applicable law, Target will be entitled to retain an amount, in Australian dollars, equal to the amount of the relevant payment until such time as payment in accordance with this clause 7 is permitted by that order or direction or otherwise by law.

8 Dealings in Target Shares

8.1 Dealings in Target Shares by Target Shareholders

To establish the identity of the Scheme Shareholders, dealings in Target Shares will only be recognised if:

(a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Target Share Register as the holder of the relevant Target Shares at or before the Scheme Record Date; and

(b) in all other cases, registrable transmission applications or transfers in respect of those dealings are received by the Scheme Record Date at the place where the Target Share Register is kept,

and, for the purpose of establishing the identity of the Scheme Shareholders, Target must not accept for registration any transfer or transmission application in respect of the Target Shares received after the Scheme Record Date or received at or prior to the Scheme Record Date but not in registrable or actionable form (as appropriate).

8.2 Target Share Register

(a) Target must maintain the Target Share Register in accordance with the provisions of this clause 8.2 until the Scheme Consideration has been provided to the Scheme Shareholders in accordance with this Scheme and:

(i) the Target Share Register in this form will solely determine entitlements to the Scheme Consideration; and

(ii) each entry on the Target Share Register as at the Scheme Record Date is the sole evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

(b) Target must register valid registrable transmission applications or transfers of the kind referred to in clause 8.1(b) by no later than the Scheme Record Date (provided that, for the avoidance of doubt, nothing in this clause 8.2(b) requires Target to register a transfer that would result in a Target Shareholder holding a parcel of Target Shares that is less than a Marketable Parcel).

(c) Target must not accept for registration or recognise for any purpose any transmission application or transfer in respect of Target Shares received after the Scheme Record Date or received at or prior to the Scheme Record Date but not in registrable or actionable form (as appropriate).

(d) From the Scheme Record Date until the earlier of registration of Bidder in respect of all Scheme Shares under clause 5.4(b) or the End Date, no Target Shareholder (other than an Excluded Target Shareholder) may deal with Target Shares in any way except as set out in this Scheme and any attempt to do so will have no effect and Target must disregard any such dealing.

8.3 Information to be made available to Bidder

Within three Business Days after the Scheme Record Date, Target must provide, or procure the provision, to Bidder a complete copy of the Target Share Register (which must include the name, registered address and registered holding of each Scheme Shareholder) as at the Scheme Record Date.

8.4 Effect of share certificates and holding statements

Upon the Scheme Consideration being provided to the Scheme Shareholders in accordance with this Scheme, all certificates and statements of holding for Target Shares will cease to have any effect as documents of title in respect of those Target Shares (other than statements of holding in favour of Bidder and its successors in title and/or any Excluded Target Shareholder).

9 General Scheme provisions

9.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

(a) Target may, by its counsel or solicitors, consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented (whether in writing or by Bidder's counsel or solicitors); and

(b) each Scheme Shareholder agrees to any such alterations or conditions which counsel or solicitors for Target has consented to under clause 9.1(a).

9.2 Binding effect of this Scheme

This Scheme:

(a) binds Target and all Scheme Shareholders (including those who did not attend the Scheme Meeting, those who did not vote at the Scheme Meeting, or voted against this Scheme at the Scheme Meeting); and

(b) to the extent of any inconsistency between this Scheme and the Target Constitution, overrides the Target Constitution.

9.3 Agreement of Scheme Shareholders

Each Scheme Shareholder (by operation of this Scheme and without the need for any further act by the Scheme Shareholder):

(a) agrees to the transfer of their Scheme Shares (together with all rights and entitlements attaching to those Scheme Shares) in accordance with terms of this Scheme;

(b) agrees to the variation, cancellation or modification of the rights attached to their Target Shares constituted by or resulting from this Scheme;

(c) agrees that after the transfer of their Scheme Shares to Bidder in accordance with this Scheme, any share certificate or holding statement relating to the Scheme Shares will not constitute evidence of title to those Scheme Shares;

(d) who holds their Target Shares in a CHESS Holding agrees to the conversion of those Target Shares to an Issuer Sponsored Holding and irrevocably authorises Target to do anything necessary or expedient (whether required by the ASX Operating Rules or otherwise) to effect or facilitate such conversion; and

(e) acknowledges and agrees that this Scheme binds Target and all Scheme Shareholders (including those who did not attend the Scheme Meeting or did not vote at the Scheme Meeting or voted against this Scheme at the Scheme Meeting) and, to the extent of any inconsistency, overrides the Target Constitution.

9.4 Warranties by Scheme Shareholders

Each Scheme Shareholder is taken (by operation of this Scheme and without the need for any further act by the Scheme Shareholder) to have warranted to Target and Bidder on the Implementation Date, and appointed and authorised Target as its attorney and agent to warrant to Bidder, that:

(a) all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) which are transferred to Bidder under this Scheme will, on the date they are transferred to Bidder, be:

(i) fully paid; and

(ii) free from all:

(A) Encumbrances and third party rights or interests of any kind; and/or

(B) restrictions on transfer of any kind;

(b) the Scheme Shareholder has full power and capacity to sell and to transfer their Scheme Shares (including, and together with, any rights and entitlements attaching to those Scheme Shares) to Bidder; and

(c) as at the Scheme Record Date, except as otherwise provided for or contemplated in the Transaction Implementation Deed or a Target Performance Right Deed, they have no existing right to be issued any Target Shares, options exercisable into Target Shares, performance rights convertible into Target Shares, convertible notes convertible into Target Shares or any other equity securities in any Target Group Member.

9.5 Title to and rights in Scheme Shares

(a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred to Bidder under this Scheme will, at the time of transfer of them to Bidder, vest in Bidder free from all:

(i) Encumbrances and interests of third parties of any kind, whether legal or otherwise; and

(ii) restrictions on transfer of any kind.

(b) Upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 7, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Target of Bidder in the Target Share Register as the holder of the Scheme Shares.

9.6 Appointment of attorney and agent and authority given to Target

(a) Upon this Scheme becoming Effective, each Scheme Shareholder, by operation of this Scheme and without the need for any further act:

(i) irrevocably appoints Target as its attorney and agent for the purpose of:

(A) enforcing the Deed Poll against Bidder; and

(B) executing any document, or doing or taking any other act, required by law or that is otherwise necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including (but not limited to) executing and delivering the Scheme Transfer,

and Target accepts such appointment; and

(ii) will be deemed to have authorised Target to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder required by law or that is otherwise necessary, desirable or expedient to implement this Scheme, including (but not limited to) executing, as agent and attorney of each Scheme Shareholder, the Scheme Transfer.

(b) Target, as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 9.6 to all or any of its directors, officers, secretaries or employees (jointly, severally or jointly and severally).

9.7 Appointment of Bidder as sole proxy

Upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 7 and until Target registers Bidder as the holder of all Scheme Shares in the Target Share Register, each Scheme Shareholder:

(a) without the need for any further act by that Scheme Shareholder, is deemed to have irrevocably appointed Bidder as its attorney and agent (and directed Bidder in such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings of Target, exercise the votes attaching to the Target Shares registered in their name and sign any Target Shareholders' resolutions, whether in person, by proxy or by corporate representative;

(b) must not attend or vote at any of those meetings or sign or vote on any such resolutions (whether in person, by proxy or by corporate representative), other than pursuant to clause 9.7(a);

(c) must take all other actions in the capacity of a registered holder of Target Shares as Bidder reasonably directs; and

(d) acknowledges and agrees that, in exercising the powers referred to in clause 9.7(a), Bidder and any director, officer, secretary or agent nominated by Bidder under clause 9.7(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

10 General

10.1 Duty

(a) Bidder:

(i) must pay all Duties (and any fines, penalties and interest with respect to Duties) in respect of this Scheme and:

(A) any transaction effected under this Scheme or the Deed Poll; and

(B) steps to be taken under this Scheme or the Deed Poll; and

(ii) indemnifies Target (in its own right and separately as trustee or nominee for each Scheme Shareholder) and each Scheme Shareholder against any liability arising from or in connection with any failure by it to comply with clause 10.1(a)(i).

(b) Target holds Bidder's obligations under clause 10.1(a)(ii) as trustee or nominee for each Scheme Shareholder.

10.2 Notices

(a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Target, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at the place where the Target Share Register is kept.

(b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any Target Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

10.3 Further acts and documents

Target must do all further acts (on its own behalf and on behalf of each Scheme Shareholder) and execute and deliver all further documents required by law or necessary to give full effect to this Scheme and the transactions contemplated by it.

10.4 Consent

Each Scheme Shareholder (by operation of this Scheme and without the need for any further act by the Scheme Shareholder) consents to Target doing all things necessary or incidental to give full effect to this Scheme and the transactions contemplated by it, whether on behalf of the Scheme Shareholders, the Target or otherwise.

10.5 No liability when acting in good faith

Each Scheme Shareholder agrees (by operation of this Scheme and without the need for any further act by the Scheme Shareholder) that none of Target, any other Target Group Member, Bidder or any of their respective Representatives will be liable for anything done or omitted to be done in the performance of this Scheme in good faith.

10.6 Governing law and jurisdiction

(a) This Scheme is governed by the laws in force in New South Wales, Australia.

(b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this Scheme. Each of Target, Bidder and each Scheme Shareholder irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum if that venue falls within clause 10.6(a).

Schedule 1 Dictionary

1 Dictionary

In this Scheme:

Aggregate Scheme Consideration means the aggregate of the Scheme Consideration payable to all Scheme Shareholders under this Scheme (and in accordance with the terms of this Scheme).

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited (ABN 98 008 624 691) or, where the context requires, the financial market operated by it known as the "Australian Securities Exchange".

ASX Listing Rules means the official listing rules of ASX from time to time, as modified by any express written waiver or exemption given by ASX.

ASX Operating Rules means the market operating rules of ASX Settlement, as amended, varied or waived from time to time.

ASX Settlement means ASX Settlement Pty Limited (ABN 49 008 504 532) as the holder of a licence to operate a clearing and settlement facility.

Bidder means Electric Power Development Co., Ltd. of 15-1, Ginza 6-Chome, Chuo-ku, Tokyo 104-8165, Japan.

Bidder Group means, collectively, Bidder and each of its Related Entities (other than a Target Group Member, even if that Target Group Member is a Controlled Entity of Bidder at the relevant time) and **Bidder Group Member** means any one of them.

Business Day means a day that is a Trading Day and is not a Saturday, Sunday or public holiday in New South Wales, Australia or Tokyo, Japan.

CHESS means the Clearing House Electronic Subregister System, which provides for electronic share transfers in Australia and is operated by ASX Settlement.

CHESS Holding means a holding of Target Shares that are registered on the Target Share Register, which is administered by ASX Settlement and which records uncertificated holdings of Target Shares.

Claim means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

Condition Precedent has the meaning given to that term in clause 3.1.

Controlled Entity means, in relation to an entity, another entity that is a Subsidiary of it, or that is Controlled (within the meaning of section 50AA of the Corporations Act, but read as though section 50AA(4) were omitted) by it but:

(a) a trust may be a Subsidiary if that trust would have been a Subsidiary if it were a corporation, for the purposes of which a unit or other beneficial interest will be regarded as a share;

(b) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation; and

(c) each fund or limited partnership managed or advised by Bidder or a Related Entity of Bidder is a Controlled Entity of Bidder.

Corporations Act means the *Corporations Act 2001* (Cth), as amended from time to time.

Court means the Supreme Court of New South Wales or such other court of competent jurisdiction under the Corporations Act as agreed in writing between Target and Bidder.

Deed Poll means the deed poll to be entered into by Bidder in the form of Attachment A to this Scheme (or such other form as agreed in writing between Bidder and Target), under which Bidder covenants and undertakes in favour of the Scheme Shareholders to perform the obligations attributed to Bidder under the Scheme.

Delivery Time means, in relation to the Second Court Date, two hours before the commencement of the Second Court Hearing (or, if the commencement of the Second Court Hearing is adjourned, two hours before the commencement of the adjourned Second Court Hearing).

Duty means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them.

Effective means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme.

Effective Date means the date on which this Scheme becomes Effective.

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means 5:00pm (Sydney time) on 30 November 2024, or such later date as Bidder and Target agree in writing.

Excluded Target Shareholder means any Target Shareholder that:

(a) is Bidder or another Bidder Group Member; or

(b) holds any Target Shares on behalf of, or for the benefit of, any Bidder Group Member and does not hold Target Shares on behalf of, or for the benefit of, any other person,

in each case, at the applicable time, and, for the avoidance of doubt:

(c) such Target Shareholder at the Scheme Record Date will not be a Scheme Shareholder; and

(d) as at the date of this Scheme, JPGA Partners is an Excluded Target Shareholder.

Government Agency means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC, the ASX and the Takeovers Panel).

Implementation Date means the date that is five Business Days after the Scheme Record Date, or such other date as:

(a) Target and Bidder may agree in writing;

(b) ordered by the Court; or

(c) may be required by ASX.

Issuer Sponsored Holding has the meaning given to that term in the ASX Operating Rules.

JPGA Partners means JPGA Partners Pty Ltd (ACN 643 855 618).

Marketable Parcel has the meaning given to that term in the ASX Operating Rules.

Official List means the Official List of the ASX.

Official Quotation means the quotation of securities on the Official List and **Officially Quoted** has a corresponding meaning.

Related Body Corporate has the meaning given to that term in section 50 of the Corporations Act.

Related Entity means, in relation to an entity (the first entity):

(a) a Controlled Entity of the first entity;

(b) an entity of which the first entity is a Controlled Entity; or

(c) a Controlled Entity of another entity of which the first entity is also a Controlled Entity,

provided that, in respect of Target only, no Target Shareholder or any Related Entity of a Target Shareholder shall be deemed to be a Related Entity of Target.

Registered Address means in relation to a Scheme Shareholder, the address of the Scheme Shareholder as recorded in the Target Share Register as at the Scheme Record Date.

Representative means, in respect of a party, an employee, agent, officer, director, investment committee member, advisory board member or adviser of that party (or of a Related Body Corporate of that party), and, in the case of advisers, includes employees, officers and partners of the adviser.

Scheme means this scheme of arrangement, together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by Target and Bidder (including in accordance with clause 5.1(b) of the Transaction Implementation Deed).

Scheme Consideration means, in respect of each Scheme Share, A$0.275 in cash.

Scheme Meeting means the meeting of Target Shareholders (other than Excluded Target Shareholders) ordered by the Court to be convened under section 411(1) of the Corporations Act to consider the Scheme Resolution and includes any adjournment of that meeting.

Scheme Record Date means the time and date for determining entitlements to receive the Scheme Consideration, being 7:00pm on the second Business Day after the Effective Date, or such other date after the Effective Date as:

(a) Target and Bidder may agree in writing; or

(b) may be ordered by the Court; or

(c) may be required by the ASX.

Scheme Resolution means the resolution to approve this Scheme to be considered by Target Shareholders (other than Excluded Target Shareholders) at the Scheme Meeting.

Scheme Share means a Target Share held by a Scheme Shareholder as at the Scheme Record Date (but, for the avoidance of doubt, does not include a Target Share held by an Excluded Target Shareholder).

Scheme Shareholder means a Target Shareholder as at the Scheme Record Date (other than an Excluded Target Shareholder).

Scheme Transfer means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of Bidder as transferee, which may be or include a master transfer of all or part of the Scheme Shares.

Second Court Date means the first day on which an application made to the Court by Target for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard (or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **Second Court Hearing**.

Security Interest has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

Separate Account has the meaning given to that term in clause 7.3(c).

Subsidiary has the meaning given to that term in section 46 of the Corporations Act.

Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Target Constitution means the constitution of Target, as amended from time to time.

Target Group Member means, individually, Target and each of its Controlled Entities.

Target Option means an option in respect of a Target Share.

Target Performance Right Deed has the meaning given to that term in the Transaction Implementation Deed.

Target Performance Rights means a performance or other right in respect of a Target Share.

Target Share means a fully paid ordinary share in the capital of Target.

Target Shareholder means a person or entity that is registered in the Target Share Register as the holder of a Target Share.

Target Share Register means the register of Target Shareholders maintained in accordance with the Corporations Act.

Target Share Registry means Boardroom Pty Limited (ACN 003 209 836) in its capacity as provider of registry services in respect of the Target Share Register.

Trading Day has the meaning given in the ASX Listing Rules.

Transaction Implementation Deed means the Transaction Implementation Deed dated 12 April 2024 between Bidder and Target relating to (among other things) the implementation of this Scheme.

Transaction Implementation Deed Scheme Conditions means the "Scheme Conditions", as that term is defined in the Transaction Implementation Deed.

Trust Account means an Australian dollar denominated trust account with an Authorised Deposit-taking Institution (as defined by the *Banking Act 1959* (Cth)) which attracts interest at a commercial rate and is operated by Target as trustee for the Scheme Shareholders, details of which Target must notify to Bidder no later than seven Business Days before the Implementation Date.

2 Interpretation

In this Scheme:

(a) headings and bold type are for convenience only and do not affect the interpretation of this Scheme;

(b) the singular includes the plural and the plural includes the singular;

(c) words of any gender include all genders;

(d) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;

(e) a reference to a person includes any company, partnership, joint venture, trust, association, corporation or other body corporate and any Government Agency as well as an individual;

(f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this Scheme;

(g) this Scheme includes all schedules and attachments to it;

(h) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them (whether passed by the same or another Government Agency with legal power to do so);

(i) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document;

(j) a reference to ‘A$’ or 'dollar' is to Australian currency;

(k) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney, Australia;

(l) a term defined in or for the purposes of the Corporations Act, and which is not defined in paragraph 1 of this Schedule 1, has the same meaning when used in this Scheme;

(m) a reference to a party to a document includes that party's successors and permitted assignees;

(n) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;

(o) 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 jointly and severally;

(p) 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 jointly;

(q) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:

(i) which ceases to exist; or

(ii) whose powers or functions are transferred to another body,

is a reference to the body which replaces it or which substantially succeeds to its powers or functions;

(r) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;

(s) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;

(t) a reference to the ASX Listing Rules or the ASX Operating Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;

(u) specifying anything in this Scheme after the words 'include' or 'for example' or similar expressions does not limit what else is included; and

(v) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

Attachment A Deed Poll

Deed Poll

Electric Power Development Co., Ltd.

In favour of each Scheme Shareholder

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Date:

Parties

1 **Electric Power Development Co., Ltd.** of 15-1, Ginza 6-Chome, Chuo-ku, Tokyo 104-8165, Japan (**Bidder**)

In favour of

Each Scheme Shareholder

Background

A Bidder and Genex Power Limited (ACN 152 098 854) (**Target**) have entered into the Transaction Implementation Deed, which provides for the implementation of the Scheme (and related matters).

B Under the Transaction Implementation Deed, Target agreed to propose the Scheme.

C Under the Transaction Implementation Deed, Bidder agreed to enter into this deed poll.

D The effect of the Scheme will be to transfer all Scheme Shares to Bidder in exchange for the Scheme Consideration.

E In accordance with the Transaction Implementation Deed, Bidder enters into this deed poll for the purpose of covenanting and undertaking in favour of the Scheme Shareholders to perform the actions attributed to Bidder under the Transaction Implementation Deed and the Scheme.

This deed poll provides as follows

1 Defined terms and interpretation

1.1 Defined terms

Unless the contrary intention appears, terms defined in the Scheme have the same meaning when used in this deed poll. In addition, in this deed poll, the following defined terms have the meaning set out below:

First Court Date means the first day of the hearing of an application made to the Court by Target for orders, pursuant to section 411(1) of the Corporations Act, convening the Scheme Meeting (or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing).

Scheme means the members' scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders under which all of the Scheme Shares will be transferred to Bidder and the Scheme Shareholders will be entitled to receive the Scheme Consideration, the form of which is set out at Attachment A of the Transaction Implementation Deed (or such other form as agreed between Target and Bidder in writing), together with any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and consented to in writing by Target and Bidder (including in accordance with clause 5.1(b) of the Transaction Implementation Deed).

1.2 Interpretation

Paragraph 2 of Schedule 1 of the Scheme applies to the interpretation of this deed poll, except that references to 'Scheme' are to be read as references to 'deed poll'.

1.3 Nature of deed poll

Bidder acknowledges and agrees that:

(a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it; and

(b) under the Scheme, each Scheme Shareholder irrevocably appoints Target and each of its directors, secretaries and officers (jointly and each of them severally) as its agent and attorney for the purpose of enforcing this deed poll against Bidder (and Target accepts such appointment).

2 Condition precedent and termination of this deed poll

2.1 Condition precedent

The obligations of Bidder under this deed poll are subject to the Scheme becoming Effective.

2.2 Termination of this deed poll

Subject to clause 2.3, unless Target and Bidder otherwise agree in writing, the obligations of Bidder under this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect if:

(a) the Transaction Implementation Deed is terminated in accordance with its terms before the Delivery Time; or

(b) as at the End Date, the Scheme has not become Effective,

unless Target and Bidder otherwise agree in writing.

2.3 Consequences of termination of this deed poll

If this deed poll is terminated under clause 2.2, then, in addition and without prejudice to any other rights, powers or remedies available to Scheme Shareholders:

(a) Bidder is released from its obligations to further perform this deed poll (except those obligations under clause 6.1); and

(b) each Scheme Shareholder retains the rights, powers and remedies it has against Bidder in respect of any breach of this deed poll which occurred before it was terminated.

3 Bidder's covenants and undertakings

Subject to clause 2, Bidder covenants and undertakes in favour of each Scheme Shareholder to:

(a) provide, or procure the provision of, the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme; and

(b) perform all other actions and obligations attributed to, and/or contemplated and/or required of, and give each acknowledgement, representation and warranty (if any) given by (or otherwise attributed to or required of), Bidder under the Scheme,

in each case, subject to and in accordance with the terms of the Scheme.

4 Warranties

Bidder represents and warrants in favour of each Scheme Shareholder that:

(a) it is a corporation, validly existing under the laws of its place of incorporation;

(b) it has full capacity, corporate power and lawful authority to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;

(c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance by it of this deed poll and to carry out the transactions contemplated by this deed poll;

(d) this deed poll is valid and binding on it and is enforceable against it in accordance with its terms; and

(e) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

5 Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

(a) Bidder has fully performed its obligations under this deed poll; or

(b) the earlier termination of this deed poll under clause 2.2.

6 General

6.1 Duty

Bidder:

(a) must pay all Duties (and any fines, penalties and interest with respect to Duties) in respect of this deed poll or the Scheme and:

(i) any transaction effected under the Scheme or this deed poll; and

(ii) steps to be taken under the Scheme or this deed poll; and

(b) indemnifies each Scheme Shareholder against any liability arising from or in connection with any failure by it to comply with clause 6.1(a).

6.2 Notices

(a) A notice, consent, approval, waiver or other communication sent by a party under this deed poll (**Notice**) must be:

(i) in writing in English;

(ii) sent by an authorised representative of the sender; and

(iii) marked for the attention of the person named below,

and must be:

(iv) delivered by hand or sent by express post or commercial courier to the address set out below; or

(v) sent by email to the address set out below:

Bidder

Attention:	Mr Shigetaka Nojiri
Address:	15-1, Ginza 6-Chome, Chuo-ku, Tokyo 104-8165, Japan
Email:	Shigetaka_Nojiri@jpower.co.jp

with a copy (for information purposes only) to: Geread Dooley, Partner, MinterEllison (geread.dooley@minterellison.com) and Con Boulougouris, Partner, MinterEllison (c.boulougouris@minterellison.com).

(b) Subject to clause 6.2(c), a Notice is taken to be received:

(i) if delivered by hand or commercial courier, when it is delivered;

(ii) in the case of delivery by express post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and

(iii) if sent by email:

(A) when the sender receives an automated message confirming delivery; or

(B) one hour after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,

whichever happens first.

(c) If a Notice is taken to be received under clause 6.2(b):

(i) before 9:00am on a Business Day, it will be taken to be received at 9:00am on that Business Day; or

(ii) after 5:00pm on a Business Day or on a non-Business Day, it will be taken to be received at 9:00am on the next Business Day.

6.3 Governing law and jurisdiction

(a) This deed poll is governed by the laws in force in New South Wales, Australia.

(b) Bidder irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this deed poll. Bidder irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

6.4 Further acts and documents

Bidder must, at its own expense, do all further acts and execute and deliver all deeds, instruments, transfers or other documents as may be required by law or the Court or are otherwise necessary to give full effect to the terms of this deed poll and the transactions contemplated by it.

6.5 Waiver

(a) Bidder may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right under or in connection with this deed poll unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.

(b) No Scheme Shareholder may rely on the words or conduct of Bidder as a waiver of any right under or in connection with this deed poll unless the waiver is in writing and signed by Bidder.

(c) A single or partial exercise of a right under or in connection with this deed poll does not preclude a further exercise of that right or the exercise of another right under or in connection with this deed poll.

(d) The meanings of the terms used in this clause 6.5 are set out below.

conduct includes a failure or delay in the exercise of a right.

right means any right arising under or in connection with this deed poll (including a breach of, or default under, this deed poll) and includes the right to rely on this clause.

waiver includes an election between rights and remedies and conduct which might otherwise give rise to an estoppel.

6.6 Variation, alteration or amendment of this deed poll

A provision of this deed poll may not be varied, altered or otherwise amended unless:

(a) if before the First Court Date, the variation, alteration or amendment is agreed to by Target and Bidder in writing; or

(b) if, on or after the First Court Date, the variation is agreed to by Target and Bidder in writing and the Court has indicated that the variation, alteration or amendment would not of itself preclude approval by the Court of the Scheme,

in which event Bidder must enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation, alteration or amendment.

6.7 Cumulative rights, powers and remedies

The rights, powers and remedies of Bidder and the Scheme Shareholders under this deed poll are cumulative and do not exclude the rights, powers or remedies provided by law independently of this deed poll.

6.8 Assignment and other dealings

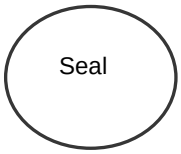
(a) The rights of each Scheme Shareholder created by this deed poll are personal to that Scheme Shareholder and must not be assigned or otherwise dealt with at law or in equity without the prior written consent of Bidder and Target.

(b) Any purported assignment or other dealing in contravention of clause 6.8(a) is invalid.

Execution page

Executed as a deed poll.

Signed, sealed and delivered by **Electric Power Development Co., Ltd.** in the presence of:



Signature of witness	Signature of authorised signatory
Name of witness (print)	Name of authorised signatory (print)