



ASX RELEASE

16 January 2017

DUET BOARDS RECOMMEND CKI CONSORTIUM ACQUISITION PROPOSAL

The Boards of DUET Group (DUET) are pleased to announce that DUET has entered into a scheme implementation agreement with a consortium comprising Cheung Kong Infrastructure Holdings Limited (CKI), Cheung Kong Property Holdings Limited (CKP) and Power Assets Holdings Limited (PAH) (the Consortium) under which it is proposed that one or more members of the Consortium will acquire 100% of DUET's stapled securities on issue (the Proposed Acquisition) by way of schemes of arrangement and a trust scheme (the Schemes).

DUET securityholders will receive total cash proceeds of \$3.03 per stapled security, comprising the following components:

- the Proposed Acquisition consideration payable by the Consortium of up to \$3.00 per stapled security (Scheme Consideration); plus
- a Special Distribution from DUET of at least \$0.03 per stapled security¹.

Implementation of the Schemes will be subject to conditions precedent including:

- DUET securityholder approval²;
- receipt of customary and specific regulatory relief and approvals (including foreign investment approval);
- an independent expert concluding that the schemes are fair and reasonable and in the best interests of securityholders;
- no material adverse change, prescribed occurrence or regulatory restraint; and
- court approval³.

While the Consortium members may also require their own shareholder approvals, these are not conditions precedent to the Schemes, that is if the Consortium members do not obtain shareholder approval then CKP will proceed with the Proposed Acquisition.

A copy of the scheme implementation agreement is attached to this ASX release and contains customary exclusivity provisions including no-shop and no-talk restrictions, a break fee, as well as a notification obligation and matching right, with the no-talk restriction subject to the DUET directors' fiduciary obligations.

Subject to the above conditions being met, the Schemes are expected to be implemented by mid-May 2017.

¹ Whilst the total cash proceeds received by DUET securityholders will not change, the components received by securityholders are subject to adjustment in accordance with the terms of the scheme implementation agreement. For instance, in the event that the Special Distribution exceeds \$0.03 per stapled security, the Scheme Consideration will reduce by the excess amount.

² It is anticipated that DUET securityholders will have the opportunity to vote on the Proposed Acquisition at Scheme meetings proposed to be held in April 2017.

³ More information on the Schemes and the conditions precedent is in the Scheme Implementation Agreement.

The total cash proceeds of \$3.03 is attractive to DUET securityholders based on the following transaction metrics:

- 28.9% premium to DUET's closing security price prior to the initial announcement by DUET of the Consortium's indicative, non-binding offer⁴;
- 27.5% premium to the 3 month volume weighted average price (VWAP) of DUET's securities⁵;
- 31.8% premium to the 1 month VWAP of DUET's securities⁵; and
- 13.1x EV/EBITDA multiple⁶.

Speaking on behalf of DUET's boards, Mr Doug Halley said "On 10 November 2016, the Consortium approached DUET with a confidential, indicative, non-binding proposal to acquire DUET for \$2.90 per stapled security, subsequently increased to \$3.00 per stapled security as announced in December. Following a period of non-exclusive due diligence, the Consortium confirmed its offer of \$3.00 per stapled security and subsequently agreed to the payment of a 3c special distribution by DUET. DUET's boards consider that the total cash proceeds of \$3.03 per stapled security, inclusive of a special distribution payment by DUET, fully recognise the value and future growth platform that our management team has created and the operating and financing synergies available to the Consortium".

Independent Expert

DUET has appointed KPMG Corporate Finance as the independent expert to prepare a report on whether the Schemes are fair and reasonable and in the best interests of DUET securityholders.

Board Recommendation

In the absence of a superior competing proposal and subject to the independent expert concluding that the Schemes are fair and reasonable and in the best interests of DUET securityholders, each of the DUET Boards unanimously recommend that DUET securityholders vote in favour of the Schemes. Subject to those qualifications, each DUET director intends to vote all the DUET securities held or controlled by them in favour of the Schemes.

DUET's FY17 Interim Distribution

The Scheme Consideration is exclusive of DUET's FY17 interim distribution of 9.25 cents per stapled security (cpss) which will be paid on or around 16 February 2017.

Stapled securities to be issued under DUET's DRP Plan

DUET's Dividend and Distribution Reinvestment Plan (DRP Plan) was reactivated for the FY17 interim distribution and received a 45.4% participation rate. A discount of 2% to the Volume Weighted Average Price covering the 10 day trading period from 27 January 2017 to 9 February 2017 (inclusive) will apply to stapled securities allotted under the DRP Plan. Stapled securities allotted under the DRP Plan will form part of DUET's total stapled securities on issue for the Proposed Acquisition and will also be entitled to receive the Special Distribution on implementation of the Schemes.

Scheme Booklet

DUET's securityholders do not need to take any action at the present time. The Scheme Booklet containing information relating to the Proposed Acquisition, the independent expert's report, the reasons for the Directors' unanimous recommendation and details of the securityholder meetings is expected to be sent to DUET securityholders in March 2017.

⁴ Based on DUET's \$2.35 security price as at market close on 2 December 2016.

⁵ Volume weighted average prices as at market close on 2 December 2016.

⁶ Based on DUET's consolidated FY16 results.

For further information, please contact:

Investor Enquiries:

Nick Kuys

GM Operations and Investor Relations

Tel: +61 2 8224 2727

Email: n.kuys@duet.net.au

Media Enquiries:

John Frey

Public Affairs Manager

Tel: +61 411 361 361

Email: jfrey@gracosway.com.au

About the Consortium members:

CKI

Cheung Kong Infrastructure Holdings Limited (CKI) has diversified global investments in Energy Infrastructure, Transportation Infrastructure, Water Infrastructure, Waste Management and Infrastructure Related Businesses. It has a strong presence in the global infrastructure arena; operating in Australia, China, the United Kingdom, Hong Kong, New Zealand, the Netherlands, Portugal and Canada. The shares of CKI are listed on the stock exchange of Hong Kong and is one of the constituent stocks of the Hang Seng Index.

PAH

Power Assets Holdings Limited (PAH) is a company listed and incorporated in Hong Kong and operates globally as an investment holding company in power and utility related businesses. It is one of the constituent stocks of the Hang Seng Index. The company has a global portfolio of investments in countries including Hong Kong, China, the United Kingdom, Australia, New Zealand, Thailand, Canada, the Netherlands and Portugal. Investment areas include electricity generation, transmission and distribution, renewable energy, gas distribution and energy-from-waste. Together with CKI, PAH holds majority interest stakes in energy network investments in Australia and globally.

CKP

Cheung Kong Property Holdings Limited (CKP) is one of the largest property developers in Hong Kong. It is listed on the Hong Kong Stock Exchange and is one of the constituent stocks of the Hang Seng Index. CKP is also involved in the business of aircraft leasing.

For personal use only

Scheme Implementation Agreement

Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia
T +61 2 9230 4000
F +61 2 9230 5333
www.allens.com.au

© Allens Australia 2017

Contents

1	Definitions and interpretation	2
1.1	Definitions	2
1.2	Interpretation	16
1.3	Fairly disclosed	17
1.4	Best and reasonable endeavours	17
1.5	Consents and approvals	17
2	Agreement to proceed with Schemes	17
2.1	DUET to propose Schemes	17
2.2	Bidco to assist	17
3	Conditions Precedent and pre-implementation steps	18
3.1	Conditions Precedent	18
3.2	Benefit and waiver of Conditions Precedent	19
3.3	Best endeavours and co-operation	20
3.4	Regulatory Approvals	20
3.5	Notifications	21
3.6	Failure of Conditions Precedent	21
3.7	Certificates in relation to Conditions Precedent	22
4	Schemes	22
4.1	Outline of Schemes	22
4.2	Scheme Consideration	22
5	Steps for implementation	23
5.1	DUET's obligations in respect of the Schemes	23
5.2	Appeal process	25
5.3	Bidco's obligations in respect of the Schemes	25
5.4	Preparation of Scheme Booklet	26
5.5	Scheme Booklet - obligations to inform	28
5.6	DUET Group board changes	29
6	Distributions	29
6.1	Special Distribution	29
6.2	Estimate	29
6.3	Permitted DUET Distribution	29
6.4	Consult on resolutions	30
6.5	Withholding	30
7	Conduct of business and requests for access	30
7.1	Conduct of DUET business	30
7.2	Prohibited actions	30
7.3	Exceptions	31
7.4	Access to information and co-operation	32
8	DUET Boards' recommendations and intentions	33
8.1	DUET Boards' recommendation	33
8.2	DUET Director intentions	34
9	Public announcements and confidentiality	34
9.1	Required announcements	34
9.2	Confidentiality Agreement	34
10	Representations and warranties	35

10.1	Bidco representations and warranties	35
10.2	DUET representations and warranties	36
10.3	Reliance by parties	39
10.4	Notifications	40
10.5	Status of representations and warranties	40
11	Indemnities and releases	40
11.1	Indemnities and releases by DUET	40
11.2	Indemnities and releases by Bidco	40
11.3	Survival of indemnities and releases	41
11.4	Benefit and enforcement	41
12	Exclusivity	41
12.1	No existing discussions	41
12.2	No shop restriction	41
12.3	No talk restriction	42
12.4	No due diligence	42
12.5	Notification by DUET and matching rights	42
12.6	Provision of non-public information	43
12.7	Normal provision of information	43
12.8	Acknowledgement	44
13	DUET Reimbursement Fee	44
13.1	Background	44
13.2	DUET Reimbursement Fee	44
13.3	Compliance with law	45
13.4	Time for payment	45
13.5	Limitation of liability	46
14	Bidco Costs reimbursement	46
14.1	Background	46
14.2	Costs reimbursement	46
14.3	Compliance with law	47
14.4	Time for payment	47
15	Deeds of indemnity and insurance and policies	47
16	Guarantors	48
16.1	Background	48
16.2	Individual Guarantor representations and warranties	48
16.3	Guarantee and indemnity	50
16.4	Reasonable endeavours	52
16.5	Retention	53
16.6	Agent for service of process	53
16.7	Assistance from DUET	53
16.8	Bidco and Guarantor limitation of liability	54
17	Termination	54
17.1	Termination by any party	54
17.2	Termination by Bidco	55
17.3	Termination by DUET	55
17.4	Effect of termination	55
17.5	Manner of termination	55
17.6	No other termination	55

18	GST	56
18.1	Recovery of GST	56
18.2	Liability net of GST	56
18.3	Adjustment events	56
18.4	Cost exclusive of GST	56
18.5	Survival	56
18.6	Definitions	56
19	Trustee capacity	56
20	Withholding tax	57
20.1	Withholding	57
20.2	Clarification	57
20.3	Consultation	57
21	Miscellaneous	57
21.1	Notices	57
21.2	Consideration	59
21.3	No waiver	59
21.4	Remedies cumulative	59
21.5	Entire agreement	59
21.6	Amendment	60
21.7	Assignment	60
21.8	No merger	60
21.9	Further assurances	60
21.10	Costs and duty	60
21.11	Severability of provisions	60
21.12	Governing law and jurisdiction	60
21.13	Counterparts	60
Schedule 1		61
	Timetable	61
Schedule 2		62
	Form of Company Schemes	62
Schedule 3		63
	DFT Constitution Supplemental Deed	63
Schedule 4		64
	Deed Poll	64
Execution pages		65

This Agreement is made on 14 January 2017

Parties

- 1 **CK William Australia Bidco Pty Ltd** (ACN 613 693 182) of c/o King & Wood Mallesons, Governor Phillip Tower, Level 61, 1 Farrer Place, Sydney NSW 2000 (**Bidco**).
- 2 **DUET Investment Holdings Limited** (ACN 120 456 573) of Level 14, 20 Martin Place, Sydney NSW 2000 (**DIHL**).
- 3 **DUET Company Limited** (ACN 163 100 061) of Level 14, 20 Martin Place, Sydney NSW 2000 (**DUECo**).
- 4 **DUET Finance Limited** (ACN 108 014 062) of Level 14, 20 Martin Place, Sydney NSW 2000 (**DFL**), in its personal capacity and as responsible entity of the **DUET Finance Trust** (ARSN 109 363 135) (**DFT**).

(**DUET** means DIHL, DUECo, DFL and DFT, or any one or more of them as the context requires).
- 5 **Cheung Kong Property Holdings Limited** of 7th Floor, Cheung Kong Center, 2 Queen's Road, Central, Hong Kong (**CKP**).
- 6 **Cheung Kong Infrastructure Holdings Limited** of 12/F Cheung Kong Center, 2 Queen's Road, Central, Hong Kong (**CKI**).
- 7 **Power Assets Holdings Limited** of Rooms 1913-1914, 19/F Hutchison House, 10 Harcourt Road, Central, Hong Kong (**PAH**).

(CKP, CKI and PAH are collectively the **Guarantors** and each a **Guarantor**).

Recitals

- A DUET is a quadruple-stapled group listed on ASX, comprising DIHL, DUECo, DFL and DFT.
- B DUET and Bidco are proposing a transaction under which Bidco will acquire all of the DUET Securities as follows:
 - Bidco will acquire all of the DFL Shares pursuant to the DFL Scheme;
 - Bidco will acquire all of the DIHL Shares pursuant to the DIHL Scheme;
 - Bidco will acquire all of the DUECo Shares pursuant to the DUECo Scheme; and
 - Bidco will acquire all of the DFT Units pursuant to the Trust Scheme.
- C DUET has agreed to propose the DFL Scheme, DIHL Scheme, DUECo Scheme and Trust Scheme to DUET Securityholders and to issue the Scheme Booklet to DUET Securityholders, and the parties have agreed to implement the DFL Scheme, DIHL Scheme, DUECo Scheme and Trust Scheme, upon and subject to the terms and conditions of this Agreement.
- D As at the date of this Agreement, Bidco is a wholly-owned Subsidiary of CKP. It is intended that CKI will directly or indirectly through a Subsidiary subscribe for, or otherwise acquire shares in, Bidco if its Guarantor Shareholder Approvals are obtained, and that PAH will directly or indirectly through a Subsidiary subscribe for or otherwise acquire shares in Bidco if its Guarantor Shareholder Approvals are obtained.

- E The Guarantors (acting severally, each in its Relevant Proportion) have agreed to guarantee Bidco's obligations under this Agreement, subject to and in accordance with this Agreement.

It is agreed as follows.

1 Definitions and interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

ACCC means the Australian Competition and Consumer Commission.

Adviser means, in relation to an entity, a financier, financial adviser, corporate adviser, legal adviser, or technical or other 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.

Announcement Date means:

- (a) the date on which this Agreement is executed; or
- (b) if this Agreement is executed on a day that is not a Trading Day, the first Trading Day immediately following the day of execution.

ASIC means the Australian Securities and Investments Commission.

Asset Level Entity means any of the following entities:

- (a) UED;
- (b) DUET EDL Pty Limited (ACN 607 005 685);
- (c) Multinet Group Holdings Pty Limited (ACN 104 036 937);
- (d) DUET Dampier Bunbury Pty Limited (ACN 110 757 625); or
- (e) any Subsidiary of the above entities.

Associate has the meaning given in section 12(2) of the Corporations Act, where DUET is the 'designated body'.

ASX means ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market known as 'ASX' operated by ASX Limited.

ASX Listing Rules means the official listing rules of ASX.

ATO means the Australian Taxation Office.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, licence, notarisation, permit or waiver, however it is described, including any renewal or amendment and any condition attaching to it; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without action being taken.

Bidco Indemnified Parties means:

- (a) Bidco and each Guarantor; and
- (b) the directors, officers, employees and Advisers of Bidco and each Guarantor.

Bidco Provided Information means all information regarding Bidco, the Guarantors and their respective Related Bodies Corporate that is provided by or on behalf of Bidco to DUET to enable

the Scheme Booklet to be prepared and completed in accordance with clause 5.4 (and that is specifically identified as such by Bidco or any of its Representatives), and any updates to that information provided by or on behalf of Bidco to DUET or any of its Representatives in accordance with clause 5.3(a). For the avoidance of doubt, Bidco Provided Information does not include information about the DUET Group (except to the extent it relates to any statement of intention relating to the DUET Group following the Effective Date).

Business Day means any day that is each of the following:

- (a) a Business Day within the meaning given in the ASX Listing Rules; and
- (b) a day that banks are open for business in Sydney, Australia.

Claim means, in relation to a party, a demand, claim, action or proceeding made or brought against the party, however arising and whether present unascertained, immediate, future or contingent.

Company Schemes means the DFL Scheme, DIHL Scheme and DUECo Scheme.

Competing Proposal means any expression of interest, proposal, offer, transaction or arrangement by or with any person pursuant to which, if the expression of interest, proposal, offer, transaction or arrangement is entered into or completed substantially in accordance with its terms a Third Party (other than as custodian, nominee or bare trustee):

- (a) directly or indirectly acquires a Relevant Interest in, or has a right to acquire a legal, beneficial or economic interest in, or control of, 20% or more of the DUET Securities;
- (b) directly or indirectly acquires or becomes the holder of, or otherwise acquires or has a right to acquire a legal, beneficial or economic interest in, or control of, all or a substantial part of the assets or business of any member of DUET;
- (c) otherwise acquires control (within the meaning of section 50AA of the Corporations Act) of DUET or any member of DUET;
- (d) otherwise directly or indirectly acquires, merges or amalgamates with, or acquires a significant shareholding or economic interest in, or is stapled with, DUET or any material Subsidiary of DUET; and/or
- (e) requires DUET to abandon, or otherwise fail to proceed with, the Schemes,

whether by way of takeover offer, scheme of arrangement, trust scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of shares, other securities or assets, assignment of assets or liabilities, incorporated or unincorporated joint venture, reverse takeover, dual-listed company structure, deed of company arrangement, recapitalisation, establishment of a new holding company for DUET, any debt for equity arrangement or other synthetic merger or any other transaction or arrangement.

Conditions Precedent means the conditions precedent set out in clause 3.1.

Confidentiality Agreement means each confidentiality agreement dated 12 December 2016 between DUET and a Guarantor.

Consortium Arrangements mean consortium arrangements between CKI, PAH and CKP relating to Bidco and its implementation of the Schemes and transactions contemplated thereunder.

Corporations Act means the *Corporations Act 2001* (Cth), as amended by any applicable ASIC relief.

Corporations Regulations means the *Corporations Regulations 2001* (Cth), as amended by any applicable ASIC relief.

Cost Reimbursement Amount has the meaning given in clause 14.2(a).

Court means the Supreme Court of New South Wales or such other Australian court of competent jurisdiction as Bidco and DUET may agree in writing.

Deed Poll means a deed poll to be executed by Bidco, CKP, CKI (unless prior to the First Court Date the CKI shareholders have voted on but not approved the relevant Guarantor Shareholder Approvals) and PAH (unless prior to the First Court Date the PAH shareholders have voted on but not approved the relevant Guarantor Shareholder Approvals) in favour of the Scheme Participants substantially in the form of Schedule 4, or in such other form as Bidco and DUET may agree in writing (such agreement not to be unreasonably withheld).

DFL Constitution means the constitution of DFL, as amended from time to time.

DFL Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between DFL and holders of DFL Scheme Shares substantially in the form of Schedule 2, or in such other form as Bidco and DUET may agree in writing (such agreement not to be unreasonably withheld or delayed).

DFL Scheme Meeting means the meeting of DFL Shareholders to be ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to the DFL Scheme, and includes any adjournment of that meeting.

DFL Scheme Shares means the DFL Shares on issue as at the Record Date other than DFL Shares which form part of the Excluded Securities.

DFL Share means a fully paid ordinary share issued in the capital of DFL.

DFL Shareholder means a person who is registered in the Register as a holder of one or more DFL Shares.

DFT Constitution means the constitution establishing DFT dated 26 June 2003, as amended from time to time.

DFT Constitution Supplemental Deed means a deed poll under which DFT RE will amend the DFT Constitution, substantially in the form of Schedule 3 or in such other form Bidco and DUET may agree in writing (such agreement not to be unreasonably withheld or delayed).

DFT RE means DFL in its capacity as responsible entity of the DUET Finance Trust (ARSN 109 363 135).

DFT Scheme Units means the DFL Units on issue as at the Record Date other than DFT Units which form part of the Excluded Securities.

DFT Unit means one fully paid ordinary unit in DFT.

DFT Unitholder means a person who is registered in the Register as a holder of one or more DFT Units.

DIHL Constitution means the constitution of DIHL, as amended from time to time.

DIHL Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between DIHL and holders of DIHL Scheme Shares substantially in the form of Schedule 2, or in such other form as Bidco and DUET may agree in writing (such agreement not to be unreasonably withheld or delayed).

DIHL Scheme Meeting means the meeting of DIHL Shareholders to be ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to the DIHL Scheme, and includes any adjournment of that meeting.

DIHL Scheme Shares means the DIHL Shares on issue as at the Record Date other than DIHL Shares which form part of the Excluded Securities.

DIHL Share means a fully paid ordinary share issued in the capital of DIHL.

DIHL Shareholder means a person who is registered in the Register as a holder of one or more DIHL Shares.

DUECo Constitution means the constitution of DUECo, as amended from time to time.

DUECo Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between DUECo and holders of DUECo Scheme Shares substantially in the form of Schedule 2, or in such other form as Bidco and DUET may agree in writing (such agreement not to be unreasonably withheld or delayed).

DUECo Scheme Meeting means the meeting of DUECo Shareholders to be ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to the DUECo Scheme, and includes any adjournment of that meeting.

DUECo Scheme Shares means the DUECo Shares on issue as at the Record Date other than DUECo Shares which form part of the Excluded Securities.

DUECo Share means a fully paid ordinary share issued in the capital of DUECo.

DUECo Shareholder means a person who is registered in the Register as a holder of one or more DUECo Shares.

Due Diligence Materials means all DUET Disclosed Information other than that in paragraph (a) of the definition of DUET Disclosed Information.

DUET means DIHL, DUECo, DFL and DFT, or any one or more of them as the context requires.

DUET Boards means the boards of directors of DFL, DIHL and DUECo (each as constituted from time to time), and includes any authorised committee of directors of those boards.

DUET Constitutions means the DUECo Constitution, DIHL Constitution, DFL Constitution and DFT Constitution.

DUET Director means a director of DUET.

DUET Disclosed Information means:

- (a) all information disclosed to ASX by DUET on or prior to the date of this Agreement;
- (b) the letter identified as 'Disclosure Letter' provided by DUET to Bidco and the Guarantors, and countersigned by Bidco and the Guarantors, in each case on or prior to the date of this Agreement, and any document identified in that letter as having been disclosed to Bidco and the Guarantors; and
- (c) the documents and information (including written responses from DUET and its Representatives to requests for further information made by Bidco, the Guarantors and certain of their respective Representatives) contained in the data room made available by DUET to Bidco, the Guarantors and certain of their respective Representatives at 11.59pm on 12 January 2017, the index of which has been initialled by, or on behalf of, DUET and Bidco for identification.

DUET Group means DUET and each Subsidiary of DUET, and **DUET Group entity** means any of them.

DUET Indemnified Parties means:

- (a) each DUET Group entity; and
- (b) the directors, officers, employees and Advisers of each DUET Group entity.

DUET Material Adverse Change means any event, occurrence or matter (whether individually or when aggregated with all such events, occurrences or matters of a like kind) has had or is

reasonably likely to have:

- (a) the effect of a diminution in the value of the consolidated net assets (but not including any diminution in intangible assets) of the DUET Group, taken as a whole, by at least \$170,000,000 against what it would reasonably be expected to have been but for that event, occurrence or matter; or
- (b) the effect of a diminution in the consolidated earnings before interest, tax, depreciation and amortisation of:
 - (i) the DUET Group, taken as a whole, by at least \$100,000,000 per financial year in recurring financial years of DUET against what it would reasonably be expected to have been but for that event, occurrence or matter; or
 - (ii) DUET EDL Pty Limited (ACN 607 005 685) and its Subsidiaries (**EDL Group**), taken as a whole as if consolidated accounts had been prepared in respect of the EDL Group, by at least \$35,000,000 per financial year in recurring financial years of the EDL Group against what it would reasonably be expected to have been but for that event, occurrence or matter,

in each case, other than each event, occurrence or matter:

- (c) required to be undertaken or procured by the EDL Group or the DUET Group (as applicable) pursuant to a Transaction Document;
- (d) fairly disclosed to Bidco, a Guarantor or any of their respective Representatives in the DUET Disclosed Information;
- (e) agreed to in writing by Bidco; or
- (f) which arises from:
 - (i) changes in commodity prices, exchange rates or interest rates;
 - (ii) general economic, political or business conditions, including material adverse changes or major disruptions to, or fluctuations in, domestic or international financial markets, and acts of terrorism, war (whether or not declared), natural disaster or the like; or
 - (iii) changes to accounting standards, laws or policies of a Government Agency in Australia,

but excluding any event, occurrence or matter which has a disproportionate effect on the EDL Group or DUET Group (as applicable), taken as a whole, as compared to other participants in the industries in which the EDL Group or DUET Group (as applicable) operates.

DUET Provided Information means all information included in the Scheme Booklet, and any updates to that information prepared by or on behalf of DUET in accordance with clause 5.1(m), other than:

- (a) the Bidco Provided Information and any information solely derived from, or prepared solely in reliance on, the Bidco Provided Information; and
- (b) the Independent Expert's Report.

DUET Public Announcement means the public announcement regarding the execution of this Agreement to be made by DUET in the form agreed between the parties (acting reasonably) prior to the date of this Agreement.

DUET Regulated Event means the occurrence of any of the following:

- (a) any DUET Group entity converts all or any of its securities into a larger or smaller number of securities or a resolution is passed to do so;
- (b) any DUET Group entity reduces, or resolves to reduce, its capital in any way or reclassifies, combines, splits, or redeems or repurchases directly or indirectly any of its security or financial products;
- (c) any DUET Group entity:
- (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) any DUET Group entity issues securities, or grants an option over or to subscribe for its securities, issues any other instruments convertible into shares or units, or agrees to make such an issue or grant such an option, other than:
- (i) to an entity all the issued shares or units of which are owned by one or more DUET Group entities;
 - (ii) by DUET pursuant to DUET's distribution and dividend reinvestment plan (including pursuant to any underwriting of such plan) in relation to the Permitted DUET Distribution for the six month period ended 31 December 2016, provided that the terms of that plan are not amended on or after the date of this Agreement without the prior written consent of Bidco (not to be unreasonably withheld or delayed); or
 - (iii) where the DUET Group entity is UED, an issuance by UED to its shareholders on a pro-rata basis or any agreement to make such an issuance;
- (e) any DUET Group entity issues, or agrees to issue, convertible notes or any other security or instrument convertible into shares, other than:
- (i) by any DUET Group entity to an entity all the issued shares or units of which are owned by one or more DUET Group entities; or
 - (ii) where the DUET Group entity is UED, an issuance by UED to its shareholders on a pro rata basis or any agreement to make such an issuance;
- (f) DUET agrees to pay, declares, pays or makes, or incurs a liability to pay or make, a dividend or any other form of distribution of profits or capital (whether by way of trust distribution, dividend, capital reduction or otherwise and whether in cash or specie), other than the declaration and payment by DUET of the Permitted DUET Distributions or the Special Distribution;
- (g) any DUET Group entity issues any other form of instrument other than shares or units, or there is an agreement for any DUET Group entity to issue such instruments, other than:
- (i) by any DUET Group entity to an entity all the issued shares or units of which are owned by one or more DUET Group entities; or
 - (ii) where the DUET Group entity is UED, an issuance by UED to its shareholders on a pro rata basis or any agreement to make such an issuance;
- (h) DIHL, DUECo or DFL adopts a new constitution, makes any material change to, or repeals, their respective constitutions or the DFT Constitution or a provision of it (other than pursuant to the amendments required for the implementation of the Trust Scheme);

- (i) any DUET Group entity creates, or agrees to create, any mortgage charge, lien or other encumbrance over the whole, or a substantial part, of its business or assets other than in the ordinary course of its business;
- (j) any DUET Group entity resolves that it be wound up or an application or order is made for the winding up or dissolution of any DUET Group entity, other than a solvent winding up or where the application or order (as the case may be) is set aside within 14 days;
- (k) a liquidator or provisional liquidator of any DUET Group entity is appointed;
- (l) a court makes an order for the winding up of any DUET Group entity;
- (m) an administrator of any DUET Group entity is appointed under the Corporations Act;
- (n) DUET or any of its material Subsidiaries ceases, or threatens to cease, to carry on business;
- (o) any DUET Group entity executes a deed of company arrangement;
- (p) a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of the property of DUET or any of its Subsidiaries;
- (q) DUET or any material Subsidiary of DUET is deregistered as a company or registered managed investment scheme, or is otherwise dissolved;
- (r) any DUET Group entity:
- (i) acquires or leases;
 - (ii) agrees to acquire or lease; or
 - (iii) offers, proposes or announces a bid or tenders for,
- any entity, business or assets:
- (iv) that are, or in the case of an entity or business, that involve assets that are, located in the United States of America, Canada or any member state of the European Union; or
 - (v) any entity, business or assets (other than a lease or licence in the ordinary and usual course of business, or to or from DUET or an entity all the issued shares or units of which are owned by one or more DUET Group entities), where the value of such entity, business or assets, or the amount involved in the relevant transaction, exceeds \$20,000,000 (either individually or, in the case of related businesses or classes of assets or a series of related transactions, collectively);
- (s) any DUET Group entity:
- (i) disposes of, or agrees to dispose of, any entity, business or assets (other than, subject to sub-paragraph (ii), to or from DUET or an entity all the issued shares or units of which are owned by one or more DUET Group entities), where the value of such entity, business or assets, or the amount involved in the relevant transaction, exceeds \$20,000,000 (either individually or, in the case of related businesses or classes of assets or a series of related transactions, collectively); or
 - (ii) disposes of, or agrees to dispose of, any securities or other instruments they hold in any DUET Group entity in favour of another DUET Group entity;
- (t) any DUET Group entity enters into any transaction or agreement that continues beyond the Implementation Date on terms that are not arm's length commercial terms;
- (u) the following occurs:

- (i) any DUET Group entity enters into any new commitments for capital expenditure the value of which exceeds \$50,000,000 (when aggregated with new commitments for capital expenditure entered into by all DUET Group entities); or
- (ii) any DUET Group Member that is an Asset Level Entity described in paragraphs (a) to (d) of the definition of Asset Level Entity or a Subsidiary of such an Asset Level Entity enters into any new commitment for capital expenditure (but excluding any capital expenditure that has been pre-funded by customers) the value of which (when aggregated with new commitments for capital expenditure entered into by the relevant Asset Level Entity or any of its Subsidiaries) exceeds \$10,000,000;
- (v) any DUET Group entity materially varies or terminates any contract that generates, or is expected to generate, annual revenue or gross annual expenditure for the DUET Group in excess of:
- (i) \$15,000,000 individually;
- (ii) where the DUET Group entity is an Asset Level Entity described in paragraphs (a) to (d) of the definition of Asset Level Entity or a Subsidiary of such an Asset Level Entity, \$15,000,000 when aggregated with all other contracts entered into by the relevant Asset Level Entity or any of its Subsidiaries and to which this clause applies; or
- (iii) \$30,000,000 when aggregated with all other contracts to which this clause applies;
- (w) any DUET Group entity enters into any contract that generates, or is expected to generate, annual revenue or gross annual expenditure for the DUET Group in excess of:
- (i) \$15,000,000 individually;
- (ii) where the DUET Group entity is an Asset Level Entity described in paragraphs (a) to (d) of the definition of Asset Level Entity or a Subsidiary of such an Asset Level Entity, \$15,000,000 when aggregated with all other contracts entered into by the relevant Asset Level Entity or any of its Subsidiaries and to which this clause applies; or
- (iii) \$30,000,000 when aggregated with all other contracts to which this clause applies;
- (x) any DUET Group entity takes any action that is intended to result in the termination, surrender, suspension or variation in a material respect of an Authorisation;
- (y) any DUET Group entity commences, settles or agrees to settle any dispute with SGSP (Australia) Assets Pty Ltd (ACN 126 327 624) relating to the terms of the UEDH Shareholders' Agreement;
- (z) a Claim is brought against DUET or any DUET Group entity (other than a frivolous or vexatious Claim), which will or is likely to have an adverse effect on DUET in excess of \$30,000,000 or if DUET becomes the subject of regulatory investigation or prosecution that will or is likely to have an adverse effect on DUET in excess of \$30,000,000 (either individually or in the case of related Claims or a series of related Claims, collectively);
- (aa) any of the following occurs:
- (i) DFL retires or is removed or replaced, or a resolution is passed in accordance with section 601FM of the Corporations Act for the removal or replacement of DFL, as trustee or responsible entity of DFT;

- (ii) an order is made by any court for the appointment of a temporary responsible entity of DFT in accordance with the Corporations Act;
 - (iii) DUET effects or facilitates a termination of DFT; or
 - (iv) DUET effects or facilitates the resettlement of the Trust Property;
- (bb) any member of the DUET Group makes or agrees to make, any loan or advance, or enters into any financing arrangement, agreement or instrument with a person other than a DUET Group member, or amends in any material manner the terms of any existing financing arrangement, agreement or instrument with a person other than:
 - (i) to a member of the DUET Group;
 - (ii) with respect to any facility that is between an Asset Level Entity and any other person, to increase the total facility limit under an existing debt facility by an amount which (when aggregated with all other increases by other Asset Level Entities that have occurred on or after the date of this Agreement) is not more than \$100 million; or
 - (iii) the entry into new facilities or amendment of existing facilities to refinance any facility that is maturing in 2017, provided that the facility is at market rates and does not increase the facility limit from that in the facility to be refinanced and that there is no material change in the covenants from those in the facility to be refinanced;
- (cc) in respect of any financing arrangement, agreement or instrument a member of the DUET Group has with a person other than a DUET Group member, a DUET Group entity:
 - (i) breaches any covenant that is not waived or is not remedied in accordance with the relevant cure rights, under the arrangement, agreement or instrument;
 - (ii) allows an event of default, or potential event of default, to occur that is not remedied in accordance with the relevant cure rights under the arrangement, agreement or instrument;
 - (iii) allows an obligation to pay an amount to be accelerated other than to prevent an event referred to in paragraphs (i) or (ii) above from occurring;
 - (iv) takes any action (including incurring any new indebtedness or drawing down moneys) which leads to the credit rating of any DUET Group entity being downgraded or placed on negative watch; or
 - (v) other than pursuant to (bb)(iii) or in the ordinary course and consistent with past practice (including to pay down revolving facilities), permanently prepays amounts owing under the relevant arrangement, agreement or instrument and then cancels the facility limit;
- (dd) none of DFL (both personally and in its capacity as responsible entity of DFT), DIHL or DUECo materially amends any loan arrangement with any other DUET Group entity that is not a Subsidiary (provided that they may agree to increase the amount of existing loan arrangements), or enters into any new material loan arrangements with another DUET Group entity that is not a Subsidiary, or materially reduces the balance of existing loan arrangements with another DUET Group entity that is not a Subsidiary (provided that they may reduce the balance of existing loan arrangements in connection with a Permitted DUET Distribution and the distribution and dividend reinvestment plan in relation to the Permitted DUET Distribution for the six month period ending 31 December 2016);

- (ee) any DUET Group entity enters into an agreement, arrangement or transaction with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except hedges made in the ordinary course of business;
- (ff) any DUET Group entity makes any material change to its accounting policy, other than to the extent required by law or applicable accounting standards;
- (gg) DFL RE approves or takes any action or makes any investment that could reasonably result in DFT commencing to carry on a trading business within the meaning of Division 6C of the Tax Act or controlling or having the ability to control, directly or indirectly the affairs or operations of another person in respect of the carrying on by that person of a trading business within the meaning of that Division); or
- (hh) DUET Securities are delisted or are subject to suspension from quotation for 5 or more trading days, other than due to, or as a result of, an action taken by Bidco or a Related Body Corporate of Bidco,

but does not include any matter:

- (ii) required to be undertaken or procured by the DUET Group pursuant to a Transaction Document;
- (jj) fairly disclosed to Bidco, a Guarantor or any of their respective Representatives in the DUET Disclosed Information prior to the date of this Agreement and the event, when it occurs, is materially the same as had been disclosed; or
- (kk) agreed to in writing by Bidco (in its sole and absolute discretion).

DUET Reimbursement Fee has the meaning given in clause 13.2(a).

DUET Scheme Security means a DFL Scheme Share, DHL Scheme Share, DUECo Scheme Share and DFT Scheme Unit.

DUET Security means a stapled security in DUET, which comprises one DFL Share, one DIHL Share, one DUECo Share and one DFT Unit.

DUET Securityholder means a person who is registered in the Register as the holder of one or more DUET Securities.

Effective means, when used in relation to the Schemes, all of the following events having taken place:

- (a) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to each Company Scheme; and
- (b) the DFT Constitution Supplemental Deed taking effect pursuant to section 601GC(2) of the Corporations Act.

Effective Date means the date on which all of the Schemes have become Effective.

Encumbrance means any mortgage, lien, charge, pledge, assignment by way of security interest, title retention, preferential right or trust arrangement, Claim, covenant, profit à prendre, easement or any other security arrangement or any other arrangements having the same effect including a 'security interest' for the purposes of the *Personal Property Securities Act 2009* (Cth).

End Date means 30 June 2017, or such later date as Bidco and DUET may agree in writing.

Estimated Net Income means DFL's estimate of DFT's Net Income for the period from:

- (a) if the Implementation Date occurs on or prior to 30 June 2017, all Net Income that has not otherwise been distributed to DUET Securityholders for the period from 1 July 2016 to the Implementation Date (and assuming that that period was a financial year); and
- (b) if the Implementation Date occurs after 30 June 2017, all Net Income that has not otherwise been distributed to DUET Securityholders for the period from 1 July 2017 to the Implementation Date (and assuming that that period was a financial year).

Excluded Security means a DUET Security held by any person on behalf of, or for the benefit of, Bidco, a Guarantor or any of their respective Related Bodies Corporate.

Exclusivity Period means the period commencing on the date of this Agreement and ending on the earlier of:

- (a) the termination of this Agreement in accordance with its terms;
- (b) the Implementation Date; and
- (c) the End Date.

First Court Date means the first day of hearing of an application made to the Court by DUET for the First Court Orders and the First Judicial Advice or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

First Court Orders means orders pursuant to section 411(1) of the Corporations Act convening the DFL Scheme Meeting, DIHL Scheme Meeting and DUECo Scheme Meeting.

First Judicial Advice means confirmation from the Court under section 63 of the *Trustee Act 1925* (NSW) that:

- (a) DFT RE would be justified in convening the Trust Scheme Meeting for the purposes of considering the Trust Scheme Resolutions; and
- (b) subject to DFT Unitholders passing the Trust Scheme Resolutions, DFT RE would be justified in proceeding on the basis that amending the DFT Constitution as set out in the DFT Constitution Supplemental Deed would be within the powers of alteration conferred by the DFT Constitution and section 601GC of the Corporations Act.

Government Agency means any foreign or Australian government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition or antitrust authority or entity and includes any minister (including, for the avoidance of doubt, the Commonwealth Treasurer), Australian Energy Regulator, ASIC, the ACCC, the ATO, ASX, the Australian Foreign Investment Review Board, Committee on Foreign Investment in the United States, HKEx and any regulatory organisation established under statute or any stock exchange.

Guaranteed Obligations has the meaning given in clause 16.3(a)(i).

Guarantor Shareholder Approvals means:

- (a) with respect to CKP, all resolutions that are required to be approved by the shareholders of CKP under the laws of its place of incorporation and under the Rules Governing the Listing of Securities on the HKEx in relation to the Consortium Arrangements;
- (b) with respect to CKI, all resolutions that are required to be approved by the shareholders of CKI under the laws of its place of incorporation and under the Rules Governing the Listing of Securities on the HKEx in relation to the Consortium Arrangements; and
- (c) with respect to PAH, all resolutions that are required to be approved by the shareholders of PAH under the laws of its place of incorporation and under the Rules Governing the Listing of Securities on the HKEx in relation to the Consortium Arrangements.

Guidance Note 15 means the document entitled "Guidance Note 15: Trust Scheme Mergers" issued by the Takeovers Panel.

HKEx means the Stock Exchange of Hong Kong Limited and any market operated by it.

HK Public Announcement means the public announcement regarding the execution of this Agreement to be made by the Guarantors in the form agreed between the parties (acting reasonably) on the HKEx prior to the date of this Agreement.

Implementation Date means the date that is 5 Business Days after the Record Date, or such other date as DUET and Bidco may agree in writing.

Independent Expert means an independent expert to be engaged by DUET to express an opinion on whether the Schemes are fair and reasonable and in the best interests of DUET Securityholders.

Independent Expert's Report means the report from the Independent Expert commissioned by DUET for inclusion in the Scheme Booklet, and any update to such report that the Independent Expert issues prior to the Scheme Meetings.

Net Income means the 'net income' of DFT under section 95(1) of the Tax Act for the relevant period.

Notice of DFL Scheme Meeting means the notice convening the DFL Scheme Meeting, together with the proxy form for the DFL Scheme Meeting.

Notice of DIHL Scheme Meeting means the notice convening the DIHL Scheme Meeting, together with the proxy form for the DIHL Scheme Meeting.

Notice of DUECo Scheme Meeting means the notice convening the DUECo Scheme Meeting, together with the proxy form for the DUECo Scheme Meeting.

Notices of Meeting means the Notice of DFL Scheme Meeting, Notice of DIHL Scheme Meeting, Notice of DUECo Scheme Meeting and Notice of Trust Scheme Meeting.

Notice of Trust Scheme Meeting means the notice convening the Trust Scheme Meeting, together with the proxy form for the Trust Scheme Meeting.

Officers means, in relation to an entity, its directors, officers and employees.

Permitted DUET Distributions means:

- (a) a distribution and dividend payable to holders of DUET Securities for the 6 month period ending 31 December 2016 of no more than 9.25 cents payable either in cash per DUET Security or in accordance with the distribution and dividend reinvestment plan in place as at the date of this Agreement;
- (b) a dividend or dividends payable to holders of DUET Securities in accordance with clause 6.1(b); and
- (c) a distribution payable to holders of DUET Securities in accordance with clause 6.3.

Record Date means 7.00pm on the date that is 5 Business Days after the Effective Date, or such other date as may be agreed in writing between Bidco and DUET.

Register means the register of holders of DUET Securities kept by DUET pursuant to the Corporations Act.

Registry means Computershare Investor Services Pty Limited (ACN 078 279 277).

Regulator's Draft means the draft of the Scheme Booklet that is provided to ASIC pursuant to section 411(2) of the Corporations Act and for the purposes of Regulatory Guide 74.

Regulatory Approvals means any approval, consent, clearance, notice of no objection, waiver,

confirmation, exemption, declaration, modification, relief, notice of intention not to object or intervene, authorisation or anything similar set out in clauses 3.1(a), 3.1(b) and 3.1(c).

Regulatory Guide 60 means “Regulatory Guide 60 (Schemes of arrangement)” issued by ASIC on 22 September 2011.

Regulatory Guide 74 means “Regulatory Guide 74 (Acquisitions agreed to by shareholders)” issued by ASIC on 21 December 2011.

Regulatory Review Period means the period from the date on which the Regulator's Draft is submitted to ASIC to the date on which ASIC confirms that it does not intend to make submissions at the Court hearing on the First Court Date or otherwise object to the Schemes.

Related Body Corporate has the meaning given in the Corporations Act, except that references to 'subsidiary' have the meaning given to 'Subsidiary' in this Agreement.

Relevant Interest has the meaning given in sections 608 and 609 of the Corporations Act.

Relevant Proportion has the meaning given in clause 16.3(h).

Representative means, in relation to a person:

- (a) a Related Body Corporate of the person; or
- (b) a director, officer or employee of the person or any of the person's Related Bodies Corporate; or
- (c) an Adviser to the person or any of the person's Related Bodies Corporate.

Scheme Booklet means the explanatory memorandum to be prepared in respect of the Schemes in accordance with the terms of this Agreement and to be despatched by DUET to DUET Securityholders, including the documents described in clause 5.4(c).

Scheme Consideration means, in respect of each DUET Scheme Security, a cash amount of \$3 less the amount by which any Special Distribution determined by DFL in accordance with clause 6.1, when added to the per-DUET Security value of any Permitted DUET Distribution determined to be made pursuant to clause 6.3, exceeds 3 cents per DUET Scheme Security.

Scheme Meetings means the DFL Scheme Meeting, DIHL Scheme Meeting, DUECo Scheme Meeting and Trust Scheme Meeting.

Scheme Participant means a person registered in the Register as the holder of one or more DUET Scheme Securities at the Record Date.

Schemes means the Company Schemes and the Trust Scheme.

Second Court Date means the first day of hearing of an application made to the Court by DUET for the Second Court Orders and the Second Judicial Advice or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Second Court Orders means orders, pursuant to section 411(4)(b) of the Corporations Act, approving each Company Scheme.

Second Judicial Advice means confirmation from the Court under section 63 of the *Trustee Act 1925* (NSW) that, DFT Unitholders having approved the Trust Scheme Resolutions by the requisite majorities, DFT RE would be justified in implementing the Trust Scheme Resolutions, giving effect to the provisions of the DFT Constitution (as amended by the DFT Constitution Supplemental Deed) and in doing all things and taking all necessary steps to put the Trust Scheme into effect.

Special Distribution means the distribution (expressed on a per DUET Security basis and prior to any withholding being made) to be made in accordance with clause 6.1(a) of this Agreement and clause 10.9 of the DFT Constitution.

Subsidiary has the meaning given in the Corporations Act, provided that an entity will also be taken to be a Subsidiary of another entity if it is controlled by that entity (as 'control' is defined in section 50AA of the Corporations Act) and, without limitation:

- (a) a trust may be a Subsidiary, 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) an entity will also be deemed to be a Subsidiary of an entity if that entity is required by the accounting standards to be consolidated with that entity.

Superior Proposal means a bona fide Competing Proposal received by DUET (and not received as a result of a material breach by DUET of its obligations under clause 12) that the DUET Boards determine, acting in good faith and in order to satisfy what the DUET Boards consider to be their fiduciary or statutory duties (and after having obtained advice from DUET's external legal and, if appropriate, financial advisers):

- (a) is reasonably capable of being valued and completed, taking into account all aspects of the Competing Proposal, including any timing considerations, any conditions precedent or other matters affecting the probability of the Competing Proposal being completed, and the identity of the proponent; and
- (b) would, if completed substantially in accordance with its terms, be more favourable to the DUET Securityholders than the Transactions, taking into account all the terms and conditions of the Competing Proposal.

For the avoidance of doubt, a breach by DUET of clause 12 is not material merely by virtue of the fact that a Competing Proposal is received by DUET as a result of the breach.

Tax Act means the *Income Tax Assessment Act 1936* (Cth).

Tax Opinion means a letter setting out tax implications for Scheme Participants from the Tax Opinion Provider provided in the Scheme Booklet.

Tax Opinion Provider means the provider of a Tax Opinion in respect of the Schemes appointed by DUET.

Third Party means any of the following:

- (a) a person other than Bidco or a Guarantor or any of their respective Related Bodies Corporate; or
- (b) a consortium, partnership, limited partnership, syndicate or other group in which none of Bidco or a Guarantor or any of their respective Related Bodies Corporate has agreed in writing to be a participant.

Timetable means the indicative timetable in relation to the Schemes set out in Schedule 1, or such other indicative timetable as Bidco and DUET may agree in writing.

Trading Day has the meaning given in the ASX Listing Rules.

Transaction Documents means this Agreement, the Company Schemes, the DFT Constitution Supplemental Deed and the Deed Poll.

Transactions means the acquisition by Bidco of all of the DUET Scheme Securities under the Schemes.

Trust Property means all of the scheme property of DFT, including all DFL's rights, property and undertaking which are the subject of DFT:

- (a) of whatever kind and wherever situated; and

- (b) whether present or future.

Trust Scheme means the arrangement under which Bidco acquires all of the DFT Scheme Units from their holders, facilitated by amendments to the DFT Constitution as set out in the DFT Constitution Supplemental Deed.

Trust Scheme Meeting means the meeting of DFT Unitholders to be convened by DFT RE to consider the Trust Scheme Resolutions, and includes any adjournment of that meeting.

Trust Scheme Resolutions means the DFT Unitholders' resolutions to approve the Trust Scheme, being:

- (a) a resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to the DFT Constitution as set out in the DFT Constitution Supplemental Deed; and
- (b) a resolution for the purposes of item 7 of section 611 of the Corporations Act to approve the acquisition of all the DFT Units by Bidco.

UED means United Energy Distribution Holdings Pty Limited (ACN 104 381 660).

UEDH Shareholders Agreement means the shareholders agreement between UED and its shareholders that became effective on 23 July 2003, as amended from time to time.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after 'includes', 'including', 'for example', or similar expressions, does not limit what else might be included.
- (c) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or a relevant part of it.
- (d) The following rules apply unless the context requires otherwise.
 - (i) The singular includes the plural, and the converse also applies.
 - (ii) A gender includes all genders.
 - (iii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (iv) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
 - (v) A reference to a clause or Schedule is a reference to a clause of, or Schedule to, this Agreement.
 - (vi) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document.
 - (vii) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
 - (viii) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
 - (ix) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

- (x) A reference to *dollars* or \$ is to Australian currency.
- (xi) Words and phrases not specifically defined in this Agreement have the same meanings (if any) given to them in the Corporations Act.
- (xii) A reference to time is to Sydney, Australia time.
- (xiii) If the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing must be done on the immediately succeeding Business Day.

1.3 Fairly disclosed

A reference to a fact, matter, circumstance or thing being ***fairly disclosed*** to a person means disclosed in writing to any of that person or any of that person's Representatives in good faith and in sufficient detail so as to reasonably apprise a person (or one of its Representatives) as to the nature and scope of the relevant matter, event, circumstance or thing.

1.4 Best and reasonable endeavours

A reference to a party using or obligation on a party to use its best endeavours or reasonable endeavours or all reasonable endeavours does not oblige that party to:

- (a) pay money:
 - (i) in the form of an inducement or consideration to a third party to procure something (other than the payment of immaterial expenses or costs, including costs of advisers, to procure the relevant thing); or
 - (ii) in circumstances that are commercially onerous or unreasonable in the context of this Agreement;
- (b) provide other valuable consideration to or for the benefit of any person; or
- (c) agree to commercially onerous or unreasonable conditions.

1.5 Consents and approvals

If the doing of any act, matter or thing under this Agreement is dependent on the consent or approval of a party or is within the discretion of a party, such consent or approval may be given or such discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion (unless this Agreement specifies otherwise).

2 Agreement to proceed with Schemes

2.1 DUET to propose Schemes

DUET agrees to propose and implement the Schemes upon and subject to the terms and conditions of this Agreement, and to use all reasonable endeavours to do so as soon as is reasonably practicable and otherwise in accordance with the Timetable.

2.2 Bidco to assist

Bidco agrees to assist DUET to implement the Schemes upon and subject to the terms and conditions of this Agreement, and to use all reasonable endeavours to do so as soon as is reasonably practicable and otherwise in accordance with the Timetable.

3 Conditions Precedent and pre-implementation steps

3.1 Conditions Precedent

Subject to this clause 3, the obligations of DUET under clause 5.1(q) and Bidco's obligation to pay, or procure the payment of, the Scheme Consideration in accordance with the Schemes, Deed Poll and clause 5.3(j) are subject to the satisfaction (or waiver in accordance with clause 3.2) of each of the following Conditions Precedent to the extent and in the manner set out in clause 3.3:

Conditions Precedent for the benefit of Bidco and DUET

- (a) **(FIRB)** before 8.00am on the Second Court Date, the Treasurer of the Commonwealth of Australia (or his delegate), either:
 - (i) provides written notice that there are no objections under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (**FATA**) to the Transactions, and that notice is not subject to any condition or is subject only to:
 - (A) tax-related conditions which are in the form, or substantially in the form, of those set out in Part A of Attachment A of the Australian Foreign Investment Review Board's Guidance Note 47 on 'Tax Conditions' (in the form released on 24 November 2016); and
 - (B) any conditions that Bidco reasonably considers to be acceptable; or
 - (ii) becomes precluded by passage of time from making any order or decision under Division 2 of Part 3 of the FATA in respect of the Transactions;
- (b) **(ASIC)** ASIC has granted all of the following Corporations Act modifications and relief:
 - (i) a modification of item 7 of section 611 of the Corporations Act, allowing DFT Unitholders (other than those excluded from voting because they are Associates of Bidco) to vote in favour of the relevant Trust Scheme Resolution for the purpose of item 7 of section 611 of the Corporations Act;
 - (ii) relief from Division 5A of Part 7.9 of the Corporations Act in relation to any unsolicited offer by Bidco to acquire the DFT Units under the Trust Scheme;
 - (iii) relief from the requirement for DFL to provide a financial services guide in respect of any financial services provided in the Scheme Booklet; and
 - (iv) relief from the requirement for DIHL and DUECo to hold an Australian Financial Services Licence in relation to any financial product advice provided in the Scheme Booklet,

and none of those modifications or relief has been withdrawn, revoked or adversely amended before 8.00am on the Second Court Date;
- (c) **(ASX)** ASX has notified DUET that it approves or does not object to the proposed modifications to the DFT Constitution as set out in the DFT Constitution Supplemental Deed under ASX Listing Rule 15.1;
- (d) **(Independent Expert's Report)** the Independent Expert provides the Independent Expert's Report to DUET, stating that in its opinion the Schemes are fair and reasonable and in the best interests of DUET Securityholders, and the Independent Expert does not change that opinion or withdraw the Independent Expert's Report by notice in writing to DUET prior to 8.00am on the Second Court Date;
- (e) **(DUET Securityholder approvals)**

- (i) the DFL Scheme is approved by the requisite majorities of DFL Shareholders under section 411(4)(a)(ii) of the Corporations Act;
 - (ii) the DIHL Scheme is approved by the requisite majorities of DIHL Shareholders under section 411(4)(a)(ii) of the Corporations Act;
 - (iii) the DUECo Scheme is approved by the requisite majorities of DUECo Shareholders under section 411(4)(a)(ii) of the Corporations Act; and
 - (iv) the Trust Scheme Resolutions are approved by the requisite majorities of DFT Unitholders under section 601GC(1) of the Corporations Act and item 7 of section 611 of the Corporations Act;
- (f) **(Court orders before issue of Scheme Booklet)** the Court grants the First Judicial Advice and makes the First Court Orders;
- (g) **(Court approval of Schemes)** the Company Schemes are approved by the Court in accordance with section 411(4)(b) of the Corporations Act and the Trust Scheme is approved by the Court by granting the Second Judicial Advice;
- (h) **(no restraints)** no judgment, order, decree, statute, law, ordinance, rule or regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court or other Government Agency of competent jurisdiction, remains in effect as at 8.00am on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the implementation of the Schemes;

Conditions Precedent for the benefit of Bidco only

- (i) **(no DUET Regulated Events)** no DUET Regulated Event occurs or becomes known to Bidco between the date of this Agreement and 8.00am on the Second Court Date;
- (j) **(no DUET Material Adverse Change)** no DUET Material Adverse Change occurs, or is discovered, announced or disclosed or otherwise becomes known to Bidco, between the date of this Agreement and 8.00am on the Second Court Date.

3.2 Benefit and waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 3.1(a) to 3.1(h) are for the benefit of DUET and Bidco, and (except in the case of the Conditions Precedent in clauses 3.1(a), 3.1(e), 3.1(f) and 3.1(g), which cannot be waived) any breach or non-satisfaction of any of those Conditions Precedent may only be waived with the written consent of DUET and Bidco.
- (b) The Conditions Precedent in clauses 3.1(i) and 3.1(j) are for the sole benefit of Bidco, and any breach or non-satisfaction of any of those Conditions Precedent may only be waived by Bidco giving its written consent.
- (c) A party entitled to waive the breach or non-satisfaction of a Condition Precedent pursuant to this clause 3.2 may do so in its absolute discretion.
- (d) If a waiver by a party of a Condition Precedent is itself expressed to be conditional and the other parties accept the conditions, the terms of the conditions apply accordingly. If the other parties do not accept the conditions, the relevant Condition Precedent has not been waived.
- (e) If a party waives the breach or non-satisfaction of a Condition Precedent, that waiver will not preclude it from suing the other parties for any breach of this Agreement constituted by the same event that gave rise to the breach or non-satisfaction of the Condition Precedent.

- (f) Waiver of a breach or non-satisfaction in respect of one Condition Precedent does not constitute:
 - (i) a waiver of breach or non-satisfaction of any other Condition Precedent resulting from the same events or circumstances; or
 - (ii) a waiver of breach or non-satisfaction of that Condition Precedent resulting from any other event or circumstance.

3.3 Best endeavours and co-operation

Without prejudice to any other obligations of the parties under this Agreement:

- (a) Bidco must use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clause 3.1(a);
- (b) DUET must use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(b), 3.1(c), 3.1(i) and 3.1(j);
- (c) each party must, to the extent it is within its power to do so, use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(e), 3.1(f), 3.1(g) and 3.1(h); and
- (d) no party will take any action that will or is likely to hinder or prevent the satisfaction of any Condition Precedent, except to the extent that such action is required to be done or procured pursuant to, or is otherwise permitted by, the Transaction Documents, or is required by law.

3.4 Regulatory Approvals

Without limiting the generality of clause 3.3:

- (a) Bidco must promptly apply for all Regulatory Approvals;
- (b) each party:
 - (i) has the right to be represented and make submissions at any proposed meeting (which includes any telephone conversations) with any Government Agency relating to any Regulatory Approval;
 - (ii) must promptly provide the other parties and the relevant Government Agencies with all information reasonably requested in connection with the applications for the Regulatory Approvals;
 - (iii) must consult with the other parties in advance in relation to the form and content of all communications (whether written or oral, and whether direct or via a Representative) with any Government Agency relating to a Regulatory Approval (**Communications**); and
 - (iv) must provide the other parties with drafts of any material written Communications to be sent to a Government Agency and make such amendments as any other party reasonably requires; and
 - (v) must provide copies of any material written Communications sent to or received from a Government Agency to the other parties promptly upon despatch or receipt (as the case may be),

provided that information that is commercially sensitive information to a party or its Related Bodies Corporate need not be provided to the other parties.

- (c) Bidco must act reasonably in considering the provision of undertakings, concessions or conditions requested or required by a Government Agency to facilitate a Regulatory Approval.

3.5 Notifications

Each party must:

- (a) keep the other parties promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions Precedent;
- (b) promptly notify the other parties in writing if it becomes aware that any Condition Precedent has been satisfied, in which case the notifying party must also provide reasonable evidence that the Condition Precedent has been satisfied; and
- (c) promptly notify the other parties in writing of a failure to satisfy a Condition Precedent or of any fact or circumstance that results in that Condition Precedent becoming incapable of being satisfied or that may result in that Condition Precedent not being satisfied in accordance with its terms.

3.6 Failure of Conditions Precedent

- (a) If:
 - (i) there is a breach or non-satisfaction of a Condition Precedent which is not waived in accordance with this Agreement by the time or date specified in this Agreement for the satisfaction of the Condition Precedent; or
 - (ii) there is an act, failure to act or occurrence which will prevent a Condition Precedent being satisfied by the time or date specified in this Agreement for the satisfaction of the Condition Precedent (and the breach or non-satisfaction which would otherwise occur has not already been waived in accordance with this Agreement),

then DUET and Bidco must consult in good faith with a view to determining whether:

- (iii) the Schemes or the Transactions may proceed by way of alternative means or methods;
 - (iv) to extend the relevant time or date for satisfaction of the Condition Precedent;
 - (v) to change the First Court Date or to adjourn the application for the First Court Orders and First Judicial Advice to another date agreed by the parties;
 - (vi) to change the Second Court Date or to adjourn the application for the Second Court Orders and Second Judicial Advice to another date agreed by the parties; or
 - (vii) to extend the End Date.
- (b) If DUET and Bidco are unable to reach agreement under clauses 3.6(a)(iii), 3.6(a)(iv), 3.6(a)(v), 3.6(a)(vi) or 3.6(a)(vii) within 5 Business Days after the delivery of the notice under that clause or any shorter period ending at 5.00pm on the day before the Second Court Date, DUET or Bidco may terminate this Agreement by notice in writing to the other parties, provided that:
 - (i) the Condition Precedent to which the notice relates is for the benefit of that party (whether or not the Condition Precedent is also for the benefit of another party); and

- (ii) there has been no failure by that party to comply with its obligations under this Agreement, where that failure directly and materially contributed to the Condition Precedent to which the notice relates becoming incapable of satisfaction, or being breached or not fulfilled before the End Date,

in which case clause 17.4 will have effect.

3.7 Certificates in relation to Conditions Precedent

- (a) On the Second Court Date:
 - (i) DUET must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at 8.00am on the Second Court Date the Conditions Precedent have been satisfied or waived in accordance with this Agreement; and
 - (ii) Bidco must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at 8.00am on the Second Court Date the Conditions Precedent have been satisfied or waived in accordance with this Agreement.
- (b) Each party must provide to the other parties a draft of the relevant certificate to be provided by it pursuant to clause 3.7(a) by 5.00pm on the day that is two Business Days prior to the Second Court Date, and must provide to the other parties on the Second Court Date a copy of the final certificate or other evidence provided to the Court.

4 Schemes

4.1 Outline of Schemes

- (a) The parties agree that:
 - (i) DUET will propose the Schemes on and subject to the terms of this Agreement;
 - (ii) Bidco will assist DUET in proposing the Schemes on and subject to the terms of this Agreement; and
 - (iii) the Schemes are to be inter-conditional and implemented at the same time.
- (b) Subject to the Schemes becoming Effective, on the Implementation Date the general effect of the Schemes will be as follows:
 - (i) all of the DUET Scheme Securities will be transferred to Bidco in accordance with the terms of the Schemes and the DFT Constitution Supplemental Deed; and
 - (ii) in consideration for the transfer to Bidco of all DUET Scheme Securities held by the Scheme Participants, the Scheme Participants will receive the Scheme Consideration in accordance with the terms of the Schemes and DFT Constitution Supplemental Deed.

4.2 Scheme Consideration

Subject to the Schemes becoming Effective, Bidco agrees in favour of DUET that, in consideration of the transfer to Bidco of each DUET Scheme Security under the Schemes, Bidco will accept such transfer, and will provide to each Scheme Participant the Scheme Consideration for each DUET Scheme Security held by them, in accordance with the terms of the Schemes and DFT Supplemental Deed.

5 Steps for implementation

5.1 DUET's obligations in respect of the Schemes

DUET must take all steps reasonably necessary to propose and implement the Schemes as soon as is reasonably practicable after the date of this Agreement and otherwise substantially in accordance with the Timetable. In particular DUET must:

- (a) **(preparation of Scheme Booklet)** as soon as reasonably practicable after the date of this Agreement, prepare the Scheme Booklet in accordance with clause 5.4;
- (b) **(Independent Expert)** promptly appoint the Independent Expert (if the Independent Expert has not been appointed prior to the date of this Agreement), and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (c) **(Tax Opinion)** engage the Tax Opinion Provider to prepare and provide the Tax Opinion to be included in the Scheme Booklet;
- (d) **(liaison with ASIC)** as soon as reasonably practicable after the date of this Agreement but no later than 21 days before the First Court Date, provide an advanced draft of the Scheme Booklet to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act, and to Bidco, and (to the extent reasonably practicable) keep Bidco reasonably informed of any matters raised by ASIC in relation to the Scheme Booklet (and of any resolution of those matters), and use its best endeavours, in co-operation with Bidco, to resolve any such matters;
- (e) **(liaison with ASX)** as soon as reasonably practicable after the date of this Agreement but no later than 7 days before the First Court Date, provide a draft of the DFT Constitution Supplemental Deed to ASX for its review pursuant to ASX Listing Rule 15.1 and to Bidco, and (to the extent reasonably practicable) keep Bidco reasonably informed of any matters raised by ASX in relation to the draft DFT Constitution Supplemental Deed (and of any resolution of those matters), and use its best endeavours, in co-operation with Bidco, to resolve any such matters;
- (f) **(approval of Scheme Booklet)** procure that meetings of the DUET Boards are convened to approve the Scheme Booklet for despatch to DUET Securityholders;
- (g) **(Court documents)** prepare all documents necessary for the Court proceedings (including any appeals) relating to the Schemes (including originating process, affidavits, submissions and draft minutes of Court orders) in accordance with all applicable laws, and provide Bidco with drafts of those documents for review and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments from Bidco and its Representatives on those drafts;
- (h) **(Registry details)** subject to the Corporations Act, privacy legislation and the terms of the Schemes, provide all necessary directions to the Registry to promptly provide any information that Bidco or the Guarantors reasonably request in relation to the Register, including any sub-register, and, where requested by Bidco and the Guarantors, DUET must procure such information to be provided to Bidco in such electronic form as is reasonably requested by Bidco or the Guarantors;
- (i) **(First Court Date)** lodge all documents with the Court and take all other reasonable steps to ensure that an application is heard by the Court for the First Court Orders and First Judicial Advice;
- (j) **(registration of Scheme Booklet)** if the Court makes the First Court Orders and gives the First Judicial Advice, as soon as possible thereafter, request ASIC to register the

- explanatory statement included in the Scheme Booklet in relation to the Company Schemes in accordance with section 412(6) of the Corporations Act;
- (k) **(proxy solicitation)** retain a proxy solicitation firm to encourage the participation of DUET Securityholders voting on the Company Schemes and the Trust Scheme;
 - (l) **(Scheme Meetings)** take all reasonable steps necessary to comply with the First Court Orders and First Judicial Advice, including, as required, despatching the Scheme Booklet to DUET Securityholders, convening and holding the Scheme Meetings in accordance with the First Court Orders and First Judicial Advice, and putting the Company Schemes and the Trust Scheme Resolutions to DUET Securityholders at the Scheme Meetings, provided that if this Agreement is terminated in accordance with its terms it will take all steps reasonably required to ensure the Scheme Meetings are not held. Unless the parties agree otherwise, DUET must ensure that the Scheme Meetings are not held on or before 20 April 2017;
 - (m) **(update Scheme Booklet)** if it becomes aware of information after the date of despatch of the Scheme Booklet that is material for disclosure to DUET Securityholders in deciding whether to approve the Company Schemes or Trust Scheme Resolutions or that is required to be disclosed to DUET Securityholders under any applicable law, as expeditiously as practicable:
 - (i) inform DUET Securityholders of the information in an appropriate and timely manner, and in accordance with applicable law and after consultation with Bidco as to the manner of provision of that information to DUET Securityholders and after obtaining any approval from the Court; and
 - (ii) to the extent it is reasonably practicable to do so, provide Bidco with drafts of any documents that it proposes to issue to DUET Securityholders under this clause 5.1(m) and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments received in a timely manner from Bidco or its Representatives on those drafts;
 - (n) **(section 411(17)(b) statement)** apply to ASIC for the production of statements in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC does not intend to appear before the Court on the First Court Date and has no objection to the Company Schemes;
 - (o) **(Court approval)** if the Company Schemes and Trust Scheme Resolutions are passed by the requisite majorities of DUET Securityholders, as soon as practicable after such time apply to the Court for the Second Court Orders and the Second Judicial Advice;
 - (p) **(DFT Constitution Supplemental Deed)** conditional on the passing of the Trust Scheme Resolutions, execute the DFT Constitution Supplemental Deed;
 - (q) **(implementation of the Schemes)** if the Court makes the Second Court Orders and gives the Second Judicial Advice:
 - (i) as soon as possible thereafter, and in any event by no later than 5.00pm on the first Business Day after the date on which the Court makes the Second Court Orders and gives the Second Judicial Advice, or such other Business Day as DUET and Bidco may agree in writing, lodge with ASIC:
 - (A) an office copy of the Second Court Orders in accordance with section 411(10) of the Corporations Act;
 - (B) a copy of the DFT Constitution Supplemental Deed in accordance with section 601GC(2) of the Corporations Act; and

- (C) if requested by ASIC, a consolidated copy of the DFT Constitution (as amended by the DFT Constitution Supplemental Deed) in accordance with section 601GC(3) of the Corporations Act;
- (ii) use best endeavours to ensure that ASX suspends trading in DUET Securities with effect from the close of trading on the Effective Date;
 - (iii) close the Register as at the Record Date to determine the identity of Scheme Participants and to determine their entitlements to the Scheme Consideration in accordance with the Schemes;
 - (iv) subject to Bidco satisfying its obligations under clause 4.2, on the Implementation Date promptly execute proper instruments of transfer of, and register all transfers of, the DUET Scheme Securities to Bidco in accordance with the Schemes; and
 - (v) promptly do all other things contemplated by or necessary to give effect to the Schemes, the Second Court Orders and the Second Judicial Advice, and to effect the transfer of the DUET Scheme Securities to Bidco;
- (r) **(representation)** allow, and not oppose, any application by Bidco for leave of the Court to be represented, or the separate representation of Bidco by counsel, at the Court hearings in relation to the Schemes, provided that in making any application for representation or in appearing before the Court, Bidco acts in accordance with the Transaction Documents and does not oppose any application by DUET in exercise of its rights under the Transaction Documents;
 - (s) **(ASX listing)** use its best endeavours to ensure that the DUET Securities continue to be quoted on ASX until at least the close of business on the Implementation Date;
 - (t) **(keep Bidco informed)** from the First Court Date until the Implementation Date, promptly inform Bidco if it becomes aware that the Scheme Booklet contains a statement that is or has become misleading or deceptive in a material respect or that contains a material omission;
 - (u) **(Bidco Provided Information)** during the period until the Bidco Provided Information (or any information solely derived from, or prepared solely in reliance on, the Bidco Provided Information) becomes publicly available, only use that information with the prior written consent of Bidco (not to be unreasonably withheld or delayed); and
 - (v) **(compliance with laws)** do everything reasonably within its power to ensure that the Transactions are effected in accordance with all applicable laws and regulations.

5.2 Appeal process

If the Court refuses to make any orders convening a Scheme Meeting or approving the Schemes, DUET must appeal the Court's decision to the fullest extent possible (except to the extent that DUET and Bidco agree otherwise, or a barrister with at least 15 years' experience advises that, in their view, an appeal would have no reasonable prospect of success before the End Date).

5.3 Bidco's obligations in respect of the Schemes

Bidco must take all steps reasonably necessary to assist DUET to propose and implement the Schemes as soon as is reasonably practicable after the date of this Agreement and otherwise substantially in accordance with the Timetable. In particular Bidco must:

- (a) **(provide information)** provide to DUET the information referred to in clause 5.4(d);
- (b) **(preparation of Scheme Booklet)** provide, and procure that the Guarantors provide, assistance with the preparation of the Scheme Booklet in accordance with clause 5.4;

- (c) **(Independent Expert information)** provide, and procure that the Guarantors provide, all assistance and information reasonably requested by DUET or by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (d) **(liaison with ASIC)** provide, and procure that the Guarantors provide, reasonable assistance to DUET to assist DUET to resolve any matter raised by ASIC regarding the Scheme Booklet or the Schemes during its review of the Scheme Booklet;
- (e) **(approval of Scheme Booklet)** procure that a meeting of the Bidco board of directors is convened to approve, and does approve, those sections of the Scheme Booklet that comprise the Bidco Provided Information as being in a form appropriate for despatch to DUET Securityholders, and procure that all requisite approvals by the Guarantors are obtained to ensure the Bidco Provided Information can be provided to DUET for inclusion in the Scheme Booklet;
- (f) **(conduct regarding any solicitation of votes)** not contact (and procure that no Guarantor or any Representative of Bidco or of any Guarantor contacts) any DUET Securityholders for the purpose of soliciting their votes at the Scheme Meetings, unless Bidco has first consulted with DUET in good faith;
- (g) **(keep DUET informed)** from the First Court Date until the Implementation Date, promptly inform DUET if it becomes aware that the Bidco Provided Information contains a statement that, in the form and context in which it appears in the Scheme Booklet, is or has become misleading or deceptive in any material respect or that contains any material omission, and provide such further or new information as is required to ensure that such information is no longer misleading or deceptive in any material respect or does not contain any material omission;
- (h) **(Court representation)** procure that, if requested by DUET, it is represented by counsel at the Court hearings convened in relation to the Schemes, at which, through its counsel and if requested by the Court, Bidco will undertake to do all such things and take all such steps within its power as may be necessary in order to ensure the satisfaction of its obligations under this Agreement and the Schemes;
- (i) **(Deed Poll)** execute the Deed Poll and procure that the Guarantors execute the Deed Poll, in each case prior to the First Court Date;
- (j) **(Scheme Consideration)** if the Schemes become Effective, provide, or procure the provision of, the Scheme Consideration in accordance with the Schemes, DFT Constitution Supplemental Deed and the Deed Poll;
- (k) **(DUET Provided Information)** during the period until the DUET Provided Information becomes publicly available, only use the DUET Provided Information with the prior written consent of DUET (not to be unreasonably withheld or delayed); and
- (l) **(compliance with laws)** do everything reasonably within its power to ensure that the Transactions are effected in accordance with all applicable laws and regulations.

5.4 Preparation of Scheme Booklet

- (a) **(DUET to prepare)** Subject to Bidco complying with its obligations under clause 5.4(d), DUET must prepare the Scheme Booklet as soon as is reasonably practicable after the date of this Agreement and otherwise substantially in accordance with the Timetable.
- (b) **(Compliance requirements)** DUET must ensure that:
 - (i) the Scheme Booklet complies with the requirements of the Corporations Act, the ASX Listing Rules, Regulatory Guide 60, Regulatory Guide 74, Guidance Note 15

- and any applicable law, except that the obligation to do so in respect of the Bidco Provided Information is subject to Bidco complying with its obligations under clauses 5.4(d) and 10.1(b); and
- (ii) the DUET Provided Information is not, having regard to applicable disclosure requirements, misleading or deceptive in any material respect (including because of any material omission).
- (c) **(Content of Scheme Booklet)** Without limiting clause 5.4(b), the Scheme Booklet will include or be accompanied by:
- (i) the Independent Expert's Report;
 - (ii) the Schemes;
 - (iii) the Notices of Meeting;
 - (iv) a copy of this Agreement or a summary of it; and
 - (v) a copy of the executed Deed Poll.
- (d) **(Bidco Provided Information)** Bidco must:
- (i) provide the Bidco Provided Information to DUET as soon as is reasonably practicable after the date of this Agreement and otherwise substantially in accordance with the Timetable, in a form that includes all information regarding Bidco and the Guarantors and their respective Related Bodies Corporate that is required by the Corporations Act, the ASX Listing Rules, Regulatory Guide 60, Regulatory Guide 74, Guidance Note 15, including all the information that would be required under sections 636(1)(c), (d), (f), (h), (i), (k)(ii), (l) and (m) of the Corporations Act to be included in a bidder's statement if Bidco were offering the Scheme Consideration as consideration under a takeover bid for DUET;
 - (ii) ensure that the Bidco Provided Information is not, having regard to applicable disclosure requirements, misleading or deceptive in any material respect (including because of any material omission); and
 - (iii) provide to DUET such assistance as DUET may reasonably require in order to adapt such information for inclusion in the Scheme Booklet.
- (e) **(Review by Bidco)** DUET must make available to Bidco successive drafts of the Scheme Booklet (including any draft of the Independent Expert's Report, but excluding those sections containing the Independent Expert's opinion, conclusions or valuation ranges) including an advanced draft of the Scheme Booklet (including a draft Independent Expert's Report) at least 5 Business Days before the date DUET provides the Scheme Booklet to ASIC, consult with Bidco in relation to the content of those drafts (including the inclusion of any Bidco Provided Information and any information solely derived from, or prepared solely in reliance on, the Bidco Provided Information), and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments received in a timely manner from Bidco and its Representatives on those drafts.
- (f) **(Regulatory Review Period)** During the Regulatory Review Period:
- (i) DUET must promptly provide to Bidco, and include in a revised draft of the Scheme Booklet, any new information not included in the Regulator's Draft that DUET becomes aware of and is required by the Corporations Act, Corporations Regulations, ASIC Regulatory Guides or the Listing Rules to be included in the Scheme Booklet;

- (ii) Bidco must promptly provide to DUET any new information not included in the Regulator's Draft that Bidco or any Guarantor becomes aware of and that is required by the Corporations Act, Corporations Regulations, ASIC Regulatory Guides or the Listing Rules to be included in the Scheme Booklet; and
 - (iii) DUET must keep Bidco reasonably informed of any matters raised by ASIC in relation to the Scheme Booklet and use all reasonable endeavours, in co-operation with Bidco if DUET considers it necessary or desirable, to resolve any such matters.
- (g) **(Dispute as to Scheme Booklet)** If, after a reasonable period of consultation and compliance by DUET with its obligations under clauses 5.4(e), Bidco and DUET, acting reasonably and in good faith, are unable to agree on the form or content of the Scheme Booklet, then:
 - (i) if the disagreement relates to the form or content of the Bidco Provided Information (or any information solely derived from, or prepared solely in reliance on, the Bidco Provided Information), DUET will, acting in good faith, make such amendments to that information in the Scheme Booklet as Bidco may reasonably require; and
 - (ii) if the disagreement relates to the form or content of the DUET Provided Information, DUET will, acting in good faith, decide the final form of that information in the Scheme Booklet.
- (h) **(Consent of Bidco)** Without limiting clause 5.4(g), DUET must obtain written consent from Bidco in relation to the form and context in which any Bidco Provided Information (and any information solely derived from, or prepared solely in reliance on, the Bidco Provided Information) is used, such consent not to be unreasonably withheld by Bidco.
- (i) **(Verification)** DUET must undertake appropriate verification processes in relation to the DUET Provided Information included in the Scheme Booklet, and Bidco must undertake appropriate verification processes in relation to the Bidco Provided Information included in the Scheme Booklet.
- (j) **(Responsibility statements)** The parties acknowledge that the Scheme Booklet will contain responsibility statements to the effect that:
 - (i) DUET is responsible for the DUET Provided Information; and
 - (ii) Bidco is responsible for the Bidco Provided Information.

5.5 Scheme Booklet - obligations to inform

Until the Implementation Date, each party must promptly inform the other parties if they become aware that any information in the Scheme Booklet, in the form and context in which it appears in the Scheme Booklet, is or has become misleading or deceptive in any material respect (whether by omission or otherwise) having regard to applicable disclosure requirements, and provide to the other parties such further or new information as is required to ensure that such information is no longer misleading or deceptive in any material respects. The parties will cooperate with each other to ensure that the Scheme Booklet or the information contained in it is updated accordingly.

5.6 DUET Group board changes

On and from the Implementation Date, after Bidco has provided, or procured the provision of, the Scheme Consideration in accordance with the Schemes, DFT Constitution Supplemental Deed and the Deed Poll, DUET must use its best endeavours to:

- (a) take all action necessary to procure that any DUET Director designated by Bidco in writing, and any director of any Subsidiary of DUET designated by Bidco in writing, resigns their office; and
- (b) cause the appointment to the DUET Boards and to the boards of each Subsidiary of DUET of such persons as nominated by Bidco, subject to:
 - (i) those persons having provided a consent to act as directors of the relevant company or companies; and
 - (ii) each proposed appointment being in compliance with Part 2D.3 of the Corporations Act.

Bidco must provide the necessary details of its nominees to the DUET Boards and to the boards of each Subsidiary of DUET, together with their signed consents to act, by the date of the Scheme Meetings.

6 Distributions

6.1 Special Distribution

- (a) DFL must, on the Effective Date, determine to pay a Special Distribution on or before the Implementation Date. The Special Distribution must be equal to the Estimated Net Income for the relevant period. DFL must also determine that the 'Distributable Income' of DFT under the DFT Constitution for the period from the commencement of the financial year in which the Implementation Date will occur to the Implementation Date is the Net Income for that period.
- (b) If the Special Distribution plus any Permitted DUET Distribution determined in accordance with clause 6.3 is or will be less than 3 cents per DUET Security, then DUECo and/or DIHL must, on the Effective Date, determine to pay an unfranked dividend or dividends which, together with the Special Distribution plus any Permitted DUET Distribution determined in accordance with clause 6.3, will be equal to 3 cents per DUET Security.

6.2 Estimate

At least 5 Business Days before DFL makes the determination described in clause 6.1, DFL must provide to Bidco an estimate of its Estimated Net Income, together with evidence of the calculation of that Estimated Net Income. DFL must consult with Bidco, in good faith, as to the calculation of the Estimated Net Income.

6.3 Permitted DUET Distribution

- (a) If the Implementation Date falls after 30 June 2017, DFL must determine to distribute to DUET Securityholders on the Register as at 7.00pm on 30 June 2017, an amount equal to DFT's Net Income for the period from 1 July 2016 to 30 June 2017 to the extent that the Net Income has not been distributed as part of the Permitted DUET Distribution for the 6 months ending 31 December 2016. DFL must also determine that the 'Distributable Income' for the purposes of clause 10.3 of the DFT Constitution for the 'Financial Year' commencing on 1 July 2016 and ending on 30 June 2017 is equal to the Net Income for that period.

- (b) At least 5 Business Days before DFL makes the determination described in clause 6.3(a), DFL must provide to Bidco an estimate of its Net Income to be distributed as contemplated in clause 6.3(a), together with evidence of the calculation of that amount. DFL must consult with Bidco, in good faith, as to the calculation of that amount.

6.4 Consult on resolutions

DFL will consult in good faith with Bidco on the content of the resolutions determining to make the Special Distribution and the DUET Permitted Distribution (if any) in accordance with clause 6.3(a).

6.5 Withholding

- (a) DFL must withhold any amounts required by law to be withheld from the Special Distribution or Permitted DUET Distribution determined in accordance with clause 6.3, payable to DUET Securityholders (without gross-up of any kind).
- (b) DUECo and/or DIHL (as applicable) must withhold any amounts required by law to be withheld from the Permitted DUET Distribution (if any) determined in accordance with clause 6.1(b), payable to DUET Securityholders (without gross-up of any kind).

7 Conduct of business and requests for access

7.1 Conduct of DUET business

During the period from the date of this Agreement up to and including the Implementation Date, DUET must:

- (a) procure that the DUET Group conducts its business and operations in the ordinary course and substantially consistent (subject to any applicable laws, regulations and regulatory approvals) with the manner in which each such business and operation has been conducted in the period prior to the date of this Agreement and in compliance in all material respects with all applicable laws, regulations and regulatory approvals;
- (b) to the extent consistent with the obligation in clause 7.1(a), use its best endeavours to preserve intact the DUET Group's current business organisation, to keep available the services of the current senior management team of DUET, and to preserve the DUET Group's relationship with Government Agencies, ratings agencies, customers, suppliers, licensors, licensees and others having business dealings with it;
- (c) consult with Bidco, and keep Bidco informed of, all material steps taken by the DUET Group in connection with any material investigations or material reviews of the DUET Group by any Government Agency on foot as at the date of this Agreement or that commence after the date of this Agreement; and
- (d) preserve the cash balances of the DUET Group in the ordinary course and consistent with past practice (provided, for the avoidance of doubt, that DUET may use cash balances to pay down revolving facilities if it does so in the ordinary course and consistent with past practice and without cancelling the revolving facility limit),

except to the extent required to be done or procured by DUET pursuant to, or that is otherwise expressly permitted by, the Transaction Documents, or the undertaking of which Bidco has approved in writing, such approval not to be unreasonably withheld or delayed;

7.2 Prohibited actions

Other than with the prior approval of Bidco or as required by this Agreement and without derogating from clause 7.1, DUET must not, during the period referred to in clause 7.1:

- (a) **(remuneration and retention payments)** increase the remuneration of (including with regard to superannuation benefits) or benefits provided to, or pay any bonus (other than in accordance with existing arrangements and in the ordinary course) to, or pay any termination or retention payments to, or issue any securities or options to, or otherwise vary the employment agreements with, any directors or employees, other than:
- (i) as a result of annual remuneration reviews in accordance with past practice or as a result of promotions in the ordinary course;
 - (ii) as provided for in an employment contract fairly disclosed to Bidco, a Guarantor or any of their respective Representatives in the Due Diligence Materials; or
 - (iii) the payment of special service fees (calculated on a time-incurred basis and payable on a quarterly basis) to any of its directors for their time spent on special board committee matters relating to the Transactions or the proposals involving one or more of the Guarantors leading up to the execution of this Agreement, or relating to any Competing Proposals that may arise from time to time; and
 - (iv) in relation to an employee of the DUET Group who is not the Chief Executive Officer of DUET or any employee who is a direct report to the Chief Executive Officer of DUET, any payment of or increase in bonuses or other benefits granted in accordance with past practice or in the ordinary course having regard to (and commensurate with) reasonable factors such as performance and workload.

For the avoidance of doubt, paragraphs (i), (iii) and (iv) do not apply to termination or retention payments.

- (b) **(accelerate rights)** accelerate the rights of any of its directors or employees to benefits of any kind;
- (c) **(financial arrangements)** pay any financial and professional advisers and other professional service providers in respect of the transactions contemplated by this Agreement, other than as provided for in an existing contract in place as at the date of this Agreement;
- (d) **(dividends or distributions)** announce, declare, determine or pay any dividends or other distributions (other than the Permitted DUET Distributions);
- (e) **(DUET Regulated Event or DUET Material Adverse Change)** take any action that would be reasonably expected to give rise to a DUET Regulated Event or DUET Material Adverse Change;
- (f) **(information technology)** take any action in respect of its information technology systems that would have a material impact on those systems; or
- (g) **(agreement)** agree to do any of the matters set out above.

7.3 Exceptions

Nothing in this clause 7 restricts the ability of DUET or any DUET Group entity to take any action that:

- (a) is expressly required or permitted by this Agreement, the Schemes, the DFT Supplemental Deed Poll or otherwise required by law;
- (b) has been fairly disclosed to Bidco, a Guarantor or any of their respective Representatives; or
- (c) has been agreed in writing by Bidco.

7.4 Access to information and co-operation

- (a) **(Provision of access and information)** During the period from the date of this Agreement up to and including the Implementation Date, DUET must, and must procure each of its Subsidiaries to, respond to reasonable requests from Bidco and its Representatives for information concerning the DUET Group businesses and operations, and give Bidco and its Representatives reasonable access to DUET's senior management team and records, and otherwise provide reasonable co-operation to Bidco and its Representatives, in each case for the purposes of:
- (i) the implementation of the Schemes;
 - (ii) refinancing any DUET Group debt facilities which may need to be repaid in connection with the Schemes;
 - (iii) the integration of the DUET Group and Bidco following the implementation of the Schemes;
 - (iv) enabling Bidco to identify, or seeking any consents from, or making any notifications to, counter-parties to contracts that a DUET Group entity is party to and in respect of which the counter-parties have rights that would be enlivened by implementation or proposed implementation of the Schemes (the **CoC Third Party Contracts**), provided that:
 - (A) DUET is under no obligation to identify any contracts that are CoC Third Party Contracts;
 - (B) if Bidco identifies any contract that it considers to be a CoC Third Party Contract, Bidco informs DUET as to why it considers the contract to be a CoC Third Party Contract;
 - (C) Bidco provides DUET with any information requested by a counter-party to a CoC Third Party Contract and co-operates with DUET in satisfying any conditions to the granting of a counter-party consent or conditions to a counter-party consent; and
 - (D) DUET is under no obligation to ensure that any consents are obtained prior to the Implementation Date;
 - (v) making regulatory filings, including responding to any follow-up questions or engaging in discussions in connection with regulatory filings, and otherwise assisting Bidco to comply with any other regulatory requirements, provided that DUET's involvement in making any regulatory filing will not require DUET to:
 - (A) certify or otherwise confirm the accuracy of any information it has not provided for the purposes of the filing or which is included in a filing and materially differs in the form and context in which it was provided by DUET; or
 - (B) assume any responsibility or liability whatsoever for any information provided by or conduct of any person other than DUET in connection with the filing; and
 - (vi) any other purpose that is agreed in writing between the parties.
- (b) **(Limits on DUET obligations)** The obligations in clauses 7.4(a) do not require DUET to:
- (i) do anything which would interfere or be inconsistent with the proper performance by the directors and officers of each DUET Group entity of their fiduciary duties;

- (ii) do anything which would affect a DUET Group entity's ability to allocate resources towards, or otherwise cause undue disruptions to, the operation of its business in the ordinary course;
 - (iii) cause any Condition Precedent to not be satisfied or otherwise cause a breach of this Agreement;
 - (iv) require a DUET Group entity to take any action that would reasonably be expected to conflict with or violate the entity's constituent documents or by any law;
 - (v) provide information to Bidco concerning the DUET Directors' and management's consideration of the Schemes;
 - (vi) provide any commercially sensitive or competitive information; or
 - (vii) breach an obligation of confidentiality to any person.
- (c) The parties acknowledge that all information that is provided pursuant to this clause 7.4 will be provided subject to the terms of the Confidentiality Agreement.

8 DUET Boards' recommendations and intentions

8.1 DUET Boards' recommendation

- (a) The DUET Public Announcement to be issued by DUET on the Announcement Date must state (on the basis of written statements or resolutions made by each of the DUET Directors) that the DUET Boards unanimously consider the Schemes to be in the best interests of DUET Securityholders and recommend that DUET Securityholders approve the Company Schemes and the Trust Scheme Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Schemes are fair and reasonable and in the best interests of DUET Securityholders.
- (b) DUET must use its best endeavours to procure that:
 - (i) each DUET Board collectively, and each DUET Director individually, does not change or withdraw the statements and recommendations set out in the DUET Public Announcement;
 - (ii) the Scheme Booklet states that the DUET Boards unanimously consider the Schemes to be in the best interests of DUET Securityholders and recommend that DUET Securityholders approve the Company Schemes and Trust Scheme Resolutions, in the absence of a Superior Proposal, and that no DUET Director changes or withdraws those statements or recommendations once made; and
 - (iii) no DUET Director makes any public statement or any statement to brokers, analysts, journalists, DUET Securityholders or professional or institutional investors to the effect, or take any other action that suggests, that the Schemes are no longer so considered or recommended,
 unless either:
 - (iv) the Independent Expert concludes in the Independent Expert's Report (including in any update to that report) that:
 - (A) the Schemes are not both fair and reasonable; or
 - (B) the Schemes are not in the best interests of DUET Securityholders; or
 - (v) there is a Superior Proposal.

8.2 DUET Director intentions

- (a) The DUET Public Announcement to be issued by DUET on the Announcement Date, and the Scheme Booklet despatched to DUET Securityholders, must state (on the basis of written statements or resolutions made by each of the relevant DUET Directors) that each DUET Director who holds DUET Securities, or who has control over voting rights attaching to DUET Securities, intends to vote in favour of the Company Schemes and Trust Scheme Resolutions, or procure that the DUET Securities the voting rights of which the DUET Director has control over are voted in favour of the Company Schemes and Trust Scheme Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Schemes are fair and reasonable and in the best interests of DUET Securityholders.
- (b) DUET must use its best endeavours to ensure that each DUET Director who holds DUET Securities, or who has control over voting rights attaching to DUET Securities:
 - (i) intends to vote in favour of the Company Schemes and Trust Scheme Resolutions, or procure that the DUET Securities the voting rights of which the DUET Director has control over are voted in favour of the Company Schemes and Trust Scheme Resolutions; and
 - (ii) does not change that voting intention, unless either:
 - (iii) the Independent Expert concludes in the Independent Expert's Report (including in any update to that report) that:
 - (A) the Schemes are not both fair and reasonable; or
 - (B) the Schemes are not in the best interests of DUET Securityholders; or
 - (iv) there is a Superior Proposal.

9 Public announcements and confidentiality**9.1 Required announcements**

- (a) On the Announcement Date, DUET must release the DUET Public Announcement to ASX and the Guarantors must release the HK Public Announcement to HKEx.
- (b) Where a party is required by applicable law, the ASX Listing Rules or any other applicable stock exchange regulation to make any announcement or to make any disclosure in connection with this Agreement (including its termination), the Schemes, the Transactions or any other transaction contemplated by this Agreement or a Scheme, it may do so only after it has given the other parties as much notice as is reasonably practicable in the context of any deadlines imposed by law or applicable requirement, but in any event prior notice, and has consulted with the other parties as to (and has given the other parties a reasonable opportunity to comment on) the form and content of that announcement or disclosure and taken all reasonable steps to restrict that disclosure to the greatest extent possible. Nothing in this clause requires the giving of prior notice or the taking of any action if doing so would lead to a party breaching an applicable law, the ASX Listing Rules or any other applicable stock exchange regulation.

9.2 Confidentiality Agreement

Except as set out in clause 9.1(b), the parties acknowledge and agree that:

- (a) they continue to be bound by the Confidentiality Agreement after the date of this Agreement; and

- (b) the rights and obligations of the parties under the Confidentiality Agreement survive termination of this Agreement.

10 Representations and warranties

10.1 Bidco representations and warranties

Bidco represents and warrants to DUET (on DUET's own behalf and separately as trustee for each of the DUET Indemnified Parties) that, except as consented to in writing by or on behalf of DUET:

- (a) on each date from the date of this Agreement until (and including) 8.00am on the Second Court Date:
 - (i) Bidco is a corporation validly existing under the laws of its place of incorporation;
 - (ii) Bidco has the power to enter into and perform its obligations under this Agreement, own its property and carry on its business, and to carry out the transactions contemplated by this Agreement;
 - (iii) Bidco has taken all necessary corporate action to authorise the entry into this Agreement and has taken or will take all necessary corporate action to authorise the performance of this Agreement;
 - (iv) this Agreement is Bidco's valid and binding obligation enforceable in accordance with its terms; and
 - (v) the execution and performance by Bidco of this Agreement and each transaction contemplated by this Agreement did not and will not violate in any respect a provision of:
 - (A) a law, judgment, ruling, order or decree binding on it;
 - (B) its constitution; or
 - (C) any other document or agreement that is binding on it or any of its Subsidiaries;
- (b) on the First Court Date and the Second Court Date:
 - (i) the Bidco Provided Information has been prepared and provided in good faith and on the understanding that DUET and each of its directors, officers and employees have relied on that information for the purposes of preparing the Scheme Booklet and proposing the Schemes, and that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
 - (ii) the Bidco Provided Information complies in all material respects with the requirements referred to in clause 5.4(d);
 - (iii) the Bidco Provided Information in the form and context in which it appears in the Scheme Booklet (as consented to by Bidco in accordance with clause 5.4(h)) is not, as at that date, misleading or deceptive in any material respect and does not contain any material omission having regard to applicable disclosure requirements of the Corporations Act, Corporations Regulations, Listing Rules, Regulatory Guide 60, Regulatory Guide 74, Guidance Note 15 and other applicable laws and requirements;
 - (iv) all information provided by or on behalf of Bidco to the Independent Expert to enable the Independent Expert's Report to be prepared has been prepared and provided in good faith and on the understanding that the Independent Expert has

relied on the information for the purposes of preparing the Independent Expert's Report;

- (c) as at the date of this Agreement, Bidco, the Guarantors and their respective Subsidiaries collectively do not have a Relevant Interest in DUET Securities; and
- (d) Bidco will have sufficient cash reserves (whether from internal cash reserves or external debt and/or equity funding arrangements) available to it on an unconditional basis (excepting conditions under the control of Bidco, or conditions relating to, or which will cease to apply or be satisfied following, the Court making the Second Court Orders and giving the Second Judicial Advice) to meet its obligations to pay the Scheme Consideration in accordance with its obligations under this Agreement, the Schemes and the Deed Poll.

10.2 DUET representations and warranties

DUET represents and warrants to Bidco (on its own behalf and separately as trustee for each of the Bidco Indemnified Parties) that, except as consented to in writing by Bidco:

- (a) on each date from the date of this Agreement until (and including) 8.00am on the Second Court Date:
 - (i) each of DFL, DIHL and DUECo is a corporation validly existing under the laws of its place of incorporation;
 - (ii) DFT is duly established and validly subsisting;
 - (iii) each of DFL, DIHL and DUECo has the power to enter into and perform its obligations under this Agreement, own its property and carry on its business, and to carry out the transactions contemplated by this Agreement;
 - (iv) DFT is the responsible entity of DFT, has been validly appointed and remains as responsible entity of DFT;
 - (v) each of DFL, DIHL and DUECo has taken all necessary corporate action to authorise the entry into this Agreement and has taken or will take all necessary corporate action to authorise the performance of this Agreement;
 - (vi) DFL is empowered by the DFT Constitution to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated by this Agreement, in its capacity as responsible entity of DFT;
 - (vii) this Agreement is DFL's, DIHL's, DUECo's and DFT RE's valid and binding obligation enforceable in accordance with its terms;
 - (viii) the execution and performance by each of DFL, DIHL and DUECo of this Agreement and each transaction contemplated by this Agreement did not and will not violate in any respect a provision of:
 - (A) a law or treaty or a judgment, ruling, order or decree binding on it;
 - (B) its constitution; or
 - (C) any other document or agreement that is binding on it or any of its Subsidiaries;
 - (ix) the execution and performance by DFT RE of this Agreement and each transaction contemplated by this Agreement did not and will not violate in any respect a provision of:
 - (A) a law or treaty or a judgment, ruling, order or decree binding on it;

- (B) the DFT Constitution; or
- (C) any other document or agreement that is binding on it or any of its Subsidiaries;
- (x) DFT has been duly established and has not been terminated and is a registered managed investment scheme;
- (xi) DFL RE:
- (A) is the only trustee and responsible entity of DFT; and
- (B) has been validly appointed as trustee and responsible entity of DFT;
- (xii) as far as DFL RE is aware, no action has been taken to either:
- (A) terminate DFT; or
- (B) wind up DFT whether under Chapter 5C of the Corporations Act or otherwise,
- other than any frivolous or vexatious application, or any application that is set aside within 14 days or, if earlier, by the Second Court Date;
- (xiii) DFL has not exercised its powers under the DFT Constitution to release, abandon or restrict any power conferred on it by the DFT Constitution;
- (xiv) DFL is not in default under the DFT Constitution; and
- (xv) subject to law and the DFT Constitution, DFL has the right to be fully indemnified out of the Trust Property in respect of the obligations incurred by it as responsible entity of DFT under the documents to which it is a party, and there is nothing that would prevent DFL from being fully indemnified out of the Trust Property for any obligations under or in connection with this Agreement or any of the transactions contemplated by the Agreement that it incurs in its capacity as responsible entity of DFT;
- (b) other than as fairly disclosed to Bidco, a Guarantor or any of their respective Representatives in the DUET Disclosed Information, on each date from the date of this Agreement until (and including) 8.00am on the Second Court Date:
- (i) neither DUET nor any of its Subsidiaries is under default under any document, agreement or instrument binding on it or its assets nor has anything occurred that would with the giving of notice or lapse of time constitute (nor will the entering into by DUET of this Agreement, or the execution of its terms by DUET constitute (whether immediately or following the giving of notice of the lapse of time)) an event of default, prepayment event or similar event, or give another party thereto a termination right or right to accelerate any right or obligation, under any such document or agreement with such an effect, provided that, except in the case of a financing arrangement, agreement or instrument, the document, agreement or instrument generates, or is expected to generate, annual revenue or gross annual expenditure for the DUET Group in excess of:
- (A) \$15,000,000 individually;
- (B) where the DUET Group entity is an Asset Level Entity described in paragraphs (a) to (d) of the definition of Asset Level Entity or a Subsidiary of such an Asset Level Entity, \$15,000,000 when aggregated with all other contracts entered into by the relevant Asset Level Entity or any of its Subsidiaries and to which this clause applies; or

- (C) \$30,000,000 when aggregated with all documents, agreements or instruments to which this clause applies;
- (ii) each DUET Group entity is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced against any DUET Group entity:
- (A) for the winding up, dissolution or termination of that DUET Group entity; or
- (B) for the appointment of a liquidator, receiver, administrator, or similar officer over any or all of any DUET Group entity's assets,
- except:
- (C) in the case of a solvent reconstruction by, or winding up or dissolution of, a DUET Group entity; or
- (D) any frivolous or vexatious application, or any application that is set aside within 14 days, or, if earlier, by the Second Court Date;
- (iii) DUET has complied in all material respects with all Australian or foreign laws and regulations applicable to it or orders of Government Agencies having jurisdiction over it and the DUET Group has all material licences, permits and franchises necessary for it to conduct its activities as presently being conducted;
- (iv) there is no material Encumbrance over all or any of DUET's assets or revenues; and
- (v) DUET has collated and prepared all of the Due Diligence Materials in good faith and:
- (A) as far as DUET is aware, the Due Diligence Materials have been collated and prepared with all reasonable care and skill, and DUET has not intentionally included in the Due Diligence Materials any information that is misleading in any material respect; and
- (B) has not intentionally withheld from the Due Diligence Materials any information in the DUET Group's possession which is not already in the public domain and which would reasonably be expected to be material to the financial position or financial performance of the business of the DUET Group;
- (c) other than as fairly disclosed to Bidco, a Guarantor or any of their respective Representatives in the DUET Disclosed Information, as at the date of this Agreement:
- (i) neither ASIC nor ASX (as applicable) has made a determination against any DUET Group entity for any contravention of the requirements of the Corporations Act or the ASX Listing Rules or any rules, regulations or regulatory guides under the Corporations Act or the ASX Listing Rules;
- (ii) DUET is not aware of any material litigation, prosecution, mediation, arbitration or other proceeding in respect of the DUET Group;
- (iii) the DUET Group has not received any written notice of Claim threatening the commencement of any material litigation prosecution, mediation, arbitration or other proceeding in respect of any of the business operated by the DUET Group; and
- (iv) there are no unfulfilled or unsatisfied judgments relating to the business outstanding against the DUET Group;

- (d) as at the date of this Agreement, there are 2,433,045,531 DUET Securities on issue and, other than as fairly disclosed to Bidco, a Guarantor or any of their respective Representatives in the DUET Disclosed Information, no DUET Group entity has issued or agreed to issue (or is actually or contingently required to issue) any other securities or instruments that are still outstanding (or may become outstanding) and that may convert into or be exchanged for shares or units in DUET (as applicable) or DUET Securities (however the parties acknowledge that after the date of this Agreement DUET might issue, or agree to issue, DUET Securities under DUET's distribution and dividend reinvestment plan in relation to the Permitted DUET Distribution for the 6 month period ending 31 December 2016);
- (e) on the First Court Date and the Second Court Date:
- (i) the DUET Provided Information has been prepared and included in the Scheme Booklet in good faith and on the understanding that Bidco and each of its directors, officers and employees have relied on that information for the purposes of considering and approving the Bidco Provided Information in the Scheme Booklet, and that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
 - (ii) the DUET Provided Information complies in all material respects with the requirements referred to in clause 5.4(b);
 - (iii) the DUET Provided Information in the form and context in which it appears in the Scheme Booklet is not misleading or deceptive in any material respect and does not contain any material omission having regard to applicable disclosure requirements of the Corporations Act, Corporations Regulations, Listing Rules, Regulatory Guide 60, Regulatory Guide 74, Guidance Note 15 and other applicable laws and requirements; and
 - (iv) all information provided by or on behalf of DUET to the Independent Expert to enable the Independent Expert's Report to be prepared has been prepared and provided in good faith and on the understanding that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report; and
- (f) on the date of this Agreement, the First Court Date, the date of the Scheme Meetings and the Second Court Date:
- (i) following the making by DUET of the DUET Public Announcement, DUET is not in breach of its continuous disclosure obligations under ASX Listing Rule 3.1 and is not withholding any information from Bidco that is being withheld from public disclosure in reliance on ASX Listing Rule 3.1A; and
 - (ii) the DUET Disclosed Information has been disclosed in good faith.

10.3 Reliance by parties

Each party (**Representor**) acknowledges that:

- (a) in entering into this Agreement each other party has relied on the representations and warranties provided by the Representor under this clause 10;
- (b) any breach of the representations and warranties provided by the Representor under this clause 10 after the Scheme becomes Effective may only give rise to a Claim in damages and cannot result in a termination of this Agreement; and

- (c) it has not entered into this Agreement in reliance on any warranty or representation made by or on behalf of the other parties except those warranties and representations set out in this Agreement.

10.4 Notifications

Each party will promptly advise the other parties in writing if it becomes aware of any fact, matter or circumstance that constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 10.

10.5 Status of representations and warranties

Each representation and warranty in this clause 10:

- (a) is severable;
- (b) will survive the termination of this Agreement; and
- (c) is given with the intent that liability under it will not be confined to breaches that are discovered prior to the date of termination of this Agreement.

11 Indemnities and releases

11.1 Indemnities and releases by DUET

- (a) DUET agrees with Bidco to indemnify and keep indemnified the Bidco Indemnified Parties from and against all loss that any of the Bidco Indemnified Parties may suffer or incur by reason of any breach of any of the representations and warranties of DUET in clause 10.2.
- (b) To the fullest extent permitted by law, DUET releases its rights against, and agrees with Bidco that it will not make a Claim against, any Bidco Indemnified Party (other than Bidco) in connection with:
 - (i) any breach of any representation, covenant and warranty of Bidco in this Agreement; or
 - (ii) any disclosure made by any Bidco Indemnified Party that contains any statement that is false or misleading whether in content or by omission,except to the extent the relevant Bidco Indemnified Party has not acted in good faith, has acted without taking reasonable care or has engaged in wilful misconduct.

11.2 Indemnities and releases by Bidco

- (a) Bidco agrees with DUET to indemnify and keep indemnified the DUET Indemnified Parties from and against all loss that any of the DUET Indemnified Parties may suffer or incur by reason of any breach of any of the representations and warranties of Bidco in clause 10.1.
- (b) To the fullest extent permitted by law, Bidco releases its rights against, and agrees with DUET that it will not make a Claim against, any DUET Indemnified Party (other than DUET) in connection with:
 - (i) any breach of any representation, covenant and warranty of DUET in this Agreement; or
 - (ii) any disclosure made by any DUET Indemnified Party that contains any statement that is false or misleading whether in content or by omission,except to the extent the relevant DUET Indemnified Party has not acted in good faith, has acted without taking reasonable care or has engaged in wilful misconduct.

11.3 Survival of indemnities and releases

Each indemnity and release in clauses 11.1 and 11.2 will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity or release from any other obligations of that party under this Agreement; and
- (d) survive the termination of this Agreement.

11.4 Benefit and enforcement

- (a) The indemnities and releases in clause 11.1 are given to Bidco, for itself and as trustee for each of the other Bidco Indemnified Parties.
- (b) Bidco holds the benefit of each of the representations and warranties set out in clause 10.2 (and the indemnity given in respect of DUET's representations and warranties set out in clause 11.1) on trust severally for each of the Guarantors. DUET acknowledges that each of the Bidco Indemnified Parties may bring an action directly against DUET in respect of a breach of any of the representations and warranties in clause 10.2.
- (c) The indemnities and releases in clause 11.2 are given to DUET, for itself and as trustee for each of the other DUET Indemnified Parties.
- (d) DUET holds the benefit of each of the representations and warranties set out in clause 10.1 (and the indemnity given in respect of Bidco's representations and warranties set out in clause 11.2) on trust severally for each of the DUET Indemnified Parties. Bidco acknowledges that each of the DUET Indemnified Parties may bring an action directly against Bidco in respect of a breach of any of the representations and warranties in clause 10.1.
- (e) It is not necessary for a person to incur expense or to make any payment before enforcing a right of indemnity conferred by clause 11.1 or 11.2.

12 Exclusivity**12.1 No existing discussions**

DUET represents and warrants that, as at the time of execution of this Agreement, it is not in any negotiations or discussions, and has ceased any existing negotiations or discussions, in respect of any Competing Proposal with any Third Party.

12.2 No shop restriction

During the Exclusivity Period, DUET must not, and must ensure that each of its Representatives does not, except with the prior written consent of Bidco, directly or indirectly solicit, invite, encourage or initiate any Competing Proposal or any enquiries, negotiations or discussions with any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, or communicate any intention to do any of those things.

12.3 No talk restriction

During the Exclusivity Period, DUET must not, and must ensure that each of its Representatives does not, except with the prior written consent of Bidco, enter into, continue or participate in negotiations or discussions with, or enter into any agreement, arrangement or understanding with, any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, even if:

- (a) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by DUET or any of its Representatives; or
- (b) the Competing Proposal has been publicly announced,

unless the DUET Boards, acting in good faith, after having obtained written advice from DUET's external legal and, if appropriate, financial advisers, determine that not undertaking that act would, or would be likely to, involve a breach of the fiduciary or statutory duties owed by any DUET Director.

12.4 No due diligence

Without limiting the general nature of clause 12.3, during the Exclusivity Period, DUET must not, and must ensure that each of its Representatives does not, except with the prior written consent of Bidco, make available to any Third Party (other than to Representatives of Bidco) or permit any such Third Party to receive any non-public information relating to any DUET Group entity in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal, unless:

- (a) the DUET Boards, acting in good faith, after having obtained written advice from DUET's external legal and, if appropriate, financial advisers, determine that not undertaking that act would, or would be likely to, involve a breach of the fiduciary or statutory duties owed by any DUET Director; and
- (b) the Third Party has entered into a written agreement in favour of DUET regarding the use and disclosure of the confidential information by the person and that restricts the Third Party's ability to solicit the employees of the DUET Group.

12.5 Notification by DUET and matching rights

- (a) During the Exclusivity Period, DUET must promptly notify Bidco if:
 - (i) it or any of its Related Bodies Corporate or, to its knowledge, any of its Representatives is approached by any Third Party to take any action of a kind that would breach its obligations under clause 12.3 or 12.4 (or that would breach its obligations under clause 12.3 or 12.4 if it were not for the provisos to the relevant clause); or
 - (ii) it proposes to take any action of a kind that would breach its obligations under clause 12.3 or 12.4 (or that would breach its obligations under clause 12.3 or 12.4 if it were not for the provisos to the relevant clause).
- (b) If DUET receives a Competing Proposal, and as a result the DUET Boards propose to publicly change or withdraw its statement that they consider the Schemes to be in the best interests of DUET Securityholders and/or its recommendation that DUET Securityholders vote in favour of the Company Schemes and Trust Scheme Resolutions, DUET must:
 - (i) give Bidco 5 clear Business Days' notice in writing of such proposed change or withdrawal; and

- (ii) provide to Bidco with that notice the name of the party making the Competing Proposal, all material terms of the applicable Competing Proposal, including details of the proposed price or implied value (including details of the consideration if not simply cash), conditions, timing and break fee (if any).

Any information provided pursuant to this clause 12.5(b) will be provided subject to the terms of the Confidentiality Agreement.

- (c) During the period of 5 clear Business Days referred to in clause 12.5(b), Bidco will have the right to make a written offer to amend the terms of the Schemes (a **Bidco Counterproposal**) so that the terms of the Schemes (as amended) would provide an equivalent or superior outcome for the DUET Securityholders to or than the applicable Competing Proposal.
- (d) DUET must procure that the DUET Boards consider any Bidco Counterproposal that DUET receives and if the DUET Boards, acting in good faith, determines that the Bidco Counterproposal would provide an equivalent or superior outcome for the DUET Securityholders to or than the applicable Competing Proposal, taking into account all the terms and conditions of the Bidco Counterproposal, then:
 - (i) DUET and Bidco must use their best endeavours to agree the amendments to the Transaction Documents that are reasonably necessary to reflect the Bidco Counterproposal (including amendments to the Scheme Consideration that are reasonably necessary to reflect the Bidco Counterproposal), and to enter into one or more appropriate amended agreements to give effect to those amendments and to implement the Bidco Counterproposal, in each case as soon as reasonably practicable; and
 - (ii) the DUET Boards must recommend the Bidco Counterproposal to DUET Securityholders and not the applicable Competing Proposal.
- (e) Any material modification to any Competing Proposal (which will include any modification relating to the price or value of any Competing Proposal) will be taken to make that proposal a new Competing Proposal in respect of which DUET must comply with its obligations under this clause 12.5 again.

12.6 Provision of non-public information

During the Exclusivity Period, DUET must as soon as possible provide Bidco with:

- (a) in the case of written materials, a copy of it; and
- (b) in any other case, a written statement of,

any non-public information about the business or affairs of DUET or the DUET Group disclosed or otherwise provided to any Third Party in connection with an actual, proposed or potential Competing Proposal that has not previously been provided to Bidco or its Representatives. For the avoidance of doubt, any such provision of information to a Third Party may only be undertaken if permitted under the exceptions to the no-talk restriction in clause 12.3.

12.7 Normal provision of information

Nothing in this clause 12 prevents a party from:

- (a) providing information to its Representatives;
- (b) providing information to any Government Agency;
- (c) providing information to its auditors, Advisers, customers, joint venturers and suppliers acting in that capacity in the ordinary course of business;

- (d) providing information required to be provided by law or any Government Agency; or
- (e) making presentations to brokers, portfolio investors, analysts and other third parties in the ordinary course of business.

12.8 Acknowledgement

Bidco has required DUET to agree to the obligations set out in this clause 12 in consideration of it proceeding with the Schemes and incurring significant costs in doing so. In the absence of obtaining these obligations from DUET, Bidco would not have entered into this Agreement.

13 DUET Reimbursement Fee

13.1 Background

- (a) The parties acknowledge that, if they enter into this Agreement and the Schemes are subsequently not implemented, Bidco will incur significant costs.
- (b) In these circumstances:
 - (i) Bidco requested that provision be made for the payments referred to in clause 13.2, without which Bidco would not have entered into this Agreement; and
 - (ii) the DUET Boards believe that it is appropriate for DUET to agree to the payments referred to in clause 13.2 in order to secure Bidco's participation.
- (c) The parties acknowledge that the DUET Reimbursement Fee represents a reasonable amount to compensate Bidco for the following:
 - (i) all advisory costs (including costs of Advisers other than success fees);
 - (ii) costs of management and directors' time;
 - (iii) all out of pocket expenses;
 - (iv) all commitment fees and other financing costs (whether associated with debt or equity finance); and
 - (v) reasonable opportunity costs in pursuing the Schemes or not pursuing other alternative acquisitions or strategic initiatives.

13.2 DUET Reimbursement Fee

- (a) Subject to clauses 13.2(b), 13.2(c) and 13.2(d), DUET must pay Bidco an amount of \$72.991 million (the **DUET Reimbursement Fee**) in accordance with clause 13.4(a), without withholding or set off, if:
 - (i) any of the directors of any DUET Board fail to state that they consider the Schemes to be in the best interests of DUET Securityholders or fail to recommend that DUET Securityholders approve the Company Schemes and Trust Scheme Resolutions, or publicly changes or withdraws that statement or recommendation, other than:
 - (A) in any case in accordance with clause 8.1(b)(iv) and provided that the reasons for the Independent Expert's conclusions do not include the existence of a Competing Proposal;
 - (B) other than where DUET has terminated this Agreement in accordance with clause 17.1(b); or
 - (C) as a result of a failure of a Condition Precedent in clause 3.1(a), other than as a result of a breach by DUET of clause 3.3; or

- (ii) a Competing Proposal as defined in paragraphs (b) or (c) of the definition of Competing Proposal is announced or made prior to the Second Court Date and is completed at any time within 12 months after the date of this Agreement; or
 - (iii) Bidco terminates this Agreement in accordance with clause 17.1(b).
- (b) Despite any other term of this Agreement, the DUET Reimbursement Fee is only payable once.
- (c) Despite any other term of this Agreement:
 - (i) if the Schemes become Effective notwithstanding the occurrence of any event in clause 13.2(a); or
 - (ii) if as at the earlier of the date of termination of this Agreement and the End Date, DUET was entitled to terminate this Agreement under clause 17.1(b),
 then:
 - (iii) the DUET Reimbursement Fee is not payable by DUET to Bidco; and
 - (iv) if the DUET Reimbursement Fee or any part of it has already been paid by DUET to Bidco it must be refunded by Bidco to DUET:
 - (A) in relation to sub-paragraph (i) above, within 5 Business Days after the Schemes become Effective; or
 - (B) in relation to sub-paragraph (ii) above, within 5 Business Days after DUET first becomes entitled to terminate this Agreement under clause 17.1(b).
- (d) For the avoidance of doubt, the DUET Reimbursement Fee will not be payable merely by reason that any Scheme or the Trust Scheme Resolutions is or are not approved by DUET Securityholders at a Scheme Meeting.

13.3 Compliance with law

- (a) This clause 13 does not impose an obligation on DUET to pay the DUET Reimbursement Fee to the extent that the obligation to pay the DUET Reimbursement Fee:
 - (i) is declared by the Takeovers Panel to constitute 'unacceptable circumstances'; or
 - (ii) is determined to be unenforceable or unlawful by a court,
 provided that all proper avenues of appeal and review, judicial and otherwise, have been exhausted. For the avoidance of doubt, any part of that fee that would not constitute 'unacceptable circumstances' or that is not unenforceable or unlawful (as applicable) must be paid by DUET.
- (b) No party must 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 13.3(a).

13.4 Time for payment

- (a) DUET must pay Bidco the DUET Reimbursement Fee, if it is payable pursuant to clause 13.2(a), within 5 Business Days after receiving a written notice from Bidco setting out the relevant circumstances and requiring payment of the DUET Reimbursement Fee.
- (b) A written notice requiring payment of the DUET Reimbursement Fee may only be made after the Schemes fail to become Effective by the End Date or this Agreement is terminated in accordance with its terms.

13.5 Limitation of liability

Notwithstanding any other provision of this Agreement:

- (a) the maximum aggregate liability of DUET to all other parties under or in connection with this Agreement including in respect of any breach of this Agreement will be the amount of the DUET Reimbursement Fee;
- (b) a payment by DUET of the DUET Reimbursement Fee in accordance with clause 13.2 represents the sole and absolute liability of DUET to any other party under or in connection with this Agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by DUET to any other party in connection with this Agreement; and
- (c) the amount of the DUET Reimbursement Fee paid to Bidco under this clause 13 shall be reduced by the amount of any loss or damage recovered by any other party in relation to a breach of clause 13.2 or any other clause of this Agreement.

14 Bidco Costs reimbursement

14.1 Background

- (a) The parties acknowledge that, if they enter into this Agreement and the Schemes are subsequently not implemented, DUET will incur significant costs.
- (b) In these circumstances:
 - (i) DUET requested that provision be made for the payments referred to in clause 14.2, without which DUET would not have entered into this Agreement; and
 - (ii) the Bidco's board of directors believes that it is appropriate for Bidco to agree to the payments referred to in clause 14.2 in order to secure DUET's participation.
- (c) The parties acknowledge that the Cost Reimbursement Amount represents a reasonable amount to compensate DUET for the following:
 - (i) all advisory costs (including costs of Advisers);
 - (ii) costs of management and directors' time; and
 - (iii) all out of pocket expenses.

14.2 Costs reimbursement

- (a) Subject to clauses 14.2(b) and 14.2(c), Bidco must pay DUET an amount of \$5,000,000 (the **Cost Reimbursement Amount**) in accordance with clause 14.4(a), without withholding or set off, if DUET terminates this Agreement in accordance with clause 17.1(b).
- (b) Despite any other term of this Agreement, the Cost Reimbursement Amount is only payable once.
- (c) Despite any other term of this Agreement, the Cost Reimbursement Amount will not be payable to DUET if:
 - (i) the Schemes become Effective notwithstanding the occurrence of any event in clause 14.2(a); or
 - (ii) as at the earlier of the date of termination of this Agreement and the End Date, Bidco was entitled to terminate this Agreement under clause 17.1(b).

14.3 Compliance with law

- (a) This clause 14 does not impose an obligation on Bidco to pay the Cost Reimbursement Amount to the extent that the obligation to pay the Cost Reimbursement Amount is determined to be unenforceable or unlawful by a court, provided that all proper avenues of appeal and review, judicial and otherwise, have been exhausted. For the avoidance of doubt, any part of that fee that is not unenforceable or unlawful (as applicable) must be paid by Bidco.
- (b) No party must make, or cause or permit to be made, any application to a court for or in relation to a declaration or determination referred to in clause 14.3(a).

14.4 Time for payment

- (a) Bidco must pay DUET the Cost Reimbursement Amount, if it is payable pursuant to clause 14.2(a), within 5 Business Days after receiving a written notice from DUET setting out the relevant circumstances and requiring payment of the Cost Reimbursement Amount.
- (b) A written notice requiring payment of the Cost Reimbursement Amount may only be made after the Schemes fail to become Effective by the End Date or this Agreement is terminated in accordance with its terms.

15 Deeds of indemnity and insurance and policies

- (a) Subject to the Schemes becoming Effective and having been implemented, Bidco undertakes in favour of DUET and each DUET Indemnified Party that it will:
 - (i) subject to clause 15(b) and to the extent permitted by law, for a period of 7 years from the Implementation Date, ensure that the constitution of each DUET Group entity continues to contain such rules as are contained in those constitutions as at the date of this Agreement that provide for each entity to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the entity (and Bidco undertakes not to vary, and must ensure there is no variation of, those constitutional arrangements);
 - (ii) procure that each DUET Group entity complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers as at the date of this Agreement (and Bidco undertakes not to vary, and must ensure there is no variation of, those arrangements, except that it may enter into such deeds with newly appointed directors and officers on terms materially consistent with existing deeds as at the date of this Agreement) and, without limiting the foregoing, not take any action which would prejudice or adversely affect any directors' and officers' run-off insurance cover taken out prior to the Implementation Date; and
 - (iii) for a period of at least 12 months after the Implementation Date, procure that each DUET Group entity complies with the DUET Group employee redundancy policies that are in writing and that are disclosed to Bidco prior to the date of this Agreement (and Bidco undertakes not to vary, and must ensure there is no variation of, those policies during that 12 month period), but only if and to the extent that such policies expressly apply to employees of the DUET Group entities at the date they are disclosed to Bidco and, without limiting the foregoing, not take any unilateral action which would prejudice or adversely affect any past, present or future employee of a DUET Group entity under such policies.

- (b) The undertakings contained in clause 15(a) are subject to any Corporations Act restriction and will be read down accordingly.
- (c) DUET receives and holds the benefit of clause 15(a), to the extent they relate to the DUET Indemnified Parties, as trustee for them.
- (d) Each party acknowledges that, notwithstanding any other provision of this Agreement, any DUET Group entity may, prior to the Implementation Date, enter into a run-off insurance policy in respect of any of the DUET Indemnified Parties for a 7 year period (or longer if Bidco agrees, acting reasonably), and that any actions to facilitate that insurance or in connection therewith will not be a DUET Prescribed Occurrence, DUET Regulated Event or breach any provision of this Agreement, provided that the DUET Group entity has not acted unreasonably and has consulted with Bidco (who must act reasonably and not so as to cause delay) in entering into any such policy.

16 Guarantors

16.1 Background

- (a) The parties acknowledge that:
 - (i) as at the date of this Agreement, Bidco is a wholly-owned Subsidiary of CKP;
 - (ii) the Guarantors intend to put the Guarantor Shareholder Resolutions to their respective shareholders for approval;
 - (iii) if the Guarantor Shareholder Approvals with respect to CKP and CKI are obtained, it is intended that CKI or a Subsidiary of it will subscribe for or otherwise acquire shares in Bidco; and
 - (iv) if the Guarantor Shareholder Approvals with respect to CKP and PAH are obtained, it is intended that PAH or a Subsidiary of it will subscribe for or otherwise acquire shares in Bidco.
- (b) For the avoidance of doubt, the rights and obligations of the Guarantors in this clause 16 are in addition to any other rights and obligations of the Guarantors elsewhere in this Agreement.

16.2 Individual Guarantor representations and warranties

- (a) CKP represents and warrants to DUET (on DUET's own behalf and separately as trustee for each of the DUET Indemnified Parties) that on each date from the date of this Agreement until (and including) 8.00am on the Second Court Date:
 - (i) CKP is a corporation validly existing under the laws of its place of incorporation;
 - (ii) as at the date of this Agreement, CKP or a wholly-owned Subsidiary of CKP is the sole registered and beneficial holder of all of the issued shares in Bidco;
 - (iii) CKP has the power to enter into and perform its obligations under this Agreement, to own its property and carry on its business, and to carry out the transactions contemplated by this Agreement;
 - (iv) CKP has taken all necessary corporate action to authorise the entry into this Agreement and has taken or will take all necessary corporate action to authorise the performance of this Agreement;
 - (v) this Agreement is CKP's valid and binding obligation enforceable in accordance with its terms; and

- (vi) the execution and performance by CKP of this Agreement and each transaction contemplated by this Agreement did not and will not violate in any respect a provision of:
- (A) a law, judgment, ruling, order or decree binding on it;
 - (B) its constitution; or
 - (C) any other document or agreement that is binding on it or any of its Subsidiaries.
- (b) CKI represents and warrants to DUET (on DUET's own behalf and separately as trustee for each of the DUET Indemnified Parties) that on each date from the date of this Agreement until (and including) 8.00am on the Second Court Date:
- (i) CKI is a corporation validly existing under the laws of its place of incorporation;
 - (ii) CKI has the power to enter into and perform its obligations under this Agreement, to own its property and carry on its business, and to carry out the transactions contemplated by this Agreement;
 - (iii) CKI has taken all necessary corporate action to authorise the entry into this Agreement and has taken or will take all necessary corporate action to authorise the performance of this Agreement;
 - (iv) this Agreement is CKI's valid and binding obligation enforceable in accordance with its terms; and
 - (v) the execution and performance by CKI of this Agreement and each transaction contemplated by this Agreement did not and will not violate in any respect a provision of:
 - (A) a law, judgment, ruling, order or decree binding on it;
 - (B) its constitution; or
 - (C) any other document or agreement that is binding on it or any of its Subsidiaries.
- (c) PAH represents and warrants to DUET (on DUET's own behalf and separately as trustee for each of the DUET Indemnified Parties) that on each date from the date of this Agreement until (and including) 8.00am on the Second Court Date:
- (i) PAH is a corporation validly existing under the laws of its place of incorporation;
 - (ii) PAH has the power to enter into and perform its obligations under this Agreement, to own its property and carry on its business, and to carry out the transactions contemplated by this Agreement;
 - (iii) PAH has taken all necessary corporate action to authorise the entry into this Agreement and has taken or will take all necessary corporate action to authorise the performance of this Agreement;
 - (iv) this Agreement is PAH's valid and binding obligation enforceable in accordance with its terms; and
 - (v) the execution and performance by PAH of this Agreement and each transaction contemplated by this Agreement did not and will not violate in any respect a provision of:
 - (A) a law, judgment, ruling, order or decree binding on it;
 - (B) its constitution; or

- (C) any other document or agreement that is binding on it or any of its Subsidiaries.
- (d) Each Guarantor acknowledges that:
 - (i) in entering into this Agreement DUET has relied on the representations and warranties provided by that Guarantor under this clause 16.2;
 - (ii) any breach of the representations and warranties provided by that Guarantor under this clause 16.2 after the Scheme becomes Effective may only give rise to a Claim in damages and cannot result in a termination of this Agreement; and
 - (iii) it has not entered into this Agreement in reliance on any warranty or representation made by or on behalf of the other parties except those warranties and representations set out in this Agreement.
- (e) Each Guarantor will promptly advise DUET in writing if it becomes aware of any fact, matter or circumstance that constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 16.2.
- (f) Each representation and warranty in this clause 16.2:
 - (i) is severable;
 - (ii) will survive the termination of this Agreement; and
 - (iii) is given with the intent that liability under it will not be confined to breaches that are discovered prior to the date of termination of this Agreement.

16.3 Guarantee and indemnity

- (a) Subject to clause 16.3(h) and in consideration of DUET executing this Agreement at the request of Bidco and the Guarantors, each Guarantor:
 - (i) unconditionally and irrevocably guarantees to DUET the due and punctual performance and observance by Bidco of all obligations contained in, or implied under, this Agreement that must be performed and observed by Bidco (the **Guaranteed Obligations**); and
 - (ii) as a separate and additional liability, indemnifies DUET against all losses, liabilities, damages, actions, proceedings and judgements of any nature that DUET may now or in the future suffer or incur consequent on or arising from any default or delay in the due and punctual performance, or non-performance, by Bidco of a Guaranteed Obligation.
- (b) The liability of each Guarantor under this clause 16.3 is not affected by anything that, but for this clause 16.3, might operate to release or exonerate the Guarantor in whole or in part from its obligations including any of the following, whether with or without the consent of the Guarantor:
 - (i) an amendment of this Agreement (other than to the terms of this clause 16.3);
 - (ii) a rule of law or equity on the contrary;
 - (iii) any of the following occurring with respect to a person:
 - (A) the person is or becomes unable to pay its debts as and when they fall due or is otherwise presumed to be insolvent under the insolvency laws applying to that person;
 - (B) the person suspends or threatens to suspend payment of its debts generally;

- (C) the calling of a meeting to consider a resolution to wind up the person or the making of an application or the making of any order, or the passing of any resolution, for the winding up, liquidation or bankruptcy of the person;
- (D) the appointment of a provisional liquidator, liquidator, receiver or a receiver and manager or other insolvency official to the person or to the whole or a substantial part of the property or assets of the person;
- (E) the appointment of an administrator to the person; or
- (F) the entry by a person into any compromise or arrangement with creditors;
- (iv) a change in the constitution, membership, or partnership of a person;
- (v) the partial performance of the Guaranteed Obligations;
- (vi) the Guaranteed Obligations not being enforceable at any time;
- (vii) the grant to Bidco, a Guarantor or any other person of any time, waiver or other indulgence, or the discharge or release of Bidco, a Guarantor or any other person from any liability or obligation (other than an obligation under this clause 16.3);
- (viii) any transaction or arrangement that may take place between DUET, Bidco, a Guarantor or any other person;
- (ix) DUET exercising or refraining from exercising its rights under any security or any other rights, powers or remedies against Bidco, a Guarantor or any other person;
- (x) the amendment, replacement, extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer either in whole or in part and either with or without consideration, of any security now or in the future held by DUET from Bidco, a Guarantor or any other person or by the taking of or failure to take any security;
- (xi) the failure or omission or any delay by DUET or Bidco to give notice to a Guarantor of any default by Bidco or any other person under this Agreement; and
- (xii) any legal limitation, disability, incapacity or other circumstances related to a person.
- (c) This clause 16.3 is:
- (i) a principal obligation and is not to be treated as ancillary or collateral to another right or obligation and extends to cover this Agreement as amended, varied, supplemented, renewed or replaced; and
- (ii) independent of, and not in substitution for or affected by, another security interest or guarantee or other document or agreement which DUET or another person may hold concerning the Guaranteed Obligations.
- (d) Subject to clause 20, each Guarantor must make all payments required of them under this clause 16.3 in full, without set off and free any withholding or deduction. Other than in the circumstances described in clause 20, if a Guarantor is required to withhold or deduct any tax, duty, impost, charge, withholding, rate, levies or other governmental imposition of any nature together with associated costs, charges, interest, penalties, fines or expenses so that DUET would not actually receive on the due date the full amount, the Guarantor must ensure that the amount payable is increased so that, after making that deduction and deductions applicable to additional amounts payable under this clause 16.3, DUET is entitled to receive and does receive, the amount it would have received if no deductions had been required. Each Guarantor must ensure that any deductions

required are made and pay the full amount deducted to the relevant Government Agency in accordance with applicable law.

- (e) A Guarantor has no right to set off, deduct or withhold any moneys that it may be or become liable to pay under this clause 16.3, against any moneys that DUET or any other member of the DUET Group may be or become liable to pay to Bidco or a Guarantor or any of their respective Related Bodies Corporate whether under this Agreement or otherwise.
- (f) DUET may enforce this clause 16.3 against each Guarantor without first having to resort to another guarantee or security interest or other agreement relating to the Guaranteed Obligations.
- (g) Each Guarantor's obligations under this clause 16.3 are absolute, unconditional and irrevocable. The liability of each Guarantor under this clause 16.3 extends to, and is not affected by, any circumstance, act or omission which, but for this clause 16.3, might otherwise affect it at law or in equity. The guarantee in this clause 16.3 is a continuing security, and remains in full force until all of the Guaranteed Obligations have been fully paid and satisfied. This clause 16.3 survives any termination or full or partial discharge of this Agreement.
- (h) Each Guarantor's liability under this clause 16.3 is several and is equal to its **Relevant Proportion** at any given time (being as set out in the second column of the table below) for all obligations and liabilities of the Guarantors under this this clause 16.3.

Guarantor	Guarantor's Relevant Proportion
CKP	CKP's Relevant Proportion is 100% less CKI's Relevant Proportion less PAH's Relevant Proportion
CKI	CKI's Relevant Proportion is: <ul style="list-style-type: none"> if the Guarantor Shareholder Approvals with respect to CKP and CKI are obtained – such percentage as notified by CKP and CKI in writing to DUET; otherwise – 0%.
PAH	PAH's Relevant Proportion is: <ul style="list-style-type: none"> if the Guarantor Shareholder Approvals with respect to CKP and PAH are obtained – such percentage as notified by CKP and PAH in writing to DUET; otherwise – 0%.

16.4 Reasonable endeavours

Notwithstanding clause 16.3 or any other provision of this Agreement, but subject to clause 16.5, if a Guarantor uses its reasonable endeavours to procure that Bidco complies with its obligations under this Agreement by exercising any rights available to it under the Consortium Arrangements and:

- (a) after the Schemes become Effective, the Guarantor irrevocably and unconditionally provides Bidco with its Relevant Proportion of the funding necessary for Bidco to provide the Scheme Consideration to Scheme Participants;
- (b) if the Schemes have not become Effective, and it is finally judicially determined that Bidco is liable to pay any amount as a result of a breach of this Agreement, the Guarantor irrevocably and unconditionally provides to Bidco an amount that is equal to its Relevant Proportion of that liability (subject at all times to the maximum cap on liability in clause 16.8 if it applies); or

- (c) this Agreement is terminated other than in accordance with clause 17.1(b) as a result of a breach by Bidco,

then that Guarantor will have no further liability under this Agreement (other than in accordance with clause 16.5 if relevant).

16.5 Retention

The Guarantors and Bidco agree that they will take all steps necessary to ensure that if any Guarantor:

- (a) contributes its Relevant Proportion of the funding necessary for Bidco to provide the Scheme Consideration to the Scheme Participants after the Scheme becomes Effective; or
- (b) contributes its Relevant Proportion of any amount necessary to meet any liability contemplated by clause 16.4(b),

then the amount contributed will be retained by Bidco until such time as Bidco has discharged in full the relevant obligation in connection with which the contribution was made. This obligation is independent of any other obligation under this clause 16. Each Guarantor's liability under this clause 16.5 is several and is equal to its Relevant Proportion of any obligation or liability (as calculated in accordance with clause 16.3(h)).

16.6 Agent for service of process

- (a) Each Guarantor irrevocably appoints the Agent for Process (defined in clause 16.6(b) below) to receive on its behalf service of process issued out of the courts of New South Wales or courts exercising jurisdiction in New South Wales in relation to any dispute or Claim arising from or connected with this Agreement.
- (b) The **Agent for Process** is Dabserv Corporate Services Pty Limited (ACN 73 001 824 111) of Level 61, Governor Phillip Tower, Sydney NSW 2000 Australia (Attention: David Eliakim or Louis Chiam).

16.7 Assistance from DUET

DUET acknowledges that each of CKI, PAH and (if CKI and/or PAH acquire a direct or indirect interest in Bidco) CKP requires shareholder approval pursuant to the listing rules of the HKEx in order to participate in the transactions and provide the guarantee and indemnity contemplated in this Agreement. In order to seek shareholder approval, a Guarantor must prepare and send to its shareholders a circular in connection with the Guarantor Shareholder Approvals, which may include financial information in relation to the DUET Group. The Guarantors may require assistance from DUET Group to prepare the required information relating to the DUET Group. Accordingly, DUET agrees to provide, or procure the provision, to each Guarantor such information and assistance as may be reasonably requested by the Guarantor in relation to the preparation of notices of meetings and shareholder circulars for the seeking of the Guarantor Shareholder Approvals, provided that:

- (a) no DUET Indemnified Party assumes any liability for any information and assistance provided, except:
- (i) as consented to by the DUET Indemnified Party in writing;
- (ii) to the extent there has been bad faith or wilful misconduct on the part of the relevant DUET Indemnified Party; or
- (iii) as required by law;

- (b) the Guarantor must indemnify and hold harmless each DUET Indemnified Party from and against all losses, liabilities, damages, actions, proceedings and judgements of any nature that DUET may now or on the future suffer or incur as a result of providing such information and assistance, other than to the extent any of the foregoing arises from the bad faith or wilful misconduct of the relevant DUET Indemnified Party;
- (c) the Guarantor must reimburse DUET for all external costs and expenses incurred by DUET in providing such information or assistance;
- (d) nothing in this clause 16.7 shall require DUET to do anything which would:
 - (i) interfere or be inconsistent with the proper performance by the directors and officers of each DUET Group entity of their fiduciary duties;
 - (ii) affect a DUET Group entity's ability to allocate resources towards, or otherwise cause undue disruptions to, the operation of its business in the ordinary course;
 - (iii) cause any Condition Precedent to not be satisfied or otherwise cause a breach of this Agreement; or
 - (iv) require a DUET Group entity to take any action that would reasonably be expected to conflict with or violate the entity's constituent documents or any law; and
- (e) DUET acknowledges that information will be reasonably requested if required to be included in a notice of meeting or circular necessary to obtain a Guarantor Shareholder Approval.

16.8 Bidco and Guarantor limitation of liability

Notwithstanding any other provision of this Agreement but subject to clause 4.2, the maximum liability of Bidco and the Guarantors (in aggregate) to DUET under or in connection with this Agreement, including in respect of any breach of this Agreement, will be \$72.991 million except where:

- (a) Bidco has intentionally or wilfully breached this agreement, in which case in respect of that breach only, the liability of Bidco and the Guarantors will not be capped; or
- (b) any Guarantor has intentionally or wilfully breached this agreement, in which case, in respect of that breach only, the liability of that Guarantor will not be capped.

17 Termination

17.1 Termination by any party

Bidco or DUET (a **terminating party**) may terminate this Agreement by notice to the other parties:

- (a) in accordance with clause 3.6; or
- (b) at any time before 8.00am on the Second Court Date if:
 - (i) another party (which cannot be a DUET Group entity if another DUET Group entity is the terminating party, and which cannot be a Guarantor if Bidco is the terminating party) is in breach of any clause of this Agreement (including a breach of a representation or warranty given by another party under clause 10 or 16.2);
 - (ii) that breach is material in the context of the Transactions as a whole;
 - (iii) the terminating party has given notice to the other parties setting out the relevant circumstances and stating an intention to terminate this Agreement; and

- (iv) the relevant circumstances have continued to exist for 5 Business Days (or any shorter period ending at 5.00pm on the last Business Day before the Second Court Date) from the time such notice is given;
- (c) the Schemes have not become Effective by the End Date; or
- (d) if agreed to in writing by Bidco and DUET.

17.2 Termination by Bidco

Bidco may terminate this Agreement at any time before 8.00am on the Second Court Date by notice in writing to DUET if:

- (a) any DUET Director publicly changes (including by attaching qualifications to) or withdraws his or her statement that he or she considers the Schemes to be in the best interests of DUET Securityholders or his or her recommendation that DUET Securityholders approve the Company Schemes and Trust Scheme Resolutions, or publicly recommends, promotes or otherwise endorses a Competing Proposal, whether or not in accordance with clause 8.1(b);
- (b) a person (other than Bidco and its Associates) has a Relevant Interest in more than 20% of DUET Securities;
- (c) DUET enters into an agreement with a Third Party to effect a Competing Proposal; or
- (d) there is a DUET Material Adverse Change.

17.3 Termination by DUET

DUET may terminate this Agreement at any time before 8.00am on the Second Court Date by notice in writing to Bidco if at least a majority of the DUET Directors publicly changes (including by attaching qualifications to) or withdraws their statements that they consider the Schemes to be in the best interests of DUET Securityholders or their recommendation that DUET Securityholders approve the Schemes and Trust Scheme Resolutions, in either case in accordance with clause 8.1(b), or publicly recommends, promotes or otherwise endorses a Superior Proposal.

17.4 Effect of termination

In the event of termination of this Agreement by either Bidco or DUET pursuant to clause 3.6(b), 17.1, 17.2 or 17.3, this Agreement will have no further force or effect and the parties will have no further obligations under this Agreement, provided that:

- (a) this clause 17 and clauses 1, 9.2, 11, 16.3, 18, 19 and 21 will survive termination;
- (b) each party will retain any accrued rights and remedies, including any rights and remedies it has or may have against the other parties in respect of any past breach of this Agreement; and
- (c) in all other respects, all future obligations of the parties under this Agreement will immediately terminate and be of no further force or effect, including, without limitation, any further obligations in respect of the Schemes.

17.5 Manner of termination

Where a party has a right to terminate this Agreement, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other parties stating that it terminates the Agreement and the basis on which it terminates the Agreement.

17.6 No other termination

No party may terminate or rescind this Agreement except as permitted by this clause 17.

18 GST

18.1 Recovery of GST

If GST is payable, or notionally payable, on a supply made under or in connection with this Agreement, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply (the **GST Amount**). Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time that the other consideration for the supply is provided. This clause does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.

18.2 Liability net of GST

Where any indemnity, reimbursement or similar payment under this Agreement is based on any cost, expense or other liability, it must be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability.

18.3 Adjustment events

If an adjustment event occurs in relation to a supply made under or in connection with this Agreement, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties.

18.4 Cost exclusive of GST

Any reference in this Agreement to a cost, expense or other similar amount (other than the DUET Break Fee and Cost Reimbursement Fee) (**Cost**) is a reference to that Cost exclusive of GST.

18.5 Survival

This clause will not merge upon completion and will continue to apply after expiration or termination of this Agreement.

18.6 Definitions

Unless the context requires otherwise, words and phrases used in this clause that have a specific meaning in the GST law (as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)) will have the same meaning in this clause.

19 Trustee capacity

- (a) DFL enters into this Agreement personally and in its capacity as responsible entity of DFT.
- (b) Unless otherwise specifically contemplated in this Agreement, and subject to clause 19(c), a liability arising under or in connection with this Agreement can be enforced against DFL in its capacity as the responsible entity of DFT only to the extent to which it can be satisfied out of the property of DFT out of which the DFL is actually indemnified for the liability. DFL will exercise its rights of indemnification in order to satisfy its obligations under this Agreement. The limitation of DFL's liability in its capacity as responsible entity of DFT applies and extends to all liabilities and obligations of DFL in its capacity as responsible entity of DFT in any way connected with any representations, warranties, conduct, omission, agreement, or transaction related to this Agreement.
- (c) The provisions of this clause 19 will not apply to any obligation or liability of DFL in its capacity as responsible entity of DFT to the extent that it is not satisfied because under the constitution establishing DFT, or by operation of law, there is a reduction in the extent

of, or elimination of, DFL's right of indemnification out of the assets of DFT, or such right does not exist at all, as a result of DFL's fraud, negligence or breach of trust.

20 Withholding tax

20.1 Withholding

If Bidco or (in the case of any payment by a Guarantor) any Guarantor is required by Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (Cth) (**Subdivision 14-D**) to pay amounts to the ATO in respect of the acquisition of DUET Securities from certain Scheme Participants, Bidco (or any Guarantor in respect of any payment by a Guarantor) is permitted to deduct the relevant amounts from the payment of the Scheme Consideration to those Scheme Participants, and remit such amounts to the ATO. The aggregate sum payable to Scheme Participants shall not be increased to reflect the deduction and the net aggregate sum payable to those Scheme Participants shall be taken to be in full and final satisfaction of the amounts owing to those Scheme Participants.

20.2 Clarification

DUET agrees that Bidco may approach the ATO to obtain clarification as to the application of Subdivision 14-D to the Transactions and will provide all information and assistance that Bidco reasonably requires in making that approach. Bidco agrees:

- (a) to provide DUET a reasonable opportunity to review the form and content of all materials to be provided to the ATO, and to take into account DUET's comments on those documents and more generally in relation to Bidco's engagement with the ATO; and
- (b) not to contact any DUET Securityholder in connection with the application of Subdivision 14-D to the Transactions without DUET's prior written consent.

20.3 Consultation

The parties agree to consult in good faith as to the application of Subdivision 14-D, including taking into account any clarification provided by the ATO following the process mentioned in clause 20.2. The parties agree to take all actions that they agree (each acting reasonably) are necessary or desirable following that consultation which may include, without limitation, making amendments to the Transaction Documents to ensure that relevant representations are obtained from Scheme Participants.

21 Miscellaneous

21.1 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Agreement:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand, email or fax to the physical address, email address or fax number (as applicable) below or the physical address, email address or fax number (as applicable) last notified by the intended recipient to the sender:

- (i) to Bidco: Address: c/o King & Wood Mallesons,
Governor Phillip Tower, Level 61, 1 Farrer
Place, Sydney NSW 2000

- (ii) to DUET:
- Email: David.Eliakim@au.kwm.com and Louis.Chiam@au.kwm.com
 Fax: +61 2 9296 3999
 Attention: David Eliakim and Louis Chiam
 Address: Level 14, 20 Martin Place,
 Sydney NSW 2000
 Email: l.pickering@duet.net.au
 Fax: +61 2 8224 2799
 Attention: The Company Secretary
 With a copy (for information purposes) to marc.kemp@allens.com.au (by email)
- (iii) to CKP:
- Address: 7th Floor, Cheung Kong Center,
 2 Queen's Road, Central, Hong Kong
 Email: N/A
 Fax: +852 2128 8001
 Attention: Company Secretary
 With a copy (for information purposes) to David.Eliakim@au.kwm.com and Louis.Chiam@au.kwm.com (by email)
- (iv) to CKI:
- Address: 12/F Cheung Kong Center, 2
 Queen's Road, Central, Hong Kong
 Email: victor.luk@cki.com.hk
 Fax: +852 2501 4550
 Attention: Group General Counsel
 With a copy (for information purposes) to David.Eliakim@au.kwm.com and Louis.Chiam@au.kwm.com (by email)
- (v) to PAH:
- Address: Rooms 1913-1914, 19/F
 Hutchison House, 10 Harcourt Road,
 Central, Hong Kong
 Email: alexng@powerassets.com
 Fax: +852 2503 5512
 Attention: Group Legal Counsel and
 Company Secretary
 With a copy (for information purposes) to David.Eliakim@au.kwm.com and Louis.Chiam@au.kwm.com (by email)
- (c) will be conclusively taken to be duly given or made:
- (i) in the case of delivery in person, when delivered;

- (ii) in the case of delivery by post, 3 Business Days after the date of posting (if posted to an address in the same country) or 7 Business Days after the date of posting (if posted to an address in another country);
- (iii) in the case of delivery by email, the earlier of:
 - (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (B) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and
 - (C) two hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, during that two hour period, an automated message that the email has not been delivered; and
- (iv) in the case of fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax number or name of recipient and indicating that the transmission has been made without error,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or at a time that is later than 5.00pm (in the place to which the Notice is sent), it will be conclusively taken to have been duly given or made at 9.00am (in the place to which the Notice is sent) on the next business day in that place.

21.2 Consideration

The parties acknowledge that each party is giving the promises under this Agreement as consideration for the promises made by each other party under this Agreement.

21.3 No waiver

A failure to exercise or a delay in exercising any right, power or remedy under this Agreement does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

21.4 Remedies cumulative

The rights, powers and remedies provided to each party in this Agreement are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

21.5 Entire agreement

This Agreement and the Confidentiality Agreement contain the entire agreement between the parties with respect to their subject matter. They set out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively, **Conduct**) relied on by the parties and supersede all earlier Conduct by or between the parties in connection with their subject matter. No party has relied on or is relying on any other Conduct in entering into this Agreement and completing the transactions contemplated by it. If there is any inconsistency between the provisions of this Agreement and the provisions of the Confidentiality Agreement, the provisions of this Agreement will prevail to the extent of any inconsistency and the provisions of the Confidentiality Agreement will be construed accordingly.

21.6 Amendment

This Agreement may be amended only by another document executed by all the parties.

21.7 Assignment

No party can assign, charge, create a security interest over, encumber or otherwise deal with any of its rights or obligations under this Agreement, or attempt or purport to do so, without the prior written consent of the other parties.

21.8 No merger

The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

21.9 Further assurances

Each party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transactions contemplated by it.

21.10 Costs and duty

Subject to clauses 13 and 14, each party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All duty (including stamp duty and any fines, penalties and interest) payable on or in connection with this Agreement and any instrument executed under or any transaction evidenced by this Agreement must be borne by Bidco.

21.11 Severability of provisions

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

21.12 Governing law and jurisdiction

This Agreement is governed by the laws of New South Wales. In relation to it and related non-contractual matters, each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

21.13 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

Schedule 1**Timetable**

Event	Date
DUET provides draft Scheme Booklet to ASIC	Wednesday, 15 February 2017
First Court Date	Wednesday, 8 March 2017
Despatch of Scheme Booklet completed	Monday, 13 March 2017
Scheme Meetings	Friday, 21 April 2017
Second Court Date	Friday, 28 April 2017
Effective Date and date of determination of Special Distribution (and DUET Permitted Distribution in accordance with clause 6.1(b) if applicable)	Monday, 1 May 2017
Record Date (including for payment of the Special Distribution) (and DUET Permitted Distribution in accordance with clause 6.1(b) if applicable)	Monday, 8 May 2017
Implementation Date	Monday, 15 May 2017

Schedule 2

Form of Company Schemes

For personal use only

Scheme of Arrangement pursuant to section 411 of the *Corporations Act 2001* (Cth)**Between**

[Name of DUET company] of Level 14, 20 Martin Place, Sydney NSW 2000 (**Target**).

And

Each holder of Target Shares recorded in the Target Register as at the Record Date (other than each holder of Excluded Securities) (each a **Scheme Shareholder** and together the **Scheme Shareholders**).

Recitals

- A Target is a public company limited by shares incorporated in Australia, and is part of a quadruple-stapled group known as 'DUET' that is listed on ASX.
- B DUET comprises:
- (a) [Target]/[DUET Investment Holdings Limited (ACN 120 456 573) (**DIHL**)];
 - (b) [Target]/[DUET Company Limited (ACN 163 100 061) (**DUECo**)];
 - (c) [Target]/[DUET Finance Limited (ACN 108 014 062) (**DFL**)]; and
 - (d) DUET Finance Trust (ARSN 109 363 135) (**DFT**) in respect of which [DFL]/[Target] is the responsible entity,
- and **DUET** means all of them, or any one or more of them as the context requires.
- C Bidco is a company incorporated in Australia, all of the shares in which are indirectly owned or controlled by Cheung Kong Property Holdings Limited (**CKP**), Cheung Kong Infrastructure Holdings Limited (**CKI**) and Power Assets Holdings Limited (**PAH**).
- D DUET, Bidco, CKP, CKI and PAH have entered into a Scheme Implementation Agreement dated [*] (the **Scheme Implementation Agreement**) pursuant to which:
- (a) Target has agreed to propose the Scheme to Target Shareholders;
 - (b) [DIHL has agreed to propose the DIHL Scheme to holders of DIHL Shares];
 - (c) [DUECo has agreed to propose the DUECo Scheme to holders of DUECo Shares];
 - (d) [DFL has agreed to propose the DFL Scheme to holders of DFL Shares];
 - (e) [Target]/[DFL] in its capacity as responsible entity of DFT has agreed to propose the Trust Scheme to holders of DFT Units; and
 - (f) each of DUET and Bidco has agreed to take certain steps to give effect to the DUET Schemes.
- E As the DIHL Shares, DUECo Shares, DFL Shares and DFT Units are stapled to each other, the Scheme Implementation Agreement contemplates that the DUET Schemes are to be inter-conditional and be implemented at the same time.
- F If the Scheme becomes Effective, then:
- (a) all of the Scheme Shares and all of the rights and entitlements attaching to them on the Implementation Date will be transferred to Bidco simultaneously with the transfer to Bidco of all of the [DIHL Scheme Shares], [DUECo Scheme Shares] [DFL Scheme Shares] and DFT Scheme Units under the other DUET Schemes; and

- (b) the Scheme Consideration will be provided to the Scheme Shareholders in accordance with the terms of the Scheme and the Deed Poll; and
 - (c) Target will enter the name and address of Bidco in the Target Register as the holder of all of the Scheme Shares.
- G By executing the Scheme Implementation Agreement, Target has agreed to propose and implement the Schemes, and Bidco has agreed to assist with that proposal and implementation, on and subject to the terms of the Scheme Implementation Agreement.
- H Bidco and CKP, CKI and PAH have entered into the Deed Poll for the purpose of covenanting in favour of the Scheme Shareholders that it will observe and perform the obligations contemplated of it under the DUET Schemes, and (in the case of CKP, CKI and PAH (acting severally, each in its Relevant Proportion as defined in the Scheme Implementation Agreement) that it will procure that Bidco performs the obligations contemplated of it under the DUET Schemes.

It is agreed as follows.

1 Definitions and interpretation

1.1 Definitions

In this document, unless the context requires otherwise:

Bidco means CK William Australia Bidco Pty Ltd (ACN 613 693 182).

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market known as the ASX operated by it.

ASX Listing Rules means the official listing rules of ASX.

Business Day means any day that is each of the following:

- (a) a Business Day within the meaning given in the ASX Listing Rules; and
- (b) a day that banks are open for business in Sydney, Australia.

CHESS means the Clearing House Electronic Subregister System for the electronic transfer of securities, operated by ASX Settlement Pty Limited (ABN 49 008 504 532).

Corporations Act means the *Corporations Act 2001* (Cth).

Court means the Supreme Court of New South Wales or such other court of competent jurisdiction as Bidco and DUET may agree in writing.

Deed Poll means the deed poll executed on or about the date of this agreement by Bidco, CKP, CKI and PAH] in favour of the Scheme Participants.

DFL Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between DFL and holders of DFL Scheme Shares under which Bidco acquires all of the DFL Scheme Shares, as contemplated by the Scheme Implementation Agreement.

DFL Scheme Shares means the DFL Shares on issue as at the Record Date other than the Excluded Securities.

DFL Share means a fully paid ordinary share issued in the capital of DFL.

DFT Constitution means the constitution establishing DFT dated 26 June 2003, as amended from time to time.

DFT Scheme Units means the DFT Units on issue as at the Record Date other than the Excluded Securities.

DFT Unit means one fully paid ordinary unit in DFT.

DIHL Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between DIHL and holders of DIHL Scheme Shares under which Bidco acquires all of DFL Scheme Shares, as contemplated by the Scheme Implementation Agreement.

DIHL Scheme Shares means the DIHL Shares on issue as at the Record Date other than the Excluded Securities.

DIHL Share means a fully paid ordinary share issued in the capital of DIHL.

DUECo Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between DUECo and holders of DUECo Scheme Shares under which Bidco acquires all of the DUECo Scheme Shares, as contemplated by the Scheme Implementation Agreement.

DUECo Scheme Shares means the DUECo Shares on issue as at the Record Date other than the Excluded Securities.

DUECo Share means a fully paid ordinary share issued in the capital of DUECo.

DUET Schemes means the Scheme, [DIHL Scheme], [DUECo Scheme], [DFL Scheme] and Trust Scheme.

DUET Scheme Security means a [Scheme Share]/[DUECo Scheme Share], [Scheme Share]/[DFL Scheme Share], [Scheme Share]/[DIHL Scheme Share] and DFT Scheme Unit collectively.

DUET Security means a [Target Share]/[DUECo Share], [Target Share]/[DFL Share], [Target Share]/[DIHL Share] and DFT Unit collectively.

Effective means, when used in relation to the Scheme, the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to the Scheme but in any event no time before an office copy of the order of the Court is lodged with ASIC.

Effective Date means the date on which the Scheme becomes Effective.

End Date means the date that falls [6 months] after the date of the Scheme Implementation Agreement, or such later date as Bidco and DUET may agree in writing.

Excluded Security means a Target Share, [DUECo Share], [DFL Share], [DIHL Share] or DFT Unit (as applicable) held by any person on behalf of, or for the benefit of, Bidco, a Guarantor or any of their respective Related Bodies Corporate.

Guarantor Shareholder Approvals has the meaning given in the Scheme Implementation Agreement.

Guarantors means CKP, CKI and PAH.

Implementation Date means the date that is five Business Days after the Record Date, or such other date as DUET and Bidco may agree in writing.

Permitted DUET Distributions means:

- (a) a distribution and dividend payable to holders of DUET Securities for the 6 month period ending 31 December 2016 of no more than 9.25 cents payable either in cash per DUET Security or in accordance with the distribution and dividend reinvestment plan in place as at the date of the Scheme Implementation Agreement;

- (b) a dividend or dividends payable to holders of DUET Securities in accordance with clause 6.1(b) of the Scheme Implementation Agreement; and
- (c) a distribution payable to holders of DUET Securities in accordance with clause 6.3 of the Scheme Implementation Agreement.

Record Date means 7.00pm on the date that is five Business Days after the Effective Date, or such other date as may be agreed in writing between Bidco and DUET.

Registered Address means, in relation to a Scheme Shareholder, the address of that Scheme Shareholder shown in the Target Register as at the Record Date.

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders as set out in this document, subject to any alterations or conditions made or required by the Court and agreed to by Bidco and DUET (such agreement not to be unreasonably withheld or delayed) made or required by the Court under section 411(6) of the Corporations Act and agreed to by DUET and Bidco.

Scheme Consideration means, in respect of each DUET Scheme Security, a cash amount of \$3 less the amount by which any Special Distribution determined by [DFL]/[Target] in accordance with clause 6.1 of the Scheme Implementation Agreement, when added to the per-DUET Security value of any Permitted DUET Distribution determined to be made pursuant to clause 6.3 of the Scheme Implementation Agreement, exceeds 3 cents per DUET Scheme Security, net of any payment made to the Australian Taxation Office in accordance with Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* in respect of the acquisition of the relevant DUET Scheme Security.

Scheme Meeting means the meeting of Target Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to the Scheme, and includes any adjournment or postponement of that meeting.

Scheme Orders means the orders of the Court made under section 411(4)(b) of the Corporations Act (and if applicable, section 411(6) of the Corporations Act) in relation to the Scheme.

Scheme Shares means the Target Shares on issue as at the Record Date other than the Excluded Securities.

Scheme Transfer means, in relation to each Scheme Shareholder, a proper instrument of transfer of their Scheme Shares for the purpose of section 1071B of the Corporations Act, which may be a master transfer of all or part of all of the Scheme Shares.

Second Court Date means the first day of hearing of an application made to the Court for orders pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Special Distribution means the distribution (expressed on a per DUET Security basis and prior to any withholding being made) to be made in accordance with clause 6.1(a) of the Scheme Implementation Agreement and clause 10.9 of the DFT Constitution.

Target Register means the register of members of Target maintained by or on behalf of Target in accordance with section 168(1) of the Corporations Act.

Target Share means an issued fully paid ordinary share in the capital of Target.

Target Share Registry means Computershare Investor Services Pty Ltd (ACN 078 279 277) or any replacement share registry services provider to Target.

Target Shareholder means a person who is registered in the Target Register as a holder of Target Shares.

Trust Account means an Australian dollar denominated trust account operated by Target (or by

the Target Share Registry on behalf of Target) as trustee for the Scheme Shareholders.

Trust Scheme means an arrangement under which Bidco acquires all of the DFT Scheme Units facilitated by amendments to the DFT constitution, as contemplated by the Scheme Implementation Agreement.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
- (c) The following rules apply unless the context requires otherwise.
 - (i) The singular includes the plural, and the converse also applies.
 - (ii) A gender includes all genders.
 - (iii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (iv) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
 - (v) A reference to a clause is a reference to a clause of this document.
 - (vi) A reference to an agreement or document (including a reference to this document) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this document or that other agreement or document.
 - (vii) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
 - (viii) A reference to a person includes the person's successors, permitted substitutes and permitted assigns (and, where applicable, the person's legal personal representatives).
 - (ix) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
 - (x) A reference to *dollars* or \$ is to Australian currency.
 - (xi) Words and phrases not specifically defined in this document have the same meanings (if any) given to them in the Corporations Act.
 - (xii) A reference to time is to Sydney, Australia time.
 - (xiii) If the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing must be done on the immediately succeeding Business Day.

2 Conditions

2.1 Conditions Precedent

The Scheme is conditional upon, and will have no force or effect until, the satisfaction of each of the following conditions precedent:

- (a) as at 8.00am on the Second Court Date each of the conditions precedent set out in clause 3.1 of the Scheme Implementation Agreement (other than the condition precedent

relating to the approval of the Court set out in clause [3.1(h)] of the Scheme Implementation Agreement) has been satisfied or waived in accordance with the Scheme Implementation Agreement;

- (b) as at 8.00am on the Second Court Date, neither the Scheme Implementation Agreement nor the Deed Poll has been terminated in accordance with its terms;
- (c) the Court makes orders approving the Scheme under section 411(4)(b) of the Corporations Act, including with such alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to Bidco and DUET (each acting reasonably);
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Scheme as are acceptable to Bidco and DUET (each acting reasonably) have been satisfied or waived; and
- (e) the orders of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act approving the Scheme come into effect, pursuant to section 411(10) of the Corporations Act on or before the End Date.

2.2 Lapsing

The Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Agreement or the Deed Poll is terminated in accordance with its terms unless Target, Bidco and each Guarantor otherwise agree in writing.

3 Scheme becoming Effective

Subject to clause 2.2, the Scheme will take effect on and from the Effective Date.

4 Implementation of Scheme

- (a) If the conditions precedent in clause 2.1 are satisfied or waived, Target must lodge with ASIC, in accordance with section 411(10) of the Corporations Act, an office copy of the Scheme Orders as soon as practicable after, and in any event by no later than 5.00pm on the first Business Day after, the day on which the Scheme Orders are entered, or such other date as agreed by Target and Bidco.
- (b) On the Implementation Date, subject to Bidco having satisfied its obligations in clause 5.1, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to Bidco, without the need for any further act by any Scheme Shareholder (other than acts performed by Target or any of its directors and officers as attorney and agent for Scheme Shareholders under the Scheme), by:
 - (i) Target delivering to Bidco for execution duly completed (and, if necessary, stamped) Scheme Transfers to transfer all of the Scheme Shares to Bidco, duly executed by Target (or any of its directors and officers) as the attorney and agent of each Scheme Shareholder as transferor under clause 8.3;
 - (ii) Bidco executing the Scheme Transfers as transferee and delivering them to Target for registration; and
 - (iii) Target, immediately after receipt of the Scheme Transfers under clause 4(b)(ii), or the transfer being effected under section 1074D of the Corporations Act (as the

case may be) entering, or procuring the entry of, the name and address of Bidco in the Target Register as the holder of all of the Scheme Shares.

- (c) The transfer of all of the Scheme Shares to Bidco in accordance with clause 4(a) must occur simultaneously with:
 - (i) [the transfer to Bidco of all of the DIHL Scheme Shares under the DIHL Scheme];
 - (ii) [the transfer to Bidco of all of the DUECo Scheme Shares under the DUECo Scheme];
 - (iii) [the transfer to Bidco of all of the DFL Scheme Shares under the DFL Scheme]; and
 - (iv) the transfer to Bidco of all of the Trust Scheme Units under the Trust Scheme.

5 Scheme Consideration

5.1 Entitlement to Scheme Consideration

Subject to the terms of the Scheme, each Scheme Shareholder will be entitled to the Scheme Consideration for each Scheme Share held by that Scheme Shareholder.

5.2 Deposit of Scheme Consideration

Bidco must, by no later than the Business Day before the Implementation Date:

- (a) deposit (or procure the deposit) in cleared funds into the Trust Account an amount equal to the aggregate amount of the Scheme Consideration payable to Scheme Shareholders provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidco's account; and
- (b) provide written confirmation to Target of that deposit.

5.3 Payment to Scheme Shareholders

- (a) On the Implementation Date, subject to Bidco having satisfied its obligations in clause 5.2, Target must pay or procure the payment, from the Trust Account, to each Scheme Shareholder the Scheme Consideration as that Scheme Shareholder is entitled under this clause 5.
- (b) The obligations of Target under clause 5.3(a) will be satisfied by Target (in its absolute discretion):
 - (i) where a Scheme Shareholder has, before the 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; or
 - (ii) otherwise, whether or not the Scheme Shareholder has made an election referred to in clause 5.3(b)(i), 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 (as at the Record Date), 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 5.4).
- (c) If, following satisfaction of Bidco's obligations under clause 5.2 but prior to the occurrence of all of the events described in clause 4, the Scheme lapses under clause 2.2(b):

- (i) Target must immediately repay (or cause to be repaid) to or at the direction of Bidco the funds that were deposited in the Trust Account plus any interest on the amounts deposited (less bank fees and other charges);
- (ii) the obligation to transfer Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, to Bidco under clause 4 will immediately cease;
- (iii) Bidco must return the Scheme Transfers, if provided pursuant to clause 4; and
- (iv) Target is no longer obliged to enter, or procure the entry of, the name of Bidco in the Target Register in accordance with clause 4.

5.4 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be sent under the Scheme will be made payable to the joint holders and sent to either, at the sole discretion of Target, the holder whose name appears first in the Target Register as at the Record Date or to the joint holders; and
- (b) any other document required to be sent under the Scheme, will be forwarded to either, at the sole discretion of Target, the holder whose name appears first in the Target Register as at the Record Date or to the joint holders.

5.5 Cancellation and re-issue of cheques

- (a) Target may cancel a cheque issued under this clause 5 if the cheque:
 - (i) is returned to Target or the Target Share Registry; or
 - (ii) has not been presented for payment within 6 months after the date on which the cheque was sent.
- (b) During the period of 12 months 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 20 Business Days after the Implementation Date), Target must reissue a cheque that was previously cancelled under clause 5.5(a).

5.6 Fractional entitlements

Where the calculation of the Scheme Consideration to be paid to a Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, that fractional entitlement will be rounded down to the nearest whole cent.

5.7 Unclaimed monies

- (a) 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)).
- (b) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidco.

5.8 Remaining monies (if any) in Trust Account

To the extent that, following satisfaction of Target's obligations under the other provisions of this clause 5 and provided Bidco has by that time acquired the Scheme Shares in accordance with the Scheme, there is a surplus in the Trust Account, then subject to compliance with applicable laws, the other terms of the Scheme, the Deed Poll and the Scheme Implementation Agreement,

that surplus (less any bank fees and related charges) shall be paid by Target (or the Target Share Registry on Target's behalf) to Bidco.

6 Dealings in Target Shares

6.1 Dealings in Target Shares by Scheme Shareholders

For the purpose of establishing the persons who are Scheme Shareholders, dealings in Target Shares will be recognised by Target provided that:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Target Register as the holder of the relevant Target Shares by the Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received by the Target Share Registry by 5.00pm on the day which is the Record Date at the place where the Target Register is located (in which case Target must register such transfers or transmission applications before 7.00pm on that day),

and Target will not accept for registration, nor recognise for the purpose of establishing the persons who are Scheme Shareholders nor for any other purpose (other than to transfer to Bidco pursuant to the Scheme and any subsequent transfers by Bidco and its successors in title), any transfer or transmission application in respect of Target Shares received after such times, or received prior to such times but not in actionable or registrable form (as appropriate).

6.2 Target Register

- (a) Target will, until the Scheme Consideration has been provided and the name and address of Bidco has been entered in the Target Register as the holder of all of the Scheme Shares, maintain, or procure the maintenance of, the Target Register in accordance with this clause 6, and the Target Register in this form and the terms of the Scheme will solely determine entitlements to the Scheme Consideration. As from the Record Date (and other than for Bidco following the Implementation Date), each entry in the Target Register as at the Record Date relating to Scheme Shares will cease to have any effect other than as evidence of the entitlements of Scheme Shareholders to the Scheme Consideration in respect of those Scheme Shares.
- (b) As soon as possible on or after the Record Date, and in any event within one Business Day after the Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Target Shares for each Scheme Shareholder as shown in the Target Register are available to Bidco in the form Bidco reasonably requires.

6.3 Effect of share certificates and holding statements

As from the Record Date (and other than for Bidco following the Implementation Date), all share certificates and holding statements for Scheme Shares (other than statements of holding in favour of Bidco or any Excluded Shareholders) will cease to have effect as documents of title in respect of those Scheme Shares.

6.4 No disposals after Record Date

If the Scheme becomes Effective, each Scheme Shareholder, and any person claiming through that Scheme Shareholder, must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after 5.00pm on the Record Date other than to Bidco in accordance with the Scheme and any subsequent transfers by Bidco and its successors in title.

7 Suspension and termination of quotation of Target Shares

- (a) Target must apply to ASX for suspension of trading of the Target Shares on ASX with effect from the close of business on the Effective Date.
- (b) Target must apply to ASX for termination of official quotation of the Target Shares on ASX and the removal of Target from the official list of ASX with effect from the Business Day immediately following the Implementation Date, or from such later date as may be determined by Bidco.

8 General provisions

8.1 Further assurances

- (a) Each Scheme Shareholder and Target will do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it.
- (b) Without limiting Target's other powers under the Scheme, Target has power to do all things that it considers necessary or desirable to give effect to the Scheme and the Scheme Implementation Agreement.

8.2 Scheme Shareholders' agreements and consents

Each Scheme Shareholder:

- (a) irrevocably agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to Bidco in accordance with the terms of the Scheme; and
- (b) acknowledges and agrees that the Scheme binds Target and all Scheme Shareholders (including those that did not attend the Scheme Meeting or did not vote at that meeting or voted against the Scheme at that Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Target; and
- (c) irrevocably consents to Target and Bidco doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it,

without the need for any further act by that Scheme Shareholder.

8.3 Appointment of Target as attorney for implementation of Scheme

Each Scheme Shareholder, without the need for any further act by that Scheme Shareholder, irrevocably appoints Target as that Scheme Shareholder's agent and attorney for the purpose of:

- (a) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or the execution and delivery of any Scheme Transfers) under clause 4(b)(i); and
- (b) enforcing the Deed Poll against Bidco and each Guarantor who has executed the Deed Poll,

and Target accepts such appointment. Target, as agent and attorney of each Scheme Shareholder, may sub delegate its functions, authorities or powers under this clause 8.3 to all or any of its directors and officers (jointly, severally, or jointly and severally).

8.4 Warranty by Scheme Shareholders

Each Scheme Shareholder is deemed to have warranted to Bidco, and, to the extent enforceable,

to have appointed and authorised Target as that Scheme Shareholder's agent and attorney to warrant to Bidco, that all of their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the time of the transfer of them to Bidco pursuant to the Scheme, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to sell and to transfer their Scheme Shares (together with any rights and entitlements attaching to those Scheme Shares) to Bidco pursuant to the Scheme. Target undertakes in favour of each Scheme Shareholder that it will provide such warranty, to the extent enforceable, to Bidco on behalf of that Scheme Shareholder.

8.5 Title to Scheme Shares

Bidco will be beneficially entitled to the Scheme Shares transferred to it under the Scheme pending registration by Target of the name and address of Bidco in the Target Register as the holder of the Scheme Shares.

8.6 Appointment of Bidco as attorney for Scheme Shares

- (a) From the time that Bidco has satisfied its obligations in clause 5.2 until Bidco is registered in the Target Register as the holder of all Scheme Shares, each Target Shareholder:
 - (i) without the need for any further act by that Target Shareholder, irrevocably appoints Bidco as its proxy to (and irrevocably appoints Bidco as its agent and attorney for the purpose of appointing any director or officer of Bidco as that Target Shareholder's proxy and, where appropriate, its corporate representative to):
 - (A) attend shareholders' meetings of Target;
 - (B) exercise the votes attaching to the Target Shares registered in the name of the Target Shareholder; and
 - (C) sign any Target Shareholders' resolution;
 - (ii) must take all other action in the capacity of a Target Shareholder as Bidco reasonably directs; and
 - (iii) acknowledges and agrees that in exercising the powers referred to in clause 8.6(a), Bidco and any person nominated by Bidco under clause 8.6(a) may act in the best interests of Bidco as the intended registered holder of the Scheme Shares.
- (b) From the time that Bidco has satisfied its obligations in clause 5.2 until Bidco is registered in the Target Register as the holder of all Scheme Shares, no Target Shareholder may attend or vote at any meetings of Target Shareholders or sign any Target Shareholders' resolution (whether in person, by proxy or by corporate representative) other than under this clause 8.6.

8.7 Alterations and conditions to Scheme

If the Court proposes to approve the Scheme subject to any alterations or conditions, Target may, by its counsel or solicitors, and with the prior written consent of Bidco, consent on behalf of all persons concerned, including each Target Shareholder, to those alterations or conditions.

8.8 Enforcement of Deed Poll

Target undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll

against:

- (a) Bidco; and
 - (b) each Guarantor who has executed the Deed Poll,
- on behalf of and as agent and attorney for the Scheme Shareholders.

8.9 Consent

Each of the Scheme Shareholders consents to Target doing all things necessary or incidental to the implementation of this Scheme, whether on behalf of the Scheme Shareholders, Target or otherwise.

8.10 Notices

Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to Target, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at Target's registered office or by the Target Share Registry, as the case may be.

8.11 Duty

Bidco will pay all duty (including stamp duty and any related fines, penalties and interest) payable on or in connection with the transfer by Scheme Shareholders of the Scheme Shares to Bidco pursuant to the Scheme.

8.12 Governing law and jurisdiction

This document is governed by the laws of New South Wales. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there and courts of appeal from them in connection with matters concerning this document. The parties irrevocably waive 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.

Schedule 3

DFT Constitution Supplemental Deed

For personal use only

DUET Finance Limited
Amending the Constitution for DUET Finance Trust

Supplemental Deed

Allens
Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia
Tel +61 2 9230 4000
Fax +61 2 9230 5333
www.allens.com.au

© Allens, Australia 2017

Contents

1	Definitions and Interpretation	1
2	Benefit of this Supplemental Deed	2
3	Conditions	2
4	Amendments to Constitution	2
5	No Resettlement	2
6	Governing Law and Jurisdiction	2
	Schedule 1	4

This Deed is made on [1] 2017

Party

- 1 **DUET Finance Limited** (ACN 108 014 062) as responsible entity of DUET Finance Trust of Level 14, 20 Martin Place, Sydney NSW 2000 (the **Trustee**).

Recitals

- A The Trustee is the responsible entity of the trust known as DUET Finance Trust (ARSN 109 363 135) (the **Trust**).
- B The Trust has been registered pursuant to section 601EB of the Corporations Act 2001 (Cth) (the **Corporations Act**) as a managed investment scheme.
- C The Units of the Trust are quoted and traded on the ASX.
- D DUET, Bidco and others have agreed, by executing a scheme implementation agreement dated [1] 2017 (the **Scheme Implementation Agreement**), to propose and implement the Scheme and schemes of arrangement under Part 5.1 of the Corporations Act in respect of DUECo, DFL and DIHL.
- E The Constitution must be amended to facilitate the Scheme.
- F Section 601GC(1)(a) of the Corporations Act provides that the Constitution may be amended by special resolution of the Members.
- G Under clause 23.1 of the Constitution, the Constitution may be amended by resolution and the Trustee may give effect to the modification by executing a supplemental deed.
- H The Trustee proposes to execute this Supplemental Deed and lodge it with the Australian Securities and Investments Commission (**ASIC**) to modify the Constitution, as set out in this Supplemental Deed, to give effect to the resolution to modify the Constitution that was passed by Members at a meeting held on [1] 2017.

It is declared as follows.

1 Definitions and Interpretation

1.1 Definitions

In this Supplemental Deed including the Recitals, the following definitions apply unless the context otherwise requires. Capitalised terms used in this but not otherwise defined have the meaning given in the Constitution.

ASIC has the meaning given to that term in Recital H.

Bidco means CK William Australia Bidco Pty Ltd (ACN 613 693 182).

Constitution means the trust deed dated 26 June 2003 constituting the Trust, as amended from time to time.

Corporations Act has the meaning given to that term in Recital B.

DFL means DUET Finance Limited (ACN 108 014 062).

DIHL means DUET Investment Holdings Limited (ACN 120 456 573).

DUECo means DUET Company Limited (ACN 163 100 061).

DUET means DUECo, DFL in its personal capacity as responsible entity of the Trust, and DIHL.

Effective Time means the date on and time at which a copy of this Supplemental Deed is, or the modifications set out in it are, lodged with ASIC under section 601GC(2) of the Corporations Act.

Scheme means the arrangement set out in the Scheme Implementation Agreement under which Bidco acquires all of the Units on issue as at the Record Date from the Members and facilitated by the amendments to the Constitution set out in this Supplemental Deed.

Scheme Implementation Agreement has the meaning given to that term in Recital D.

Trust has the meaning given to that term in Recital A.

1.2 Interpretation

Clause 30.2 (Interpretation) of the Constitution applies to this Supplemental Deed as if set out in this Supplemental Deed, except that references to 'constitution' are reference to this Supplemental Deed.

2 Benefit of this Supplemental Deed

This Supplemental Deed is made by the Trustee with the intent that the benefit of this Supplemental Deed shall enure to the benefit of Members, jointly and severally.

3 Conditions

This Supplemental Deed is conditional upon, and will have no force of effect until, the satisfaction of each of the conditions precedent stipulated in clause 2.1 of the Company Schemes (as defined in the Scheme Implementation Agreement).

4 Amendments to Constitution

With effect from the Effective Time, the Constitution is amended in the manner set out in Schedule 1.

5 No Resettlement

The Trustee confirms that it is not by this Supplemental Deed intending to:

- (a) settle or re-declare the trust declared under the Constitution; or
- (b) cause the transfer, vesting or accruing of any property comprising the assets of the Trust in any person.

6 Governing Law and Jurisdiction

This Supplemental Deed is governed by the laws of Victoria. In relation to it and related non-contractual matters each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

Executed and delivered as a Deed Poll in Sydney

Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

Executed and Delivered by and on behalf of
DUET Finance Limited in its capacity as
responsible entity of DUET Finance Trust by
its attorney under power of attorney in the
presence of:

Witness Signature

Attorney Signature

Print Name

Print Name

Schedule 1

Amendments to the Constitution for DUET Finance Trust

The Constitution is amended as following:

1 Clause 30.1

In clause 30.1 the following definitions are inserted in alphabetical order:

Bidco means CK William Australia Bidco Pty Ltd (ACN 613 693 182).

Bidco Deed Poll means the deed poll executed by Bidco and the Guarantors in favour of the Scheme Unit Holders.

CHESS means the Clearing House Electronic Subregister System for the electronic transfer of securities, operated by ASX Settlement Pty Limited (ABN 49 008 504 532).

DIHL means DUET Investment Holdings Limited (ACN 120 456 573)

DIHL Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between DIHL and holders of DIHL Scheme Shares under which Bidco acquires all of DIHL Scheme Shares, as contemplated by the Scheme Implementation Agreement.

DIHL Scheme Share means the DIHL Shares on issue as at the Record Date other than the Excluded Securities.

DIHL Share means a fully paid ordinary share issued in the capital of DIHL.

DUECo means DUET Company Limited (ACN 163 100 061)

DUECo Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between DUECo and holders of DUECo Scheme Shares under which Bidco acquires all of the DUECo Scheme Shares, as contemplated by the Scheme Implementation Agreement.

DUECo Scheme Share means the DUECo Shares on issue as at the Record Date other than the Excluded Securities.

DUECo Share means a fully paid ordinary share issued in the capital of DUECo.

DUET means DUECo, DIHL and the Trustee in its personal capacity and as responsible entity of the Trust.

DUET Scheme Security means a DUECo Scheme Share, Trustee Scheme Share, DIHL Scheme Share and Scheme Unit collectively.

DUET Security means a DUECo Share, Trustee Share, DIHL Share and Unit collectively.

Effective Date means the date on and time at which the supplemental deed making amendments to this Constitution to facilitate the Scheme, take effect pursuant to section 601GC(2) of the Corporations Act.

Guarantors means:

- (a) Cheung Kong Property Holdings Limited of 7th Floor, Cheung Kong Center, 2 Queen's Road, Central, Hong Kong;
- (b) Cheung Kong Infrastructure Holdings Limited of 12/F Cheung Kong Center, 2 Queen's Rd, Central, Hong Kong; and
- (c) Power Assets Holdings Limited of Rooms 1913-1914, 19/F Hutchison House, 10 Harcourt Road, Central, Hong Kong.

Implementation Date means the date that is three Scheme Business Days after the Record Date, or such other date as DUET and Bidco agree in writing.

Permitted DUET Distributions means:

- (a) a distribution and dividend payable to holders of DUET Securities for the 6 month period ending 31 December 2016 of no more than 9.25 cents payable either in cash per DUET Security or in accordance with the distribution and dividend reinvestment plan in place as at the date of the Scheme Implementation Agreement;
- (b) a dividend or dividends payable to holders of DUET Securities in accordance with clause 6.1(b) of the Scheme Implementation Agreement; and
- (c) a distribution payable to holders of DUET Securities in accordance with clause 6.3 of the Scheme Implementation Agreement.

Record Date means 7.00pm on the date that is five Scheme Business Days after the Effective Date, or such other date as DUET and Bidco agree in writing.

Registered Address means, in relation to a Scheme Unit Holder, the address of that Scheme Unit Holder shown on the Register as at the Record Date.

Registry means Computershare Investor Services Pty Ltd (ACN 078 279 277) or any replacement share registry services provider to the Trustee.

Scheme means the arrangement under which Bidco acquires all of the Scheme Units from the Scheme Unit Holders, facilitated by the amendments to the Constitution set out in this Supplemental Deed.

Scheme Business Day means:

- (a) a Business Day as defined in the Listing Rules; and
- (b) a week day on which trading banks are open for business in Sydney, Australia.

Scheme Consideration means, in respect of each DUET Scheme Security, a cash amount of \$3 less the amount by which any Special Distribution determined by the Trustee in accordance with clause 6.1 of the Scheme Implementation Agreement, when added to the per-DUET Security value of any Permitted DUET Distribution determined to be made pursuant to clause 6.3 of the Scheme Implementation Agreement, exceeds 3 cents per DUET Scheme Security, net of any payment made to the Australian Taxation Office in accordance with Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* in respect of the acquisition of the relevant DUET Scheme Security.

Scheme Implementation Agreement means the agreement of that name between DUET, Bidco and the Guarantors in respect of the proposal and implementation of the Scheme, the Trustee Scheme, the DUECo Scheme and the DIHL Scheme.

Scheme Meeting means the meeting of Members held on [] 2017 for the purpose of, inter alia, voting on the Scheme Resolutions.

Scheme Resolutions means resolutions of Members to approve the Scheme, being:

- (a) an ordinary resolution approving for all purposes, including item 7 of section 611 of the Corporations Act, the acquisition by Bidco of all the Scheme Units; and
- (b) a special resolution for the purpose of section 601GC(1) of the Corporations Act to approve amendments to the Constitution to facilitate the implementation of the Scheme.

Scheme Transfers means, for each Scheme Unit Holder, a proper instrument of transfer of their Scheme Units for the purpose of section 1071B of the Corporations Act (which may be a master transfer of all or part of all of the Scheme Units).

Scheme Unit means a Unit on issue as at the Record Date.

Scheme Unit Holder means a person registered in the Register as a holder of one or more Scheme Units as at the Record Date.

Special Distribution means the distribution (expressed on a per DUET Security basis and prior to any withholding being made) to be made in accordance with clause 6.1(a) of the Scheme Implementation Agreement and clause 10.9 of the Constitution.

Trust Account means an Australian dollar denominated trust account operated by the Trustee (or by the Registry on behalf of the Trustee) as trustee for Scheme Unit Holders

Trustee Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between the Trustee and holders of Trustee Scheme Shares under which Bidco acquires all of the Trustee Scheme Shares, as contemplated by the Scheme Implementation Agreement.

Trustee Scheme Share means the Trustee Shares on issue as at the Record Date other than the Excluded Securities.

Trustee Share means a fully paid ordinary share issued in the capital of the Trustee.

2 Clause 31

A new clause 31 is inserted immediately after clause 30 of the Constitution as set out below:

31 Scheme

Implementation of the Scheme

- 31.1 Each Scheme Unit Holder and the Trustee must do all things and execute all deeds, instruments, transfers or other documents as the Trustee considers are necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it.
- 31.2 Without limiting the Trustee's other powers under this clause 31, the Trustee has power to do all things that it considers necessary or desirable to give effect to the Scheme and the Scheme Implementation Agreement.
- 31.3 Subject to the Corporations Act, the Trustee, the other DUET entities, Bidco, the Guarantors, or any of their respective directors, officers, employees or associates, may do any act, matter or thing described in or contemplated by this clause 31 even if they have an interest (financial or otherwise) in the outcome.
- 31.4 This clause 31:
 - (a) binds the Trustee and all of the Members (including those who do not attend the Scheme Meeting, those who do not vote at the Scheme Meeting and those who vote against the Scheme Resolutions); and
 - (b) to the extent of any inconsistency, overrides the other provisions of this Constitution (but, for the avoidance of doubt, remains subject to the Corporations Act and the Listing Rules).

Entitlement to Scheme Consideration

- 31.5 Each Scheme Unit Holder will be entitled to receive the Scheme Consideration for each Scheme Unit held by that Scheme Unit Holder.

Deposit of Scheme Consideration

- 31.6 Bidco must, by no later than the Business Day before the Implementation Date:

- (a) deposit (or procure the deposit) in cleared funds into the Trust Account an amount equal to the aggregate amount of the Scheme Consideration payable to Scheme Unit Holders provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidco's account; and
- (b) provide written confirmation to the Trustee of that deposit.

Payment to Scheme Unit Holders

- 31.7 On the Implementation Date, subject to Bidco having satisfied its obligations in clause 31.6, the Trustee must pay or procure the payment, from the Trust Account, to each Scheme Unit Holder the Scheme Consideration as that Scheme Unit Holder is entitled under clause 31.5.
- 31.8 The obligations of the Trustee under clause 31.7 will be satisfied by the Trustee (in its absolute discretion):
- (a) where a Scheme Unit Holder has, before the Record Date, made a valid election in accordance with the requirements of the Registry to receive dividend payments from the Trustee 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; or
 - (b) otherwise, whether or not the Scheme Unit Holder has made an election referred to in paragraph (a), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Unit Holder by prepaid post to their Registered Address (as at the Record Date), such cheque being drawn in the name of the Scheme Unit Holder (or in the case of joint holders, in accordance with the procedures set out in clause 31.10).
- 31.9 If, following satisfaction of Bidco's obligations under clause 31.6 but prior to the occurrence of all of the events described in clause 2.1 of the Company Schemes (as defined in the Scheme Implementation Agreement), the Scheme lapses under clause 31.33:
- (a) the Trustee must immediately repay (or cause to be repaid) to or at the direction of Bidco the funds that were deposited in the Trust Account plus any interest on the amounts deposited (less bank fees and other charges);
 - (b) the obligation to transfer Scheme Units, together with all rights and entitlements attaching to the Scheme Units as at the Implementation Date, to Bidco under clause 31.16 will immediately cease;
 - (c) Bidco must return the Scheme Transfers, if provided pursuant to clause 31.16(b); and
 - (d) the Trustee is no longer obliged to enter, or procure the entry of, the name of Bidco in the Register in accordance with clauses 31.17 to 31.22.

Joint holders

- 31.10 In the case of Scheme Units held in joint names:
- (a) any cheque required to be sent under the Scheme will be made payable to the joint holders and sent to either, at the sole discretion of the Trustee, the holder whose name appears first in the Register as at the Record Date or to the joint holders; and

- (b) any other document required to be sent under the Scheme, will be forwarded to either, at the sole discretion of the Trustee, the holder whose name appears first in the Register as at the Record Date or to the joint holders.

Fractional entitlements

31.10A Where the calculation of the Scheme Consideration to be paid to a Scheme Unit Holder would result in the Scheme Unit Holder becoming entitled to a fraction of a cent, that fractional entitlement will be rounded down to the nearest whole cent.

Cancellation and re-issue of cheques

31.11 The Trustee may cancel a cheque issued under this clause 31 if the cheque:

- (a) is returned to the Trustee or the Registry; or
- (b) has not been presented for payment within 6 months after the date on which the cheque was sent.

31.12 During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Unit Holder to the Trustee or the Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), the Trustee must reissue a cheque that was previously cancelled under clause 31.11.

Unclaimed monies

31.13 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)).

31.14 Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidco.

Remaining monies (if any) in Trust Account

31.15 To the extent that, following satisfaction of the Trustee's obligations under clause 31.6 and provided Bidco has by that time acquired the Scheme Units in accordance with the Scheme, there is a surplus in the Trust Account, then subject to compliance with applicable laws, the other terms of the Scheme, the Bidco Deed Poll and the Scheme Implementation Agreement, that surplus (less any bank fees and related charges) shall be paid by the Trustee (or the Registry on the Trustee's behalf) to Bidco.

Transfer of Scheme Units to Bidco

31.16 On the Implementation Date, subject to Bidco having provided the Scheme Consideration in the manner contemplated by the Scheme Implementation Agreement and clause 31.6, and Bidco having provided the Trustee with written confirmation of that having occurred all of the Scheme Units, together with all rights and entitlements attaching to the Scheme Units as at the Implementation Date, will be transferred to Bidco, without the need for any further act by any Scheme Unit Holder (other than acts performed by the Trustee (or any of its directors and officers appointed as sub-attorneys and/or agents of the Trustee) as attorney and/or agent for Scheme Unit Holders under the Scheme), by:

- (a) the Trustee delivering to Bidco for execution duly completed and, if necessary, stamped Scheme Transfers to transfer all of the Scheme Units to Bidco, duly executed by the Trustee (or any of its directors and officers appointed as sub-attorneys and/or agents of the Trustee) as the attorney and/or agent of each Scheme Unit Holder as transferor under clause 31.24;
- (b) Bidco immediately executing the Scheme Transfers as transferee and deliver them to the Trustee for registration; and

- (c) the Trustee, immediately after receipt of the Scheme Transfers under paragraph (b), entering, or procure the entry of, the name and address of Bidco in the Register as the holder of all of the Scheme Units.

31.16A The transfer of all of the Scheme Shares to Bidco in accordance with clause 31.16 must occur simultaneously with:

- (i) the transfer to Bidco of all of the DIHL Scheme Shares under the DIHL Scheme;
- (ii) the transfer to Bidco of all of the DUECo Scheme Shares under the DUECo Scheme; and
- (iii) the transfer to Bidco of all of the DFL Scheme Shares under the DFL Scheme.

Dealings in Units

31.17 For the purpose of establishing the persons who are Scheme Unit Holders and determining entitlements to the Scheme Consideration, dealings in Units 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 Register as the holder of the relevant Units by the Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received by the Registry by 5:00pm on the day which is the Record Date at the place where the Register is located (in which case the Trustee must register such transfer or transmission application before 7:00pm on that day),

and the Trustee will not accept for registration, nor recognise for any purpose (including the purpose of establishing the persons who are Scheme Unit Holders) other than to transfer to Bidco pursuant to this clause 31 and any subsequent transfers by Bidco or its successors in title, any transfer or transmission application in respect of Units received after the Record Date, or received prior the Record Date but not in actionable or registrable form (as appropriate).

31.18 The Trustee will, until the Scheme Consideration has been provided and the name and address of Bidco have been entered in the Register as the holder of all of the Scheme Units, maintain, or procure the maintenance of, the Register in accordance with clauses 31.17 to 31.21. The Register immediately after registration of registrable transfers or transmission applications of the kind referred to in clause 31.17(b) will solely determine the persons who are Scheme Unit Holders and their entitlements to the Scheme Consideration. As from the Record Date (and other than for Bidco following the Implementation Date), each entry in the Register as at the Record Date relating to Scheme Units will cease to have any effect other than as evidence of the entitlements of Scheme Unit Holders to the Scheme Consideration in respect of the Scheme Units.

3.18A As soon as possible on or after the Record Date, and in any event within one Business Day after the Record Date, the Trustee will ensure that details of the names, Registered Addresses and holdings of Scheme Units for each Scheme Unit Holder as shown in the Register are available to Bidco in the form Bidco reasonably requires.

31.19 Other than Bidco and its successors in title (after registration of Bidco in respect of all Scheme Units under clause 31.16(d)), no Scheme Unit Holder (or any person purporting to claim through them) may deal with Scheme Units in any way after the Record Date except as set out in clauses 31.17 to 31.21, and any attempt to do so will have no effect.

- 31.20 Other than in respect of Bidco (after registration of Bidco in respect of all Scheme Units under clause 31.16(d)), from the Record Date, all certificates and holding statements (as applicable) for Scheme Units as at the Record Date will cease to have any effect as evidence of title, and each entry on the Register as at the Record Date will cease to have any effect other than as evidence of the entitlements of Scheme Unit Holders to the Scheme Consideration.
- 31.21 If the Scheme becomes Effective, each Scheme Unit Holder, and any person claiming through that Scheme Unit Holder, must not dispose of or purport or agree to dispose of any Scheme Units or any interest in them, after 5,00pm on the Record Date other than to Bidco in accordance with the Scheme and any subsequent transfers by Bidco and its successors in title.

Covenants by Members

31.23 Each Scheme Unit Holder :

- (c) acknowledges that this clause 31 binds the Trustee and all of the Members from time to time (including those who do not attend the Scheme Meeting, do not vote at the Scheme Meeting or vote against the Scheme Resolutions);
- (d) irrevocably agrees to the transfer of their Scheme Units, together with all rights and entitlements attaching to those Scheme Units, to Bidco in accordance with the terms of the Scheme, without the need for any further act by that Scheme Unit Holder;
- (e) agrees to the modification or variation (if any) of the rights attaching to their Scheme Units arising from this clause 31, without the need for any further act by that Scheme Unit Holder ;
- (f) irrevocably consents to the Trustee and Bidco doing all things and executing all deeds, instruments, transfers or other documents (including the Scheme Transfers) as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it, without the need for any further act by that Scheme Unit Holder; and
- (g) agrees to provide to the Trustee such information as the Trustee may reasonably require to comply with any law in respect of the Scheme and the transactions contemplated in this clause 31, including information required to meet obligations under the *Anti-Money Laundering and Counter Terrorism Financing Act 2006* (Cth).

Appointment of the Trustee as attorney and as agent for implementation of Scheme

- 31.24 Each Scheme Unit Holder, without the need for any further act by that Member, irrevocably appoints the Trustee as that Member's attorney and as that Member's agent for the purpose of:
- (a) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it, including effecting a valid transfer or transfers of the Scheme Units to Bidco under clause 31.16, including executing and delivering any Scheme Transfers; and
 - (b) enforcing the Bidco Deed Poll against Bidco,

and the Trustee accepts such appointment. The Trustee, as attorney and as agent of each Member, may sub-delegate its functions, authorities or powers under this clause 31.24 to all or any of its directors and officers (jointly, severally, or jointly and

severally). Each Member indemnifies the Trustee and each of its directors and officers against all losses, liabilities, charges, costs and expenses arising from the exercise of powers under this clause 31.24.

Appointment of Bidco as attorney and as agent for Scheme Units

31.25 From the time that Bidco has satisfied its obligations in clause 31.6 until Bidco is registered in the Register as the holder of all Scheme Units, each Scheme Unit Holder:

- (a) without the need for any further act by that Scheme Unit Holder, irrevocably appoints the Trustee as its attorney and as its agent (and directs the Trustee in such capacity) to irrevocably appoint Bidco as its sole proxy and, where applicable, corporate representative, for the purpose of:
 - (i) attending Member meetings;
 - (ii) exercising the votes attaching to the Units registered in the name of the Member in the Register; and
 - (iii) signing any Members' resolution;
- (b) must take all other action in the capacity of a Member for the purposes of facilitating the Scheme as Bidco reasonably directs; and
- (c) acknowledges and agrees that in exercising the powers referred to in article 31.25(a), Bidco and any person nominated by Bidco under clause 31.25(a) may act in the best interests of Bidco as the intended registered holder of the Scheme Units.

31.26 From the time that Bidco has satisfied its obligations in clause 31.6 until Bidco is registered in the Register as the holder of all Scheme Units, no Member may attend or vote at any meetings of Unit Holders or sign any Unit Holders' resolution (whether in person, by proxy or by corporate representative) other than under clause 31.25.

31.27 The Trustee undertakes in favour of each Member that it will appoint the Chairman of Bidco (or other nominee of Bidco) as the Members' proxy or, where applicable, corporate representative in accordance with clause 31.25.

Status of Scheme Units

31.28 To the extent permitted by law, the Scheme Units transferred to Bidco under clause 31.16 will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.

31.29 Each Scheme Unit Holder is deemed to have warranted to Bidco, and, to the extent enforceable, to have appointed and authorised the Trustee as that Scheme Unit holder's agent and attorney to warrant to Bidco, that all of their Scheme Unit rights and entitlements attaching to those Scheme Units will, at the time of the transfer of them to Bidco pursuant to the Scheme, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to sell and to transfer their Scheme Unit (together with any rights and entitlements attaching to those Scheme Units) to Bidco pursuant to the Scheme. The Trustee undertakes in favour of each Scheme Unit Holder that it will provide such warranty, to the extent enforceable, to Bidco on behalf of that Scheme Unit Holder.

- 31.30 Bidco will be beneficially entitled to the Scheme Units transferred to it under clause 31.16 pending registration by the Trustee of the name and Registered Address of Bidco in the Register as the holder of the Scheme Units.

Suspension and termination of quotation of Units

- 31.31 The Trustee must apply to ASX for suspension of trading of the Units on ASX with effect from the close of business on the Effective Date.
- 31.32 The Trustee must apply to ASX for termination of official quotation of the Units on ASX and the removal of the Trust from the official list of the ASX with effect from the Scheme Business Day immediately following the Implementation Date, or from such later date as may be determined by Bidco.

Lapsing

- 31.33 Clause 31 (except clause 31.9) will lapse and have no further force or effect if the Company Schemes (as defined in the Scheme Implementation Agreement) lapse in accordance with clause 2.2 of each of the Company Schemes.

Notices

- 31.34 Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to the Trustee, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at the Trust's registered office or by the Registry, as the case may be.

Costs and stamp duty

- 31.35 Subject to clause 31.36, each of Bidco and the Trustee will pay their share of the costs of the Scheme in accordance with the Scheme Implementation Agreement. The Trustee may pay or be reimbursed for such costs out of the Assets.
- 31.36 Bidco will pay all stamp duty (including fines, penalties and interest) payable on or in connection with the transfer by Scheme Unit Holders of the Scheme Units to Bidco pursuant to the Scheme.

Limitation of liability

- 31.37 Without limiting clause 18 but subject to the Corporations Act, the Trustee will not have any liability of any nature whatsoever to Members, beyond the extent to which the Trustee is actually indemnified out of the Assets, arising, directly or indirectly, from the Trustee doing or refraining from doing any act (including the execution of a document), matter or thing pursuant to or in connection with the implementation of the Scheme.

Schedule 4

Deed Poll

For personal use only

For personal use only

Deed Poll

Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia
T +61 2 9230 4000
F +61 2 9230 5333
www.allens.com.au

© Allens Australia 2017

Contents

1	Definitions and interpretation	1
1.1	Definitions	1
1.2	Interpretation	1
2	Nature of Deed Poll	1
3	Several obligations	2
4	Conditions precedent and termination	2
4.1	Conditions precedent	2
4.2	Termination	2
4.3	Consequences of termination	2
5	Schemes obligations of Bidco and Guarantors	2
6	Representations and warranties	3
7	Exculpation	3
8	Continuing obligations	3
9	Further assurances	3
10	General	4
10.1	Notices	4
10.2	No waiver	5
10.3	Remedies cumulative	5
10.4	Amendment	6
10.5	Assignment	6
10.6	Costs and duty	6
10.7	Governing law and jurisdiction	6
	Execution pages	7

This Deed Poll is made on

Parties

- 1 **CK William Australia Bidco Pty Ltd** (ACN 613 693 182) of c/o King & Wood Mallesons, Governor Phillip Tower, Level 61, 1 Farrer Place, Sydney NSW 2000 (**Bidco**).
- 2 **Cheung Kong Property Holdings Limited** of 7th Floor, Cheung Kong Center, 2 Queen's Road, Central, Hong Kong (**CKP**).
- 3 **Cheung Kong Infrastructure Holdings Limited** of 12/F Cheung Kong Center, 2 Queen's Rd, Central, Hong Kong (**CKI**).
- 4 **Power Assets Holdings Limited** of Rooms 1913-1914, 19/F Hutchison House, 10 Harcourt Road, Central, Hong Kong (**PAH**).

(CKP CKI and PAH are collectively the **Guarantors** and each a **Guarantor**).

In favour of

Each Scheme Participant

Recitals

- A Bidco, the Guarantors, DUET Company Limited (ACN 163 100 061), DUET Investment Holdings Limited (ACN 120 456 573) and DUET Finance Limited (ACN 108 014 062) (in its personal capacity and as responsible entity of the DUET Finance Trust (ARSN 109 363 135)), have entered into a Scheme Implementation Agreement dated [*] (the **SIA**).
- B DUET has agreed in the SIA to propose the Company Schemes and the Trust Scheme (collectively, the **Schemes**), pursuant to which, subject to the satisfaction or waiver of certain conditions precedent, Bidco will acquire all of the DUET Scheme Securities from Scheme Participants for the Scheme Consideration.
- C In accordance with the SIA, Bidco and each Guarantor is entering into this Deed Poll for the purpose of providing various covenants (acting severally in their Relevant Proportions) in favour of the Scheme Shareholders.

It is agreed as follows.

1 Definitions and interpretation

1.1 Definitions

Terms defined in the SIA have the same meaning in this Deed Poll, unless the context requires otherwise.

1.2 Interpretation

The provisions of clause 1.2 of the SIA form part of this Deed Poll as if set out in full in this Deed Poll, and on the basis that references to 'this Deed' in that clause are references to 'this Deed Poll'.

2 Nature of Deed Poll

Bidco and each Guarantor acknowledges that:

- (a) this Deed Poll may be relied on and enforced by any Scheme Participant in accordance with its terms, even though the Scheme Participants are not party to it; and

- (b) under each Scheme, each Scheme Participant appoints a DUET entity as its agent and attorney to enforce this Deed Poll against the Guarantors and Bidco on behalf of that Scheme Participants.

3 Several obligations

Notwithstanding anything else in this Deed Poll, each Guarantor's liability under this Deed Poll is several and is equal to its **Relevant Proportion** at any given time (being as set out in the second column of the table below) for all obligations and liabilities of the Guarantors under this Deed Poll.

Guarantor	Guarantor's Relevant Proportion
CKP	CKP's Relevant Proportion is 100% less CKI's Relevant Proportion less PAH's Relevant Proportion
CKI	CKI's Relevant Proportion is: <ul style="list-style-type: none"> if the Guarantor Shareholder Approvals with respect to CKP and CKI are obtained - such percentage as notified by CKP and CKI in writing to DUET; otherwise – 0%.
PAH	PAH's Relevant Proportion is: <ul style="list-style-type: none"> if the Guarantor Shareholder Approvals with respect to CKP and PAH are obtained - such percentage as notified by CKP and PAH in writing to DUET; otherwise – 0%.

4 Conditions precedent and termination

4.1 Conditions precedent

The obligations of Bidco and each Guarantor under this Deed Poll are subject to the Schemes becoming Effective.

4.2 Termination

If the SIA is terminated in accordance with its terms before the Effective Date or the Schemes lapse and become of no further force or effect or do not become Effective on or before the End Date, the obligations of Bidco and each Guarantor under this Deed Poll will automatically terminate and the terms of this Deed Poll will be of no further force or effect, unless DUET, Bidco and each Guarantor otherwise agree in writing.

4.3 Consequences of termination

If this Deed Poll is terminated under clause 4.2, then, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) Bidco and each Guarantor is released from its obligations under this Deed Poll, except those obligations under clause 10.6; and
- (b) each Scheme Participant retains any rights, powers or remedies that Scheme Participant has against Bidco and each Guarantor in respect of any breach of its obligations under this Deed Poll that occurred before termination of this Deed Poll.

5 Schemes obligations of Bidco and Guarantors

- (a) Bidco covenants in favour of each Scheme Participant that it will observe and perform all obligations contemplated of it under and in accordance with each Scheme, including the relevant obligations relating to the provision of the Scheme Consideration.

- (b) Each Guarantor severally covenants in its Relevant Proportion in favour of each Scheme Participant that it will procure that Bidco observes and performs all obligations contemplated of it under and in accordance with each Scheme, including the relevant obligations relating to the provision of the Scheme Consideration.

6 Representations and warranties

Bidco and each Guarantor makes the following representations and warranties with respect to itself only.

- (a) It is a corporation validly existing under the laws of its place of incorporation.
- (b) It has the power 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 the entry into this Deed Poll and has taken or will take all necessary corporate action to authorise the performance of this Deed Poll.
- (d) This Deed Poll is its valid and binding obligation enforceable in accordance with its terms.
- (e) The execution and performance by it of this Deed Poll and each transaction contemplated by this Deed Poll did not, and will not, violate in any respect a provision of:
 - (i) a law, judgment, ruling, order or decree binding on it;
 - (ii) its constitution; or
 - (iii) any other document or agreement that is binding on it or any of its Subsidiaries.

7 Exculpation

- (a) Subject to clause 7(b), if:
 - (i) a Guarantor provides Bidco with its Relevant Proportion of the funding necessary for Bidco to provide the Scheme Consideration to Scheme Participants; and
 - (ii) uses all reasonable endeavours to procure that Bidco complies with its obligations under this Deed Poll by exercising any rights available to it under the Consortium Arrangements,

then that Guarantor will have no further liability under this Deed Poll.

- (b) The Guarantors and Bidco agree that they will take all steps necessary to ensure that if any Guarantor contributes its Relevant Proportion of the funding necessary for Bidco to provide the Scheme Consideration to the Scheme Participants, then the amount contributed will be retained by Bidco until such time as Bidco has discharged in full its obligations in relation to the provision of the Scheme Consideration in accordance with each Scheme and this Deed Poll.

8 Continuing obligations

This Deed Poll is irrevocable and, subject to clause 4, remains in full force and effect until the earlier of:

- (a) Bidco and each Guarantor having fully performed its obligations under this Deed Poll; and
- (b) termination of this Deed Poll under clause 4.

9 Further assurances

Bidco and each Guarantor must, on its own behalf and, to the extent authorised by any of the Schemes, on behalf of each Scheme Participant, do all things and execute all deeds,

instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Deed Poll and the transactions contemplated by it.

10 General

10.1 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Deed Poll:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand, email or fax to the physical address, email address or fax number (as applicable) below or the physical address, email address or fax number (as applicable) last notified by the intended recipient to the sender:

(i) to Bidco: Address: c/o King & Wood Mallesons,
Governor Phillip Tower, Level 61, 1 Farrer
Place, Sydney NSW 2000
Email: David.Eliakim@au.kwm.com and
Louis.Chiam@au.kwm.com
Fax: +61 2 9296 3999
Attention: David Eliakim and Louis Chiam

(ii) to CKP: Address: 7th Floor, Cheung Kong Center,
2 Queen's Road, Central, Hong Kong
Email: N/A
Fax: +852 2128 8001
Attention: Company Secretary
With a copy (for information purposes) to
David.Eliakim@au.kwm.com and
Louis.Chiam@au.kwm.com (by email)

(iii) to CKI: Address: 12/F Cheung Kong Center, 2
Queen's Rd, Central, Hong Kong
Email: victor.luk@cki.com.hk
Fax: +852 2501 4550
Attention: Group General Counsel
With a copy (for information purposes) to
David.Eliakim@au.kwm.com and
Louis.Chiam@au.kwm.com (by email)

(iv) to PAH: Address: Rooms 1913-1914, 19/F
Hutchison House, 10 Harcourt Road,
Central, Hong Kong
Email: alexng@powerassets.com
Fax: +852 2503 5512

Attention: Group Legal Counsel and
Company Secretary

With a copy (for information purposes) to
David.Eliakim@au.kwm.com and
Louis.Chiam@au.kwm.com (by email)

- (c) will be conclusively taken to be duly given or made:
- (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by post, 3 Business Days after the date of posting (if posted to an address in the same country) or 7 Business Days after the date of posting (if posted to an address in another country);
 - (iii) in the case of delivery by email, the earlier of:
 - (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (B) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and
 - (C) two hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, during that two hour period, an automated message that the email has not been delivered; and
 - (iv) in the case of fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax number or name of recipient and indicating that the transmission has been made without error,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or at a time that is later than 5.00pm (in the place to which the Notice is sent), it will be conclusively taken to have been duly given or made at 9.00am (in the place to which the Notice is sent) on the next business day in that place.

10.2 No waiver

No failure to exercise nor any delay in exercising any right, power or remedy by Bidco or any Guarantor or by any Scheme Participant operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver of any right, power or remedy on one or more occasions does not operate as a waiver of that right, power or remedy on any other occasion, or of any other right, power or remedy. A waiver is not valid or binding on the person granting that waiver unless made in writing.

10.3 Remedies cumulative

The rights, powers and remedies of Bidco, each Guarantor and each Scheme Participant under this Deed Poll are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

10.4 Amendment

No amendment or variation of this Deed Poll is valid or binding unless:

- (a) either:
 - (i) before the Second Court Date, the amendment or variation is agreed to in writing by Bidco, each Guarantor and DUET (which such agreement may be given or withheld without reference to or approval by any DUET Securityholder); or
 - (ii) on or after the Second Court Date, the amendment or variation is agreed to in writing by Bidco, each Guarantor and DUET (which such agreement may be given or withheld without reference to or approval by any DUET Securityholder), and is approved by the Court; and
- (b) Bidco and each Guarantor enter into a further deed poll in favour of the Scheme Participants giving effect to that amendment or variation and in which, among other things and where applicable, each Guarantor's obligations will be several and in its Relevant Proportions.

10.5 Assignment

- (a) The rights and obligations of Bidco and each Guarantor and of each Scheme Participant under this Deed Poll are personal. They cannot be assigned, encumbered or otherwise dealt with at law and in equity and no person may attempt, or purport, to do so without the prior consent of Bidco, each Guarantor and DUET.
- (b) Any purported dealing in contravention of clause 10.5(a) is valid.

10.6 Costs and duty

- (a) Bidco and each Guarantor must bear their own costs arising out of the negotiation, preparation and execution of this Deed Poll.
- (b) Bidco must, and each Guarantor must procure that Bidco does:
 - (i) pay all duty (including stamp duty and any fines, penalties and interest) payable on or in connection with this Deed Poll and any instrument executed under or any transaction evidenced by this Deed Poll; and
 - (ii) indemnify each Scheme Participant on demand against any liability for that duty (including any related fines, penalties and interest).

10.7 Governing law and jurisdiction

- (a) This Deed Poll is governed by the laws of New South Wales.
- (b) Bidco and each Guarantor submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this Deed Poll.

Executed and delivered as a Deed.

Print Name

.....
Address of witness

SEALED with the COMMON SEAL of
**POWER ASSETS HOLDINGS
 LIMITED (電能實業有限公司)**
 and SIGNED by

and

duly authorised by resolution of
 directors in the presence of:

.....
 Signature of witness

.....
 Name of witness (block letters)

.....
 Address of witness

SEALED with the COMMON SEAL of
**CHEUNG KONG PROPERTY
 HOLDINGS LIMITED (長江實業地產有
 限公司)** a company incorporated in
 Cayman Islands, and SIGNED by

and

duly authorised by resolution of
 director(s) in the presence of / whose
 signature(s) is/are verified by:-

.....
 Signature of witness

.....
 Name of witness (block letters)

.....
 Address of witness

Execution pages**Executed as an agreement.**

Each attorney executing this Agreement states that he or she has no notice of revocation or suspension of his or her power of attorney.

Signed for DUET Investment Holdings Limited by its attorney under power of attorney in the presence of:



Witness Signature


Print Name





Attorney Signature

Leanne Pickering


Print Name

Signed for DUET Company Limited by its attorney under power of attorney in the presence of:



Witness Signature


Print Name



Attorney Signature

Leanne Pickering


Print Name

Signed for DUET Finance Limited in its personal capacity and as responsible entity of the DUET Finance Trust by its attorney under power of attorney in the presence of:



Witness Signature


Print Name



Attorney Signature

Leanne Pickering

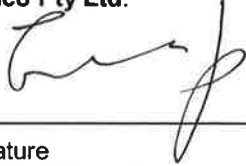
Print Name

For personal use only

Scheme Implementation Agreement

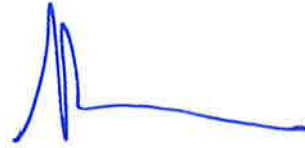
Allens < Linklaters

Executed in accordance with section 127 of
the *Corporations Act 2001* by **CK William
Australia Bidco Pty Ltd:**



Director Signature
Ip Tak Chuen, Edmond

Print Name



Director/Secretary Signature
Andrew John Hunter

Print Name

For personal use only

SIGNED AS AN AGREEMENT on)
behalf of **CHEUNG KONG PROPERTY**)
HOLDINGS LIMITED (長江實業地產有)
限公司) a company incorporated in)
Cayman Islands, and SIGNED by)
Kam Hing Lam)
and)
Ip Tak Chuen, Edmond)
duly authorised by resolution of)
director(s) in the presence of / whose)
signature(s) is/are verified by:-)




Signature of witness)
CHEUNG YUEN SANG)
Solicitor)
Hong Kong SAR)


Name of witness (block letters))

Address of witness)





SIGNED AS AN AGREEMENT on)
behalf of **CHEUNG KONG**)
INFRASTRUCTURE HOLDINGS)
LIMITED (長江基建集團有限公司))
a company incorporated in Bermuda,)
and **SIGNED** by)
Ip Tak Chuen, Edmond)
and)
Andrew John Hunter)
duly authorised by resolution of)
director(s) in the presence of / whose)
signature(s) is/are verified by:-)
Signature of witness)
LUK SAI HONG)
Solicitor, Hong Kong SAR)
Name of witness (block letters))
12/F Cheung Kong Center)
2 Queen's Road Central)
Hong Kong)
Address of witness)






EXECUTED AS AN AGREEMENT by
POWER ASSETS HOLDINGS
LIMITED (電能實業有限公司) in
accordance with section 127(3) of the
Companies Ordinance (Cap. 622 of the
Laws of Hong Kong) by authority of its
directors:


.....
Signature of director

Tsai Chao Chung, Charles
.....
Name of director (block letters)


.....
Signature of director

Wan Chi Tin
.....
Name of director (block letters)

For personal use only