

Execution version

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Infrastructure NSW

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CleanPeak Energy Pty Ltd

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# Green Products Purchase Agreement

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Date

17 NOVEMBER 2023

## Parties

**Infrastructure NSW** ABN 85 031 302 516 of AON Tower, Level 27, 201 Kent Street, Sydney NSW 2000 (**INSW**)

**CleanPeak Energy Pty Ltd** (ABN 85 169 761 648) of Level 12, 201 Miller Street, North Sydney NSW 2060 (**CPE**)

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## Background

- A The Seller will operate the Facilities, which generate electricity that result in the production of Green Products.
  - B INSW has conducted a tender process for the procurement of Green Products to assist it in complying with the carbon neutral certification and carbon accounting requirements of the Barangaroo Precinct in Sydney, Australia, and has accepted the Seller's response to the tender.
  - C The Seller has agreed to sell and Transfer Green Products to INSW and INSW has agreed to buy and accept the Transfer of such Green Products, on the terms of this document.
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## Agreed terms

### 1 Interpretation

#### 1.1 Definitions

In this document these terms have the following meanings:

<b>Act</b>	The <i>Renewable Energy (Electricity) Act 2000</i> (Cth), the <i>Renewable Energy (Electricity) Regulations 2001</i> (Cth), and any ancillary acts or regulations.
<b>Additional Facility</b>	The meaning given in <b>clause 3.8(a)</b> .
<b>Affected Facility</b>	The meaning given in <b>clause 10.4(a)</b> .
<b>Affected Party</b>	The meaning given in <b>clause 10.1(a)</b> .
<b>Annual Report</b>	The meaning given in <b>clause 7.1(a)(iii)</b> .
<b>Annual Shortfall</b>	In respect of a Year:

- (a) the Base Guaranteed Volume for that Year; less
- (b) the number of Green Products which were Transferred by the Seller to INSW in respect of that Year plus (if applicable) the number of Green Products acquired by INSW under **clause 3.4(b)(v)** in respect of that Year,

provided that if the above calculation in respect of a Year is a negative amount then it will be deemed to be zero.

<b>Anti-slavery Commissioner</b>	The Anti-slavery Commissioner appointed under the <i>Modern Slavery Act 2018</i> (NSW).
<b>Applicable Law</b>	The Act, and any other legislation, rules, regulations, codes, directives, plans, policies, licence conditions and other regulatory instruments which are directly or indirectly binding on or are expressed to apply to INSW or the Seller (as applicable), and which relate to the making, measurement, verification, calculation and/or transfer of Green Products, or any other thing contemplated under this document.
<b>Assignment Date</b>	The date specified in a Deed of Assignment and Assumption or a Deed of Assignment and Assumption [REDACTED] as applicable.
<b>Authorisation</b>	<ul style="list-style-type: none"><li>(a) Any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, declaration, permit, ruling, statutory required policy of insurance, authority or exemption from (and any renewal or variation of any of them), by or with an Authority, including any plans, strategies or protocols required to be approved and implemented under any such Authorisation; or</li><li>(b) in relation to anything which will be fully or partly prohibited or restricted by law if an Authority intervenes or acts in a way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.</li></ul>
<b>Authority</b>	Any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.
<b>Base Guaranteed Volume</b>	The number of Green Products for the relevant Year determined in accordance with <b>item 4</b> of <b>schedule 1</b> , as may be adjusted under this document.
<b>Business Day</b>	A day which is not a Saturday, Sunday or bank or public holiday in Sydney.

**Change of Ownership**

- (a) In the case of CPE, where CPE comes under the Control of a third party who did not Control CPE as at the Execution Date.
- (b) In the case of an entity other than CPE, ██████████ or INSW, where that entity ceases to be a Wholly Owned Subsidiary of CPE.
- (c) In the case of ██████████ where ██████████ ██████████ ██████████ ██████████ ██████████
- (d) In the case of ██████████ where ██████████ comes under the Control of a third party who did not Control ██████████ as at the Execution Date

**Claims**

All claims, demands, actions, disputes and proceedings whether arising in contract, tort (including breach of statutory duty and negligence), equity or otherwise.

**Commercial Operation**

In respect of a Facility, the stage in the progress of the construction, commissioning and development of that Facility when:

- (a) a certificate has been issued under an engineering, procurement and construction contract (or equivalent) for that Facility stating that the Facility has reached 'practical completion' (or equivalent) such that the Facility is ready to operate and generate electricity capable of creating Green Products; and
- (b) that Facility is an Eligible Facility.

**Commercial Operation Date**

In respect of a Facility, the date that Commercial Operation occurs in respect of that Facility.

**Commencement Date**

The date when all of the Conditions have been satisfied or waived.

**Conditions**

The conditions precedent listed in **schedule 2**.

**Consequential Loss**

Any:

- (a) special, indirect or consequential loss;
- (b) economic loss in respect of any claim in tort;
- (c) any loss of profits, loss of production, loss of revenue, loss of use, loss of contract, loss of goodwill, loss of opportunity, loss of reputation or wasted overheads whatsoever; and
- (d) loss arising out of any claim by a third party, but excluding:



- (e) a loss (including a loss arising out of a claim by a third party) in respect of:
  - (i) the cost of repairing, replacing or reinstating any real or personal property of any person (including a Party) that has been lost, damaged or destroyed; or
  - (ii) personal injury to or death of any person;
- (f) in respect of any personal injury claim, special loss or economic loss as those terms are used in the context of personal injury claims; or
- (g) a loss which is to be compensated by a liquidated amount payable under this document, including any amounts referred to in **clauses 16.1(b)** and **16.1(c)**; or
- (h) events or circumstances in respect of which insurance proceeds:
  - (i) are received under insurances required by this document or otherwise required at law in relation to that event or circumstance; or
  - (ii) would have been received under insurances required by this document in relation to that event or circumstance but for a failure by the Seller to effect or maintain the insurances under this document or otherwise required at law.

**Construction  
Facility Approvals  
and Agreements**

In respect of a Facility:

- (a) the development consent for the Facility under the *Environmental Planning and Assessment Act 1979* (NSW) and any such other development or planning Authorisation, in each case, as may be required in order to construct the Facility;
- (b) the agreements for the construction and commissioning of the Facility;
- (c) the connection agreement for the Facility; and
- (d) evidence that sufficient land tenure arrangements have been secured for the Facility.

**Continuing Party**

The meaning given in **clause 15.1**.

**Control**

The meaning given in the Corporations Act.

**Corporations Act**

*Corporations Act 2001* (Cth).

**CP Sunset Date**

The date specified in **item 2 of schedule 1**.

**CP Termination**

The amount specified in **item 8 of schedule 1**.

**Amount**

[REDACTED]

**Credit Support**

The meaning given in **clause 12.1**.

**Credit Support Amount**

The meaning given in **item 7 of schedule 1**.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Cure Period**

The meaning given in **clause 14.1(a)(ii)**.

**Cure Plan**

The meaning given in **clauses 3.3(a)(i) or 3.6(a)(i)(A)** (as applicable).

**Deed of Assignment and Assumption**

A deed in the form set out in **annexure A**.

**Deed of Assignment and Assumption**

A deed in the form set out in **annexure B**.

[REDACTED]

**Default**

A Performance Default or Financial Default (as applicable). For the avoidance of doubt, where the Seller is comprised of more than one Party, a Default of one Party comprising the Seller is deemed to be a Default of all of the Parties comprising the Seller.

**Default Rate**

In relation to a particular day, means the Interest Rate plus 2%.

**Defaulting Party**

The meaning given in **clause 14.1(a)**.

**Disclosing Party**

The meaning given in **clause 17.1**.

**Dispute**

Any dispute, controversy or claim arising out of or in any way connected with or relating to this document. Disputed has a corresponding meaning.

**Disputing Party**

The meaning given in **clause 18.1(a)**.

**Early Termination Payment**

The Non-Liable Party's determination, acting reasonably, of the net present value of the amount of the Non-Liable Party's losses and costs that are, or would be, incurred under then prevailing circumstances in replacing, or in providing to that Non-Liable Party the economic equivalent

of, the material terms of this document, including the payments and deliveries by the Parties under this document in respect of LGCs or other Green Products that would, but for the termination, have been required after the effective date of the termination, provided that if the amount determined is zero or a negative number, the Early Termination Payment will be zero.

**Eligible Facility**


A New South Wales-located solar, solar thermal, (excluding in either case, any rooftop solar) and/or wind generating facility, or any of the former where they are also paired with a battery energy storage system, and which is:

- (a) where the Green Products to be Transferred are LGCs, accredited as an 'accredited power station' under the Act, and eligible to create and register LGCs under the RET Scheme;
- (b) where the Green Products to be Transferred are not LGCs, accredited appropriately under any relevant Green Product Scheme to create and transfer the relevant Green Products;
- (c) connected to the interconnected national electricity system (as defined in the National Electricity Law); and
- (d) able to generate and export electricity to the interconnected national electricity system (as defined in the National Electricity Law).

**Eligible NEM Facility**

A solar, solar thermal, (excluding in either case, any rooftop solar) and/or wind generating facility, or any of the former where they are also paired with a battery energy storage system, and which is:

- (a) where the Green Products to be Transferred are LGCs, accredited as an 'accredited power station' under the Act, and eligible to create and register LGCs under the RET Scheme;
- (b) where the Green Products to be Transferred are not LGCs, accredited appropriately under any relevant Green Product Scheme to create and transfer the relevant Green Products;
- (c) connected to the interconnected national electricity system (as defined in the National Electricity Law); and

	(d) able to generate and export electricity to the interconnected national electricity system (as defined in the National Electricity Law).
<b>Encumbrance</b>	Any interest in or right over property and anything which would at any time prevent, restrict or delay the registration of any interest in or dealing with property. It includes a Security Interest. <b>Encumber</b> has a corresponding meaning.
<b>Excluded Facility</b>	Either:  (a) an Undelivered Facility which the Seller has nominated to be an Excluded Facility in accordance with <b>clause 3.7(a)</b> ; or  (b) a Proposed Excluded Facility which INSW has nominated to be an Excluded Facility in accordance with <b>clause 10.4(c)</b> ,  (as the case may be).
<b>Excluded Facility Intention Notice</b>	The meaning given in <b>clause 10.4(a)</b> .
<b>Excluded Facility Removal Period</b>	The meaning given in <b>clause 3.7(b)</b> or <b>10.4(f)</b> (as applicable).
<b>Execution Date</b>	The date of this document.
<b>Expert</b>	A person to whom a Dispute has been referred under <b>clause 18.2</b> .
<b>Expiry Date</b>	The date that is 25 years after the Supply Start Date.
<b>F2-F4 Final COD Sunset Date</b>	
<b>Facility</b>	Each:  (a) Initial Facility; and  (b) Additional Facility.
<b>Facility Approvals and Agreements</b>	In respect of a Facility, all:  (a) Construction Facility Approvals and Agreements; and  (b) approvals required by an Authority or an Applicable Law that are necessary to be entered into or obtained in order to connect that Facility to the interconnected national electricity system (as defined in the National Electricity Law).
<b>Facility Compensation Payment</b>	In respect of an Excluded Facility, INSW's determination, acting reasonably, of the net present value of the amount of INSW's losses and costs that are, or would be, incurred under then prevailing circumstances in replacing, or in

providing to INSW the economic equivalent of, the material terms of this document to the extent it relates to the reductions to the Base Guaranteed Volume in accordance with **clause 3.7(b)(ii)** and the Excluded Facility, including the payments and deliveries by the Seller under this document in respect of LGCs or other Green Products that would, but for:

- (a) the reductions to the Base Guaranteed Volume in accordance with **clause 3.7(b)(ii)**; and
- (b) the Excluded Facility ceasing to be a Facility for all purposes under this document,

have been required over the Excluded Facility Removal Period, provided that if the amount determined is zero or a negative number, the Facility Compensation Payment in respect of that Excluded Facility will be zero.

**Facility Name** The meaning given in **clause 19.3(a)**.

**Financial Close** In respect of a Facility, when:

- (a) the Seller has secured the equity and, if applicable, debt financing that is required to fund the construction and commissioning of that Facility; and
- (b) all conditions precedent to first draw down of equity and/or debt financing (if applicable) have been satisfied or waived and first draw down is made available for the purpose of constructing and commissioning that Facility.

**Financial Cure Period** The meaning given in **clause 14.1(a)(i)**.

**Financial Default** Either of:

- (a) a failure by a Party to pay an amount due to be paid to the other Party under this document within the time period specified for payment; and
- (b) a failure to provide and maintain Credit Support as required under this document.

For the avoidance of doubt, where the Seller is comprised of more than one Party, a Financial Default of one Party comprising the Seller is deemed to be a Financial Default of all of the Parties comprising the Seller.

**Force Majeure** The meaning given in **clause 10.1(a)**.

**Force Majeure Event** An event or circumstance beyond the Affected Party's reasonable control and which the Affected Party could not have prevented through the exercise of reasonable care or

applying Good Electricity Industry Practice, including:

- (a) any event or circumstance occasioned by or in consequence of any acts of God, acts of public enemy, wars, terrorism, blockades, insurrections, riots, rebellion, epidemics, pandemics, landslips, landslides, lightning strike which damages plant or materials, earthquakes, fires, cyclones, floods, typhoons, geomagnetically induced currents, arrests, restraints of rulers and civil war;
- (b) the binding order or directive of any court, tribunal or Authority by reason of any cause beyond the control of the Affected Party and which does not arise from a breach of this document by the Affected Party;
- (c) strikes, lockouts and other labour disputes other than those solely involving the employees (or employees of contractors and sub-contractors) of the Affected Party; and
- (d) acts or omissions by a third party beyond the control of the Affected Party and its Related Entities, including an Authority,

but excluding in all cases the following events or circumstances:

- (e) any change in Applicable Law that occurs after the Execution Date (including where such change imposes an increased financial burden on the Affected Party);
- (f) any event or circumstance which existed as at the Execution Date occasioned by or in consequence of the human coronavirus named by the World Health Organisation as COVID-19;
- (g) a Registration Disruption Event;
- (h) financial hardship or the inability of the Affected Party, and/or any Related Entity of the Party, to make a profit or achieve a satisfactory rate of return resulting from performance or failure to perform its obligations under this document;
- (i) in the case of the Seller as the Affected Party, loss of market or market share, loss of customers, reduction in the demand for, or any changes in market conditions for the sale or marketing of, any product produced from any Facility;

- (j) in the case of the Seller and/or any Related Entity of the Seller, a failure or inability to secure or maintain financing or insurance in respect of any Facility;
- (k) a lack of resources (including wind or solar) required to generate electricity from any Facility; and
- (l) the failure of a supplier of goods or services to the Seller in supplying those goods or services, unless that failure to supply is due to what would have been a Force Majeure Event, if this definition is applied in the case of the supplier of the goods or services.

For the avoidance of doubt:

- (m) where the Affected Party is the Seller and the Seller is comprised of more than one Party, this definition applies to each Party comprising the Seller with all necessary changes; and
- (n) any delay caused by an Authority (including the Australian Energy Regulator or the Australian Energy Market Operator) or a network service provider in relation to the connection of any Facility to any network to which any Facility is or proposes to be connected will not constitute a Force Majeure Event where it has been contributed to by any acts or omissions of the Seller or could have been prevented by the Seller through the exercise of reasonable care or applying Good Electricity Industry Practice.

<b>Fund</b>	A trust, a partnership, a body corporate or similar vehicle that is used for collective investment by investors or members.
<b>GIPA Act</b>	<i>Government Information (Public Access) Act 2009</i> (NSW).
<b>Good Electricity Industry Practice</b>	The meaning given to “ <i>good electricity industry practice</i> ” under the National Electricity Rules (as made under section 90(1) of the National Electricity Law), as amended from time to time.
<b>Green Product</b>	Subject to <b>clause 1.3</b> , any emissions, air quality or other environmental attribute, aspect, characteristic, claim, credit, unit, entitlement, benefit, reduction, offset, certificate (including LGCs and guarantee of origin certificates), instrument, right or allowance of any kind, howsoever entitled, designated or described, that is recognised or arises under a Green Product Scheme, in each case resulting from, attributable to, associated with or able to be created in respect of the zero emissions attributes of the electricity generated by an Eligible Facility or, where it is

	expressly permitted by this document, an Eligible NEM Facility, and which is capable of being measured, created and transferred to INSW.
<b>Green Product Scheme</b>	Any scheme, law, policy, standard, program or other arrangement, whether legislation-based, regulated by an Authority or voluntary, and that provides for the recognition or creation of a Green Product, including the RET Scheme.
<b>Green Product Unit Price</b>	The meaning given in <b>item 6 of schedule 1</b> .
<b>Green Product Year</b>	The calendar year corresponding to the relevant Quarter.
<b>Grievance Mechanism</b>	A process for handling a complaint or grievance about Modern Slavery practices that is consistent with the criteria set out in the United Nations' Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework (available, as at the Execution Date, at <a href="https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf">https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf</a> ).
<b>Independent Auditor</b>	The meaning given in <b>clause 7.6(a)</b> .
<b>Initial Facility</b>	Each of the Facilities described in <b>item 1 of schedule 1</b> .
<b>Insolvent Party</b>	The meaning given in <b>clause 14.2</b> .
<b>Insolvency Event</b>	In respect of a Party, any of the following events: <ul style="list-style-type: none"><li>(a) an administrator is appointed or a resolution is passed or any steps are taken to appoint, or to pass a resolution to appoint an administrator to that Party;</li><li>(b) a receiver, receiver manager, official manager, trustee, administrator, other controller (as defined in the Corporations Act) or similar officer is appointed over the assets or undertakings of that Party;</li><li>(c) that Party enters into or proposes to enter into any arrangement, composition or compromise with or assignment for the benefit of, its creditors or a class of them;</li><li>(d) that Party is deemed by the provisions of the Corporations Act to be insolvent;</li><li>(e) an application is made to a court for the winding up of that Party and not stayed within 14 days or a winding up order is made in respect of that Party;</li></ul>



- (f) that Party is unable to pay their debts as and when they fall due; or
- (g) anything occurs that has a substantially similar effect to any of the events set out in paragraphs (a) to (f) above,

provided that, where the Seller is comprised of more than one Party, any of the above events affecting any Party comprising the Seller is deemed to be an event affecting each of the Parties comprising the Seller.

**INSW Exclusive  
Green Volume  
(Actual)**

The meaning given in **clause 8(c)(iii)(A)**.

**INSW Exclusive  
Green Volume  
(Contracted)**

The meaning given in **clause 8(c)(i)**.

**Interest Rate**

In relation to a particular day, means:

- (a) the Overdraft Index Rate applied that day by the Commonwealth Bank of Australia ACN 123 123 124 (which rate is published at <https://www.commbank.com.au/business/loans-and-finance/business-overdraft.html> as at the Execution Date); or
- (b) if the Commonwealth Bank of Australia stops publishing that rate, the equivalent rate used on that day at which it lends money to its corporate customers.

**LGC**

A large-scale generation certificate which is:

- (a) created under Part 2, Division 4, Subdivision A of the Act;
- (b) registered under Part 2, Division 5 of the Act; and
- (c) transferable under Part 2, Division 6 of the Act,

and including certificates which are to be treated as large-scale generation certificates under any transitional provisions of the Act which may be applicable.

**Liable Party**

The meaning given in **clause 14.5(a)**.

**Listed Entity**

An entity listed on the Australian Stock Exchange.

**Longstop Date**

The date that is six months after:

- (a) in respect of the Nominated First Facility, the Sunset Date; or

	<p>(b) in respect of an Undelivered Facility, the F2-F4 Final COD Sunset Date,</p> <p>as applicable.</p>
<b>Milestone Schedule</b>	<p>In respect of a Facility, the milestone schedule set out in <b>schedule 5</b> for the construction and commissioning of that Facility (to the point in time that Facility achieves Commercial Operation).</p>
<b>Modern Slavery</b>	<p>The meaning given in the Modern Slavery Laws and includes slavery, servitude, forced labour, human trafficking, debt bondage, organ trafficking, forced marriage and the exploitation of children.</p>
<b>Modern Slavery Information</b>	<p>Information provided to INSW in relation to Modern Slavery, which may include (as applicable) information about:</p> <ul style="list-style-type: none"><li>(a) any risks of, actual or suspected occurrences of, and/or remedial action taken in respect of, Modern Slavery;</li><li>(b) Modern Slavery policies and due diligence frameworks;</li><li>(c) Modern Slavery training programs;</li><li>(d) the Seller's engagement with its supply chain and/or subcontractors in relation to Modern Slavery;</li><li>(e) Modern Slavery audits (including any independent audit of the Seller or its owned or controlled entities) and factory inspections; and</li><li>(f) the source, place and country of origin of goods and services being supplied,</li></ul> <p>but excludes "personal information" as defined in the <i>Privacy and Personal Information Protection Act 1998</i> (NSW) or information which tends to identify individuals.</p>
<b>Modern Slavery Laws</b>	<p>The <i>Modern Slavery Act 2018</i> (NSW) and the <i>Modern Slavery Act 2018</i> (Cth) (as applicable).</p>
<b>Modern Slavery Policy</b>	<p>The Seller's policy in relation to Modern Slavery, as amended from time to time. A copy of this document as at the Execution Date is included in <b>schedule 7</b>.</p>
<b>Monthly Construction Meeting</b>	<p>The meaning given in <b>clause 3.1(c)</b>.</p>
<b>MWh</b>	<p>Megawatt hour.</p>
<b>National Electricity Law</b>	<p>The <i>National Electricity Law</i> as contained in the Schedule to the <i>National Electricity (South Australia) Act 1996</i> (SA), as it</p>

applies to New South Wales.

<b>National Electricity Rules</b>	The <i>National Electricity Rules</i> made under the National Electricity Law, as apply in New South Wales.
<b>New Credit Support</b>	The meaning given in <b>clause 12.8(a)</b> .
<b>Nominal Facility Volume</b>	<p>Unless otherwise agreed between the Parties, for an Excluded Facility for a Quarter, the amount calculated as follows:</p> $\mathbf{NFV} = F_Q \times \frac{1}{4} \times \mathbf{BGV}$ <p>where:</p> <p><b>NFV</b> is the Nominal Facility Volume for the relevant Excluded Facility for the relevant Quarter;</p> <p><b>F<sub>Q</sub></b> is:</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p><b>BGV</b> is the Base Guaranteed Volume for the Year in which the relevant Quarter occurs.</p>
<b>Nominated First Facility</b>	Subject to <b>clause 3.5</b> , the Initial Facility described in <b>item 1(a)</b> of <b>schedule 1</b> .
<b>Non-Defaulting Party</b>	If the Defaulting Party is: <ul style="list-style-type: none"><li>(a) the Seller (including a Party comprising the Seller), INSW;</li><li>(b) INSW, the Seller.</li></ul>
<b>Non-Exclusive Shortfall Quarter</b>	A Quarter where: <ul style="list-style-type: none"><li>(a) a Shortfall has occurred in respect of that Quarter (regardless of whether the Seller has complied with its obligations under <b>clause 6.1(c)</b> in respect of any such Shortfall); and</li><li>(b) the Seller has transferred to a third party any Green Products created in respect of electricity generated at any Facility during that Quarter.</li></ul>
<b>Non-Liable Party</b>	The meaning given in <b>clause 14.5(a)</b> .
<b>Non-NSW Green Products Cap</b>	Subject to <b>clause 6.4(b)</b> , for a Year, the “Non-NSW Green Products Cap” determined in accordance with <b>clause 6.4(a)</b> for that Year.

<b>Other Non-FM Party</b>	The meaning given in <b>clause 14.5(a)</b> .
<b>Participation Plans</b>	The agreed plans in respect of the Seller's commitments to aboriginal participation, local participation, small and medium enterprise content and sustainability outcomes in the development and operation of the Facilities and its performance of this document, as set out in <b>schedule 6</b> .
<b>Parties</b>	The parties to this document.
<b>Party</b>	A party to this document.
<b>Payee</b>	The meaning given in <b>clause 11.1(a)</b> or <b>11.1(b)</b> (as applicable).
<b>Payor</b>	The meaning given in <b>clause 11.1(a)</b> or <b>11.1(b)</b> (as applicable).
<b>Performance Default</b>	A failure by a Party to comply with its obligations under this document, but excluding any failure that would constitute a Financial Default. For the avoidance of doubt, where the Seller is comprised of more than one Party, a Performance Default of one Party comprising the Seller is deemed to be a Performance Default of all of the Parties comprising the Seller.
<b>Personnel</b>	Any directors, officers, employees, consultants, contractors, agents and other advisers of a Party, other than in the case of the Personnel of:  (a) INSW, any directors, officers, employees, consultants, contractors, agents and other advisers of a Party comprising the Seller; and  (b) a Party comprising the Seller, any directors, officers, employees, consultants, contractors, agents and other advisers of INSW.
<b>Post Sunset Date Quarter</b>	The meaning given in <b>clause 3.4(b)(i)</b> .
<b>PPSA</b>	<i>Personal Property Securities Act 2009 (Cth)</i> .
<b>Proposed Excluded Facility Quarter</b>	The meaning given in <b>clause 10.4(a)</b> .  Each of the following periods in any given calendar year:  (a) 1 January to 31 March;  (b) 1 April to 30 June;  (c) 1 July to 30 September; and  (d) 1 October to 31 December.

<b>Quarterly Report</b>	The meaning given in <b>clause 7.1(a)(ii)</b> .
<b>Quarterly Volume</b>	The number of Green Products for the relevant Quarter determined in accordance with <b>item 5</b> of <b>schedule 1</b> , as may be adjusted under this document.
<b>Quarterly Catch-Up Amount</b>	The meaning given in <b>clause 6.1(a)</b> .
<b>Recipient</b>	The meaning given in <b>clause 17.1</b> .
<b>Recipient Party</b>	The meaning given in <b>clause 18.1</b> .
<b>Register Account</b>	An account in the register of large-scale generation certificates maintained by the Regulator in accordance with the Act.
<b>Registration Disruption Event</b>	<p>(a) In relation to LGCs, an event beyond the control of the Seller (including any Party comprising the Seller) which results in LGCs being incapable of Transfer under the Act on the Transfer Date.</p> <p>(b) In relation to Green Products other than LGCs, an event beyond the control of the Seller (including any Party comprising the Seller) which results in the relevant Green Product being incapable of transfer under any applicable Green Product Scheme on the Transfer Date.</p>
<b>Regulator</b>	The Regulator under the Act, being the Clean Energy Regulator as at the Execution Date.
<b>Related Body Corporate</b>	The meaning given in the Corporations Act, even if such an entity would not normally be subject to the Corporations Act.
<b>Related Entity</b>	<p>In respect of a Party, each of the following:</p> <p>(a) a Related Body Corporate of that Party; and</p> <p>(b) in the case of the Seller (and any Party comprising the Seller) a related body corporate (as defined in the Corporations Act) of the Seller (and any Party comprising the Seller) but on the basis that:</p> <p>(i) a “body corporate” includes a Fund; and</p> <p>(ii) a “subsidiary” is a Subsidiary as defined in this document.</p>
<b>Replacement Nominated First Facility</b>	The meaning given in <b>clause 3.5(a)</b> .
<b>Replacement Product</b>	The meaning given in <b>clause 8(a)</b> .

<b>Reporting Amendments</b>	The meaning given in <b>clause 7.5(b)</b> .
<b>Representatives</b>	The meaning given in <b>clause 18.1(a)</b> .
<b>Required Amendments</b>	The meaning given in <b>clause 8(b)(iv)</b> .
<b>Required Information</b>	The meaning given in <b>clause 7.1(b)</b> .
<b>Required Insurances</b>	The meaning given in <b>clause 13.1</b> .
<b>RET Scheme</b>	The scheme established under the Act for the creation, transfer, and registration of LGCs.
<b>RET Scheme Termination Event</b>	The meaning given in <b>clause 8(a)</b> .
<b>Sanctioned Person</b>	A person that: <ul style="list-style-type: none"><li>(a) is the subject of Sanctions;</li><li>(b) operates, is organised or is resident in a country the subject of Sanctions; or</li><li>(c) is owned or Controlled by, or acts for or on behalf of, a person described in paragraph (a) or (b).</li></ul>
<b>Sanctions</b>	Any law, regulation or order made by an Authority of Australia, the United States of America, the United Kingdom of Great Britain, the European Union or the United Nations that imposes economic, financial or trade sanctions on or in respect of certain persons, areas, industries or technologies.
<b>Security Interest</b>	A security interest under the PPSA, a mortgage, charge, lien or pledge and any interest or right which secures the payment of a debt or other monetary obligation or the compliance with any other obligation. It includes any retention of title to any property and any right to set off or withhold payment of any deposit or other money.
<b>Seller</b>	Subject to <b>clause 15.4</b> , CPE.
<b>Seller Commercially Sensitive Information</b>	The meaning given in <b>clause 7.3(b)</b> .
<b>Seller Trust</b>	The meaning given in <b>clause 22.2(a)</b> .
<b>Seller Trust Deed</b>	The meaning given in <b>clause 22.2(a)</b> .



<b>Wholly Owned Subsidiary</b>	<p>In relation to a person (<b>first mentioned body</b>), a Subsidiary of that first mentioned body where all of the members or beneficial interest holders of the Subsidiary comprise:</p> <ul style="list-style-type: none"><li>(a) the first mentioned body; and/or</li><li>(b) another Wholly Owned Subsidiary of that first mentioned body.</li></ul>
<b>Year</b>	<p>Each of the following periods:</p> <ul style="list-style-type: none"><li>(a) from the Supply Start Date to the immediately following 30 June;</li><li>(b) each subsequent period of 12 months until the 30 June immediately preceding the Expiry Date; and</li><li>(c) from 1 July immediately preceding the Expiry Date to the Expiry Date,</li></ul> <p>as applicable.</p>

## 1.2 Construction

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) 'includes' means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a Party merely because that Party put forward the clause or would otherwise benefit from it;
- (f) a reference to:
  - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
  - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
  - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
  - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
  - (v) a right includes a benefit, remedy, discretion or power;
  - (vi) time is to local time in Sydney;



- (vii) '\$' or 'dollars' is a reference to Australian currency;
  - (viii) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the Parties;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions;
  - (x) this document includes all schedules and annexures to it; and
  - (xi) a clause, schedule or annexure is a reference to a clause, schedule or annexure, as the case may be, of this document;
- (g) if the date on or by which any act must be done under this document is not a Business Day, the act must be done on or by the next Business Day; and
- (h) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

### **1.3 References to Green Products**

Unless expressly stated otherwise, any reference to a "Green Product" in this document is a reference to a "LGC" until such time as INSW nominates a Replacement Product in accordance with **clause 8**, whereupon any such reference will be a reference to the Replacement Product nominated by INSW unless otherwise agreed or determined in accordance with **clause 8(b)(iv)**. However, this does not apply in relation to any reference to a "Green Product" in:

- (a) the definitions of "Applicable Law", "Eligible Facility", "Eligible NEM Facility" and "Green Product Scheme" in **clause 1.1**;
- (b) **clauses 4.6, 7.1(a)(i)(A), 8 and 9**;
- (c) **items 4 and 5 of schedule 1**; and
- (d) **item (a)(ii) of part B of schedule 3**.

### **1.4 Headings**

Headings do not affect the interpretation of this document.

## **2 Term and Supply Start Date**

### **2.1 Term**

Subject to **clause 2.2**, this document commences on the Execution Date and expires on the Expiry Date (**Term**).

### **2.2 Commencement Date**

- (a) Subject to **clause 2.2(f)**, this document will not take effect or bind the Parties unless and until the Commencement Date has occurred.

- (b) The Seller must:
  - (i) use its reasonable endeavours to satisfy the Conditions as soon as reasonably possible after the Execution Date (but in any event by no later than the CP Sunset Date); and
  - (ii) notify INSW in writing when it has satisfied each Condition, and provide evidence of such satisfaction (if requested by INSW).
- (c) A Condition may only be waived by the written agreement of INSW and the Seller.
- (d) If any Condition has not been satisfied or waived by the CP Sunset Date or the Seller fails to comply with **clause 2.3(a)**, INSW may terminate this document with immediate effect by written notice to the Seller. The Seller must pay to INSW the CP Termination Amount within 5 Business Days after such termination as compensation for the cost to INSW of undertaking a procurement process for a Green Products purchase agreement to replace this document.
- (e) The Parties acknowledge and agree that the CP Termination Amount:
  - (i) is a genuine pre-estimate of the loss, cost, expense and damage to INSW in the circumstances in which it is payable;
  - (ii) constitutes not more than fair and reasonable compensation for the damage which INSW will bear upon the occurrence of such circumstances; and
  - (iii) protects a legitimate commercial interest of INSW for the occurrence of such circumstances.
- (f) Notwithstanding **clause 2.2(a)**, this **clause 2.2** and **clauses 1, 2.1, 2.3, 7.3, 8, 11, 12** (other than **clause 12.3**), **13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24** and **25** take effect and bind the Parties on and from the Execution Date.

## **2.3 Provision of Credit Support**

- (a) The Seller must provide the Credit Support to INSW within 5 Business Days after the Execution Date.
- (b) INSW may call on the Credit Support where INSW terminates this document under **clause 2.2(d)**, for the full amount of the CP Termination Amount.

# **3 Commercial Operation and Supply Start Date**

## **3.1 Obligation to achieve Commercial Operation**

In respect of each Facility:

- (a) the Seller must construct and commission the Facility to achieve Commercial Operation for the Facility:

- (i) with all due diligence;
- (ii) in accordance with Good Electricity Industry Practice and all Applicable Laws and all applicable Authorisations; and
- (iii) by, if the Facility is:
  - (A) the Nominated First Facility, the Supply Start Date; and
  - (B) an Initial Facility (other than the Nominated First Facility), the F2-F4 Final COD Sunset Date;
- (b) the Seller must obtain or execute all Construction Facility Approvals and Agreements for the Facility before commencing construction of the Facility;
- (c) until Commercial Operation for the Facility is achieved, the Seller must, within 15 Business Days after the end of each month (including the month in which Commercial Operation is achieved), meet with INSW to update and keep INSW advised on the progress being made towards achieving Commercial Operation in respect of the Facility (**Monthly Construction Meeting**). The Monthly Construction Meeting must be attended by the Seller's project manager for the Facility, or a suitably-qualified and informed alternative representative of the Seller, (acceptable to INSW, acting reasonably) to brief INSW on, and answer INSW's questions in respect of, the progress of construction and commissioning of the Facility, the likely date for achieving Commercial Operation for the Facility and the information identified in **part A of schedule 3** for the Facility; and
- (d) when Commercial Operation occurs in respect of the Facility, the Seller must notify INSW:
  - (i) that Commercial Operation of the Facility has occurred; and
  - (ii) of the date that is the Commercial Operation Date for the Facility, within 20 Business Days after the Commercial Operation Date for the Facility.

### **3.2 Extension of Supply Start Date**

- (a) The Supply Start Date may only be extended under this document in accordance with this **clause 3.2**.
- (b) Subject to **clause 3.2(h)**, the Seller is entitled to an extension of time to the Supply Start Date if and to the extent that achieving Commercial Operation of the Nominated First Facility by the Supply Start Date is or will be delayed by a Force Majeure Event affecting the Seller.
- (c) If the Seller considers that a cause under **clause 3.2(b)** has arisen, the Seller must, within 20 Business Days after the Seller first becomes aware (or, the Seller ought to have become aware had the Seller used Good Electricity Industry Practice) of the occurrence of such cause, request in writing that INSW grants an extension of time to the Supply

Start Date. The Seller's request must include full details of the cause, including the circumstances giving rise to it, the impact on the Seller's ability to achieve Commercial Operation of the Nominated First Facility by the Supply Start Date, the period of extension sought and any other relevant information required to enable INSW to assess the request.

- (d) If the Seller fails to submit a request for an extension of time to the Supply Start Date in accordance with **clause 3.2(c)**, the Seller will, at the absolute discretion of INSW, forfeit any right to receive such extension of time.
- (e) INSW will, within a reasonable time of having received a request from the Seller in accordance with **clause 3.2(b)**, give notice in writing to the Seller stating either:
  - (i) that the Seller's request for an extension of time to the Supply Start Date (or part thereof) is in principle accepted, in which case the Seller will be entitled to a fair and reasonable extension of time (taking into account all relevant factors) as stated in INSW's notice; or
  - (ii) that the Seller's request (or part thereof) is rejected with stated reasons.

If the Seller disputes INSW's decision under this **clause 3.2(e)**, it may proceed in accordance with the provisions of **clause 18.1**.

- (f) In determining a reasonable extension of time for an event causing delay, INSW will have regard to whether the Seller has taken all reasonable steps to preclude the occurrence of the cause and minimise the consequences of the delay.
- (g) If an extension of time to the Supply Start Date is granted in accordance with **clause 3.2(e)**, the Base Guaranteed Volumes, Quarterly Volumes, and Additional Volumes specified in **parts A and B of schedule 4** are deemed to be amended in accordance with **part C of schedule 4**.
- (h) The Supply Start Date cannot be extended by more than six months past the date specified in **item 3 of schedule 1** by the operation of this **clause 3.2**.

### **3.3 Sunset Date**

- (a) If Commercial Operation of the Nominated First Facility has not occurred by the Sunset Date, the Seller must as soon as reasonably practicable and by no later than 10 Business Days after the Sunset Date (or such other time as agreed between the Parties) provide to INSW:
  - (i) a detailed plan and series of milestones (**Cure Plan**) that will achieve Commercial Operation of the Nominated First Facility as soon as reasonably practicable and, in any event, by no later than the Longstop Date in respect of the Nominated First Facility. The Cure Plan must set out the target date on which the Nominated

First Facility will achieve Commercial Operation (which must be no later than the Longstop Date in respect of the Nominated First Facility); and

- (ii) evidence (satisfactory to INSW, acting reasonably) that the Seller can procure Green Products from Eligible Facilities or (subject to **clause 3.4(c)**) Eligible NEM Facilities sufficient to meet the Quarterly Volume and Base Guaranteed Volume for the relevant period until Commercial Operation of the Nominated First Facility has occurred.
- (b) Within 10 Business Days after receipt of the Cure Plan from the Seller in accordance with **clause 3.3(a)**, INSW must notify the Seller whether, in INSW's opinion (acting reasonably), the Cure Plan:
- (i) is acceptable, in which case the Seller must action the Cure Plan; or
  - (ii) is not acceptable, in which case INSW and the Seller must work in good faith to develop a Cure Plan acceptable to INSW within 5 Business Days.
- (c) If:
- (i) the Seller fails to comply with **clause 3.3(a)**; or
  - (ii) INSW has notified the Seller that the Cure Plan is acceptable in accordance with **clause 3.3(b)(i)** and the Seller fails to comply with the Cure Plan; or
  - (iii) the Seller fails to achieve Commercial Operation of the Nominated First Facility by the Longstop Date in respect of the Nominated First Facility for any reason,
- INSW may, at any time before the Nominated First Facility achieves Commercial Operation, terminate this document by written notice to the Seller.
- (d) Notwithstanding anything in this document (including this **clause 3.3** and **clauses 3.2** and **10**) the Seller must continue to construct and commission the Nominated First Facility so as to achieve Commercial Operation unless and until such time as this document is terminated.

### **3.4 Supply of Green Products before Commercial Operations of Nominated First Facility has occurred**

- (a) Notwithstanding **clauses 4, 5** and **6**, if, for a Year, Commercial Operation of the Nominated First Facility has not occurred on or before the first day of that Year, **clauses 4, 5** and **6** will apply to that Year and each Quarter in that Year on the basis that:
- (i) subject to **clause 3.4(c)**, the Seller's obligation to sell and Transfer to INSW the Base Guaranteed Volume each Year by Transferring the Quarterly Volume to INSW under **clause 4.1(a)** may be met by the Seller:

- (A) using reasonable endeavours to sell and Transfer to INSW Green Products from an Eligible Facility; and
    - (B) provided the Seller has complied with its obligations under **clause 3.4(a)(i)(A)**, sell and Transfer to INSW Green Products from an Eligible NEM Facility (which is not otherwise an Eligible Facility); and
  - (ii) any Green Products Transferred by the Seller from an Eligible Facility or (subject to **clause 3.4(c)**) an Eligible NEM Facility (as applicable) will be deemed to be Green Products created in respect of electricity generated at a Facility.
- (b) Without limiting **clause 3.4(a)**, if:
- (i) for a Quarter:
    - (A) the Sunset Date has occurred on or before the last day of that Quarter; but
    - (B) Commercial Operation of the Nominated First Facility has not occurred on or before the last day of that Quarter,  
**(Post Sunset Date Quarter)**;
  - (ii) a Shortfall has occurred in respect of that Post Sunset Date Quarter;
  - (iii) INSW has required the Seller to make good the Shortfall under **clause 6.1(b)**; and
  - (iv) the Seller has failed to comply with its obligations under **clause 6.1(c)**,
- then:
- (v) INSW may acquire Green Products to make good that Shortfall; and
  - (vi) INSW is entitled to either issue the Seller with an invoice or call on the Credit Support for an amount equal to:
    - (A) INSW's costs in acquiring alternative Green Products to make good the Shortfall for that Post Sunset Date Quarter;  
less
    - (B) the amount INSW would have paid to the Seller in respect of the Shortfall had the Seller Transferred the Shortfall to INSW in accordance with **clause 6.1(c)**,
- provided that if the above calculation is a negative amount then it will be deemed to be zero.
- (c) Where INSW in good faith determines that the supply of Green Products from Eligible NEM Facilities located outside New South Wales affects (or is likely to affect) INSW's carbon neutral certification and carbon

accounting reporting requirements, INSW may notify the Seller that:

- (i) Green Products can no longer be sold and Transferred to INSW from Eligible NEM Facilities (which are not otherwise Eligible Facilities) for the purposes of **clause 3.4(a)**; or
- (ii) a cap (as specified by INSW, acting reasonably) applies to the volume of Green Products which the Seller may sell and Transfer to INSW from Eligible NEM Facilities (which are not otherwise Eligible Facilities) for the purposes of **clause 3.4(a)**,

and, on and from the Quarter commencing after the relevant notice is given by INSW under this **clause 3.4(c)**, the Seller:

- (iii) will cease to have the benefit of **clause 3.4(a)(i)**; and
- (iv) may meet its obligation under **clause 4.1(a)** via Green Products from Eligible Facilities only,

in each case:

- (v) for the whole of the Quarterly Volume (in the case of a notice contemplated in **clause 3.4(c)(i)**); or
  - (vi) to the extent the relevant volumes from Eligible NEM Facilities (which are not otherwise Eligible Facilities) would exceed the cap specified by INSW (in the case of a notice contemplated in **clause 3.4(c)(ii)(a)(i)**.
- (d) INSW may give a notice under **clause 3.4(c)** at the same time that it gives a notice under **clause 6.4(b)**.

### **3.5 Replacement Nominated First Facility**

- (a) If the Nominated First Facility has not achieved Commercial Operation by the Supply Start Date, the Seller may, by written notice to INSW at any time before the Sunset Date, nominate an alternative Initial Facility to be the Nominated First Facility (**Replacement Nominated First Facility**) provided that the Replacement Nominated First Facility must have achieved Commercial Operation on or before the date the notice is given under this **clause 3.5(a)**.
- (b) If the Seller gives a notice of a Replacement Nominated First Facility to INSW in accordance with **clause 3.5(a)**:
  - (i) the original Nominated First Facility is deemed to no longer be the Nominated First Facility but will otherwise continue to be an Initial Facility for all purposes under this document (including to be an Initial Facility (other than the Nominated First Facility) for the purposes of **clause 3.1(a)(iii)(B)**); and
  - (ii) the Replacement Nominated First Facility nominated by the Seller in its notice is deemed to be the Nominated First Facility for all purposes under this document on and from the date of that notice.

### 3.6 F2-F4 Sunset Date

- (a) If Commercial Operation of any Initial Facility (other than the Nominated First Facility) (**Undelivered Facility**) has not occurred by the F2-F4 Final COD Sunset Date, the Seller must as soon as reasonably practicable and by no later than 10 Business Days after the F2-F4 Final COD Sunset Date in respect of the Undelivered Facility, either:
- (i) provide to INSW:
    - (A) a detailed plan and series of milestones (**Cure Plan**) that will achieve Commercial Operation of the Undelivered Facility as soon as reasonably practicable and, in any event, by no later than the Longstop Date for the Undelivered Facility; and
    - (B) evidence (satisfactory to INSW, acting reasonably) that, until Commercial Operation of the Undelivered Facility has occurred, the Seller can procure Green Products from Eligible Facilities or, subject to **clause 6.4**, Eligible NEM Facilities sufficient to meet that proportion of the Quarterly Volume and Base Guaranteed Volume that would have been created from electricity generated by the Undelivered Facility during the relevant period had Commercial Operation of the Undelivered Facility occurred before the start of that period;  
or
  - (ii) nominate an Additional Facility in accordance with **clause 3.8(a)** to replace the Undelivered Facility, providing that any Additional Facility nominated for the purposes of this **clause 3.6(a)(ii)** must:
    - (A) have already achieved Commercial Operation; and
    - (B) be capable of generating a number of Green Products each Quarter and each Year for the remainder of the Term equal to or greater than the number that Undelivered Facility would have been capable of generating had it achieved Commercial Operation,and, on any such Additional Facility being nominated by the Seller:
    - (C) the Undelivered Facility is be deemed to no longer be an Initial Facility; and
    - (D) the Additional Facility is deemed to be an Initial Facility for all purposes under this document.
- (b) If the Seller elects to provide a Cure Plan in accordance with **clause 3.6(a)(i)**, then, within 10 Business Days after receipt of that Cure Plan, INSW must notify the Seller whether, in INSW's opinion (acting reasonably), the Cure Plan:
- (i) is acceptable, in which case the Seller must action the Cure Plan;  
or
  - (ii) is not acceptable, and the Seller must work in good faith to develop



a Cure Plan acceptable to INSW within 5 Business Days.

- (c) If:
- (i) the Seller fails to comply with **clause 3.6(a)**; or
  - (ii) INSW has notified the Seller that the Cure Plan is acceptable in accordance with **clause 3.6(b)(i)** and the Seller fails to comply with the Cure Plan; or
  - (iii) the Seller fails to achieve Commercial Operation of the Undelivered Facility by the Longstop Date in respect of the Undelivered Facility for any reason,
- then:
- (iv) if Commercial Operation has occurred for at least two Initial Facilities, the Seller may nominate the Undelivered Facility to be an Excluded Facility in accordance with **clause 3.7**; or
  - (v) if Commercial Operation has not occurred for at least two Initial Facilities, INSW may terminate this document by written notice to the Seller.
- (d) Notwithstanding anything in this document (including this **clause 3.6** and **clauses 3.2, 3.7** and **10**) the Seller must continue to construct and commission the Undelivered Facility so as to achieve Commercial Operation unless and until such time as this document is terminated or the Undelivered Facility becomes an Excluded Facility in accordance with **clause 3.7** or is replaced by an Additional Facility in accordance with **clause 3.6(a)(ii)**.

### **3.7 Excluded Facilities**

- (a) If **clause 3.6(c)(iv)** applies, the Seller may at any time before Commercial Operation occurs in relation to the Undelivered Facility, nominate the relevant Undelivered Facility to be an Excluded Facility by written notice to INSW.
- (b) If the Seller has nominated an Undelivered Facility to be an Excluded Facility in accordance with **clause 3.7(a)**, with effect on and from the first day of the Quarter immediately following the Quarter in which the notice is given by the Seller under **clause 3.7(a)** and for the remainder of the Term (**Excluded Facility Removal Period**):
  - (i) the Seller must pay to INSW, within 20 Business Days of receipt of an invoice from INSW, the Facility Compensation Payment for that Excluded Facility; and
  - (ii) the Base Guaranteed Volume for each Year in **part A of schedule 4** (including the Year in which the reductions in this **clause 3.7(b)** first takes effect) is reduced by deducting the aggregate Nominal Facility Volume for the Excluded Facility for each Quarter during the Excluded Facility Removal Period in each relevant Year; and

- (iii) the Excluded Facility will cease to be a Facility for all purposes under this document.
- (c) For the avoidance of doubt, the Seller may give more than one notice under **clause 3.7(a)** provided that each notice is given in respect of a different Undelivered Facility.
- (d) The Parties acknowledge and agree that a Facility Compensation Payment:
  - (i) is a genuine pre-estimate of the loss, cost, expense and damage to INSW in the circumstances in which it is payable;
  - (ii) constitutes not more than fair and reasonable compensation for the damage which INSW will bear upon the occurrence of such circumstances; and
  - (iii) protects a legitimate commercial interest of INSW for the occurrence of such circumstances.
- (e) Subject to **clause 3.6(d)**, the Parties' rights under this **clause 3.7** will arise in the circumstances outlined in this clause regardless of the reason why the Seller has failed to achieve Commercial Operation for the relevant Undelivered Facility (including any reason referred to in **clause 3.2** or **10**).

### **3.8 Additional Facility**

- (a) The Seller may, by written notice to INSW, nominate an Eligible Facility to be included as a Facility for the purposes of this document and from which the Seller will supply Green Products to INSW (Additional Facility).
- (b) An Eligible Facility nominated by the Seller under **clause 3.8(a)** must:
  - (i) if the Eligible Facility has not yet achieved Commercial Operation as at the time the notice is given under this **clause 3.8(a)**:
    - (A) have a target date for achieving Commercial Operation of no later than 18 months after the date of the notice; and
    - (B) be developed by the Seller; or
  - (ii) if the Eligible Facility has achieved Commercial Operation as at the time the notice is given, be owned and operated by the Seller.
- (c) A notice under **clause 3.8(a)** must set out a general description of the Additional Facility (including proposed location, capacity and generation profile, area, timeline and proposed volumes and associated infrastructure for the Additional Facility).
- (d) At any time before the Initial Facility specified in **item 1(d)** of **schedule 1** (██████████) achieves Commercial Operation, the Seller may specify in a notice under **clause 3.8(a)** that the Eligible Facility nominated to be an Additional Facility under such notice will replace the ██████████ as an Initial Facility and, on any such nomination:

- (i) the [REDACTED] will be deemed to no longer be an Initial Facility; and
- (ii) the Additional Facility will be deemed to be an Initial Facility for all purposes under this document,

provided that any Additional Facility nominated for the purposes of this **clause 3.8(d)** must, without limiting the requirements under **clause 3.8(b)**, have a nameplate generating capacity of at least 4.95 MWac.

- (e) INSW may request, and the Seller must provide, such other information in relation to the Additional Facility as INSW may reasonably require.
- (f) For the avoidance of doubt, the Seller must sell and Transfer Green Products to INSW equal to:
  - (i) in respect of a Quarter, the Quarterly Volume; and
  - (ii) in respect of a Year, the Base Guaranteed Volume,(including any amounts referable to the Additional Volume in respect of such periods) in accordance with the terms of this document, regardless of whether or not the Seller has nominated an Additional Facility in accordance with **clause 3.8(a)**.
- (g) The Seller may give one or more notices under this **clause 3.8**.

## 4 Sale and transfer

### 4.1 Sale

Subject to **clause 8**, the Parties agree that with effect on and from the Supply Start Date:

- (a) the Seller will sell and Transfer to INSW the Base Guaranteed Volume each Year by Transferring the Quarterly Volume to INSW on or before the Transfer Date for each Quarter ending after the Supply Start Date; and
- (b) INSW will purchase and accept the Transfer of those Green Products from the Seller,

on the terms and conditions set out in this document.

### 4.2 Transfer

- (a) Subject to **clause 6.1(a)**, the Seller will Transfer to INSW the Quarterly Volume to INSW on or before the Transfer Date for each Quarter.
- (b) All Green Products transferred by the Seller must be created in respect of electricity generated during the relevant Green Product Year.
- (c) Subject to **clause 6.1(a)**, in respect of each Quarterly Volume:
  - (i) the Seller must do all things necessary or required to effect the Transfer to INSW of the Quarterly Volume to INSW on or before the Transfer Date for the relevant Quarter, including (but not

limited to) assisting or providing notices or information required to INSW or any third parties, including the Regulator; and

- (ii) INSW must do all things necessary and within its control to effect the Transfer by the Seller of the Quarterly Volume on or before the Transfer Date for the relevant Quarter, including (but not limited to) assisting or providing notices or information required to the Seller or any third parties, including the Regulator.

#### **4.3 Title**

Title to, and risk in, a Green Product will vest in INSW when Transfer of the Green Product occurs.

#### **4.4 Seller bears costs**

The Seller will bear all costs, fees and charges in respect of the creation, registration and Transfer of any Green Products under this document.

#### **4.5 Source of Green Products**

Subject to **clauses 6.1(c)** and **6.2(b)**, on and from the Supply Start Date, all Green Products sold and Transferred by the Seller to INSW under this document must be created in respect of electricity generated at a Facility.

#### **4.6 Seller's obligations**

- (a) The Seller must:
  - (i) operate each Facility in accordance with Good Electricity Industry Practice, Applicable Law and all applicable Authorisations; and
  - (ii) comply with all Applicable Laws and all applicable Authorisations.
- (b) The Seller must:
  - (i) ensure that it obtains and maintains all applicable Authorisations necessary to perform its obligations under this document, including in respect of the creation and transfer of Green Products; and
  - (ii) immediately notify INSW in writing where an applicable Authorisation entitling the Seller to create or transfer Green Products has been revoked, cancelled or suspended; and
  - (iii) keep INSW fully informed of any planned or unplanned outages at any Facility and of the risk of it being unable to create and transfer Green Products in respect of each Facility in accordance with its obligations under this document.
- (c) The Seller must not expand, modify or alter any Facility such that it may adversely affect the Seller's ability to create and transfer Green Products in respect of that Facility to INSW under this document.

## 5 Payment

### 5.1 Quarterly Invoice

Within 5 Business Days after each Transfer Date, the Seller will issue to INSW:

- (a) an invoice for an amount equal to, in respect of a Transfer Date, the Green Product Unit Price multiplied by the number of Green Products Transferred to INSW in respect of the Quarter to which that Transfer Date relates; and
- (b) a notice confirming any Shortfall in respect of that Quarter (**Shortfall Notice**).

### 5.2 Registration Disruption Events

If the Seller is unable to Transfer an amount of Green Products on or before a Transfer Date due to a Registration Disruption Event:

- (a) the Seller will immediately notify INSW; and
- (b) the relevant Transfer Date will be deemed to be the first Business Day after the day on which the Registration Disruption Event ceases.

## 6 Shortfalls and reconciliation

### 6.1 Quarterly Shortfalls

- (a) Where:
  - (i) a Shortfall has occurred in respect of a Quarter that is not:
    - (A) the final Quarter in a Year; or
    - (B) a Post Sunset Date Quarter; and
  - (ii) the amount of the Shortfall is less than 33% of the relevant Quarterly Volume,

the Seller must Transfer the Shortfall in respect of that Quarter to INSW (**Quarterly Catch-Up Amount**), in addition to the Quarterly Volume for the subsequent Quarter, on or before the Transfer Date for the subsequent Quarter.

- (b) Where:
  - (i) the Seller fails to Transfer to INSW any applicable Quarterly Catch-Up Amount on or before the Transfer Date for the subsequent Quarter; or
  - (ii) a Shortfall has occurred in respect of a Quarter and:
    - (A) the amount of the Shortfall is equal to or greater than 33% of the relevant Quarterly Volume; or
    - (B) the Shortfall occurs in respect of the final Quarter of a Year; or

- (C) the Shortfall occurs in respect of a Post Sunset Date Quarter,

INSW may, within 20 Business Days of receiving the Seller's invoice and any applicable Shortfall Notice under **clause 5.1** in respect of the Transfer Date for the relevant Quarter, require the Seller to make good any Quarterly Catch-Up Amount that remains outstanding and/or the relevant Shortfall by Transferring to INSW additional Green Products from, subject to **clauses 3.4(a)** and **6.4**:

- (iii) an Eligible NEM Facility; or
  - (iv) an Eligible Facility.
- (c) Where INSW has required the Seller to make good any Quarterly Catch-Up Amount that remains outstanding and/or any relevant Shortfall under **clause 6.1(b)**, the Seller:
- (i) must, notwithstanding **clause 4.5**, procure any additional Green Products that are required to satisfy its obligations under **clause 6.1(b)** from, subject to **clauses 3.4(a)** and **6.4**:
    - (A) an Eligible Facility; or
    - (B) provided that the Seller has used reasonable endeavours to sell and Transfer to INSW Green Products from an Eligible Facility but has been unable to procure sufficient Green Products to make good any Quarterly Catch-Up Amount that remains outstanding and/or the relevant Shortfall, an Eligible NEM Facility (which is not otherwise an Eligible Facility),  
and Transfer to INSW those additional Green Products within 20 Business Days of receipt of the notice from INSW;
  - (ii) will invoice INSW for any additional Green Products Transferred to INSW for an amount equal to the Green Product Unit Price multiplied by the number of Green Products Transferred in accordance with **clause 6.1(c)(i)**; and
  - (iii) must bear any additional costs or expenses incurred in satisfying its obligations under **clause 6.1(b)**.
- (d) In determining whether a Shortfall exists or whether a sufficient amount of Green Products has been transferred for the purposes of this **clause 6.1**, any Green Products supplied by the Seller to INSW in respect of a Quarter are counted:
- (i) first and exclusively against any relevant Shortfall under **clause 6.1(b)** in respect of a Post Sunset Date Quarter;
  - (ii) second and exclusively against any Quarterly Catch-Up Amount that remains outstanding;
  - (iii) third and exclusively against any other relevant Shortfall under **clause 6.1(b)**; and

- (iv) finally and exclusively against the Quarterly Volume for that Quarter.

## 6.2 Annual Shortfall and reconciliation

- (a) Where an Annual Shortfall has occurred in respect of a Year, INSW may, within 10 Business Days of receiving the Seller's invoice and any applicable Shortfall Notice under **clause 5.1** in respect of the Transfer Date for the final Quarter in a Year, require the Seller to make good the Annual Shortfall in respect of that Year by Transferring to INSW Green Products from, subject to **clauses 3.4(a)** and **6.4**:
  - (i) an Eligible Facility; or
  - (ii) provided that the Seller has used reasonable endeavours to sell and Transfer to INSW Green Products from an Eligible Facility but has been unable to procure sufficient Green Products to make good the Annual Shortfall, an Eligible NEM Facility (which is not otherwise an Eligible Facility).
- (b) Where INSW has required the Seller to make good the Annual Shortfall under **clause 6.2(a)**, the Seller:
  - (i) must, notwithstanding **clause 4.5**, procure any additional Green Products that are required to satisfy its obligations under **clause 6.2(a)** and Transfer to INSW those additional Green Products within 10 Business Days of receipt of the notice from INSW;
  - (ii) will invoice INSW for any additional Green Products Transferred to INSW for an amount equal to the Green Product Unit Price multiplied by the number of Green Products Transferred in accordance with **clause 6.2(b)(i)**; and
  - (iii) must bear any additional costs or expenses incurred in satisfying its obligations under **clause 6.2(a)**.
- (c) If the Seller fails to comply with its obligations under **clause 6.2(b)**:
  - (i) INSW may acquire Green Products to make good the Annual Shortfall; and
  - (ii) INSW will be entitled to either issue the Seller with an invoice or call on the Credit Support for an amount equal to:
    - (A) INSW's costs in acquiring alternative Green Products to make good the Annual Shortfall for that Year;  
less
    - (B) the amount INSW would have paid to the Seller in respect of the Annual Shortfall had the Seller Transferred the Annual Shortfall to INSW in accordance with this document,provided that if the above calculation is a negative amount then it will be deemed to be zero.

### 6.3 Termination for underperformance

- (a) If:
- (i) there are three consecutive Non-Exclusive Shortfall Quarters; or
  - (ii) there are three Non-Exclusive Shortfall Quarters (which may be non-consecutive) in any eight consecutive Quarters on a rolling basis,

INSW may terminate this document with immediate effect on written notice to the Seller.

- (b) If:
- (i) **clause 6.1(b)** applies and the Seller has failed to comply with its obligations under **clause 6.1(c)** in respect of one or more Quarters in two consecutive Years; or
  - (ii) **clause 6.2(a)** applies and the Seller has failed to comply with its obligations under **clause 6.2(b)** in respect of two consecutive Years,

INSW may terminate this document with immediate effect on written notice to the Seller.

### 6.4 Green Products from Eligible NEM Facilities

- (a) Subject to **clauses 3.4(a)** and **6.4(b)**, the Seller must not, in respect of a Year, Transfer Green Products from Eligible NEM Facilities (but which are not Eligible Facilities) to INSW under **clause 6.1(c)** or **6.2(b)** that, in aggregate, exceed the “Non-NSW Green Products Cap” specified in the table below, determined based on whether the relevant “Tier Condition” as specified in the table below is satisfied for that Year:

Tier Condition	Non-NSW Green Products Cap
(i) on the first day of the Year, the aggregate number of Initial Facilities: <ul style="list-style-type: none"> <li>(A) for which Commercial Operations has occurred; or</li> <li>(B) which have become an Excluded Facility and ceased to be a Facility under this document in accordance with <b>clause 3.7(b)(iii)</b>,</li> </ul> is equal to 1;	[REDACTED] of the Base Guaranteed Volume for that Year
(ii) on the first day of the Year, the aggregate number of Initial Facilities: <ul style="list-style-type: none"> <li>(A) for which Commercial Operations has occurred; or</li> </ul>	[REDACTED] of the Base Guaranteed Volume for that Year



- (B) which have become an Excluded Facility and ceased to be a Facility under this document in accordance with **clause 3.7(b)(iii)**,

is equal to 2; or

- 
- (iii) on the first day of the Year, the aggregate number of Initial Facilities: ██████ of the Base Guaranteed Volume for that Year

- (A) for which Commercial Operations has occurred; or

- (B) which have become an Excluded Facility and ceased to be a Facility under this document in accordance with **clause 3.7(b)(iii)**,

is equal to 3 or more.

- 
- (b) Where INSW in good faith determines that, the Non-NSW Green Products Cap affects (or is likely to affect) its carbon neutral certification and carbon accounting reporting requirements, INSW may, by notice to the Seller reduce (including reduce to █████) the percentage of the Based Guaranteed Volume which constitutes the Non-NSW Green Products Cap. On and from the date of such notice, the Non-NSW Green Products Cap will be (unless otherwise agreed between the Parties):

- (i) in respect of the Year in which the notice was given, the greater of:

- (A) the aggregate Green Products from Eligible NEM Facilities (which are not Eligible Facilities) that the Seller has already Transferred to INSW for that Year prior to the delivery of the notice; and

- (B) the percentage (as notified by INSW in its notice, which may be █████) of the Base Guaranteed Volume for that Year; and

- (ii) for each Year that commences after the date of the notice, the percentage (as notified by INSW in its notice, which may be █████) of the Base Guaranteed Volume.

## 7 Reporting and audits

### 7.1 Regular reports

- (a) The Seller must:

- (i) for the first six months after a Facility has achieved Commercial Operation, within 20 Business Days after the end of each month (including the month in which the Commercial Operation is achieved), provide INSW with a monthly report on the operational performance of that Facility during the relevant month, including:

- (A) information on the Green Products created and electricity generated at that Facility during the relevant month; and
  - (B) the identification of issues affecting the operation of that Facility during the relevant month or issues likely to affect the operation of that Facility for the following six months;
  - (ii) within 20 Business Days after the end of each Quarter, provide INSW with a statement and accompanying materials setting out the Required Information for that Quarter (**Quarterly Report**);
  - (iii) within 20 Business Days after the end of each Year, provide INSW with a statement and accompanying materials setting out the Required Information for that Year (**Annual Report**); and
  - (iv) within 100 Business Days after the end of each Year, an auditor's report, prepared by a suitably qualified external auditor eligible to audit the Seller for the purposes of division 3 of part 2M of the Corporations Act (including the requirement for independence under section 307C), that states that the Seller is trading as a going concern under accounting standards applicable to the Seller.
- (b) **Required Information** includes all data prepared and reported in respect of each Facility or readily available or prepared by the Seller in respect of each Facility for other purposes, and must include the information set out in **part B of schedule 3**.
- (c) The Seller agrees to work with INSW in good faith to provide information that INSW requests in respect of:
- (i) INSW's carbon neutral certification and carbon accounting reporting requirements; and
  - (ii) communications between the Seller and any relevant Authority, including, without limitation, the Regulator, the Australian Energy Market Operator, or the Australian Energy Regulator.
- (d) The Seller must comply with such reasonable requirements as INSW may notify to the Seller from time to time in relation to the form and manner in which any reports which may be required under this document is to be provided.

## 7.2 Reporting

The Parties acknowledge and agree that, upon Transfer by the Seller, and acquisition by INSW, of any Green Products under this document, all reporting rights related to any such Green Products (other than in relation to the initial creation and transfer thereof), including the right of a person to report:

- (a) the ownership thereof in compliance with any Green Product Scheme; or
- (b) otherwise to an Authority,

will vest in, and may only be exercised by, INSW.

### 7.3 Public disclosure

- (a) Subject to **clause 7.3(b)**, the Seller agrees that INSW may disclose to the public any information provided by the Seller in accordance with this **clause 7**.
- (b) The Seller may, when providing information in accordance with this **clause 7**, indicate (by clearly marking the relevant sections) that part of the information which the Seller does not wish for INSW to disclose to the public on the basis that the relevant information is commercially sensitive to the Seller (**Seller Commercially Sensitive Information**). If INSW wishes to disclose to the public any information which the Seller has marked as being Seller Commercially Sensitive Information, INSW must consult with the Sellers before any such public disclosure to seek to limit the public disclosure of any information which is commercially sensitive to the Seller.

### 7.4 Immediate notification

Notwithstanding any other requirements in this document, the Seller must as soon as practicable after becoming aware notify INSW in writing of:

- (a) any breach of an Authorisation or law by the Seller in respect of a Facility;
- (b) any breach of this document by the Seller;
- (c) any investigation, inquiry or enforcement proceedings by any Authority against the Seller or any Facility;
- (d) any removal, downgrade or adjustment of the Seller's or any Facility's green credentials;
- (e) any incident or event which impacts or is likely to impact on the Seller's or a Facility's ability to create Green Products or to Transfer such Green Products to INSW in accordance with this document; and
- (f) any work health and safety incident involving personal injury or material property damage that occurs at or in connection with a Facility.

### 7.5 Updating reporting requirements

- (a) The Parties acknowledge that the requirements of this **clause 7** may require updating to reflect changes in:
  - (i) law or policy in respect of INSW's reporting obligations; or
  - (ii) the reporting requirements under a Green Product Scheme, after the Execution Date.
- (b) Where INSW reasonably considers that an update is required as contemplated in **clause 7.5(a)**, it may notify the Seller. If a notice is given by INSW, the Parties must negotiate in good faith and use their reasonable endeavours to agree on any amendments to this **clause 7** and **schedule 3** that may be required to reflect the relevant changes in:

- (i) law or policy in respect of INSW's reporting obligations; or
- (ii) the reporting requirements under a Green Product Scheme, (as applicable) (**Reporting Amendments**). If the Parties fail to agree within 30 Business Days after INSW's notice under this **clause 7.5(a)**, either the Seller or INSW may refer the Reporting Amendments for determination by an Expert in accordance with **clause 18.2**.

## 7.6 Audit

- (a) No more than once in any calendar year, INSW may, by written notice to the Seller, inform the Seller that INSW intends to procure an audit by an independent third party (**Independent Auditor**) to verify the Seller's compliance with this document. This notice must identify the entity that INSW proposes to act as the Independent Auditor for the audit.
- (b) The Parties may agree to an Independent Auditor other than the entity identified in the notice provided by INSW in accordance with **clause 7.6(a)** within five Business Days of the notice, failing which the Independent Auditor will be the Independent Auditor proposed by INSW in the notice provided by INSW in accordance with **clause 7.6(a)**.
- (c) Subject to the Independent Auditor having entered into such confidentiality arrangements as may be reasonably required by the Seller, the Seller must give the Independent Auditor full access at all reasonable times and on reasonable notice to:
  - (i) information or data in the possession or control of the Seller or any of its Personnel (other than information of a financially sensitive nature);
  - (ii) the Seller's records relating to any Required Information;
  - (iii) the Seller's calculations in respect of any invoice or Shortfall under this document; and
  - (iv) information or data relating to all matters relevant to the warranties given by the Seller under this document.
- (d) For the purpose of complying with this **clause 7.6**, the Seller must promptly and efficiently, at no cost to INSW, give the Independent Auditor any assistance it reasonably requires.
- (e) The Seller acknowledges that any confidentiality arrangements contemplated between it and the Independent Auditor will not restrain or impede the Independent Auditor from reporting to INSW as to the Seller's compliance with this document in any way.
- (f) Without limiting INSW's rights under this document, if an audit conducted in accordance with this **clause 7.6** shows that:
  - (i) the Seller has breached or is in breach of this document:
    - (A) INSW may notify the Seller in writing of such breach or breaches; and

- (B) upon receiving a notice under **clause 7.6(f)(i)(A)**, the Seller must promptly do all things necessary to remedy that breach and prevent it from recurring at no cost to INSW; and
- (ii) an invoice issued by the Seller or an amount paid to the Seller by INSW was in excess of the amounts payable in accordance with this document, the Seller must promptly refund to INSW such amounts, and adjust all of the current invoices that have not been paid by INSW to ensure that INSW is only liable to pay the correct amount identified in the audit.

## 8 Replacement of LGCs

- (a) This clause applies if, after the Execution Date, the RET Scheme is repealed, amended or terminates with effect during the Term such that LGCs cannot be created or Transferred as contemplated in this document (**RET Scheme Termination Event**).
- (b) If a RET Scheme Termination Event occurs, INSW may, by written notice to the Seller, nominate replacement Green Products that are capable of creation and transfer in respect of the Facilities to be supplied instead of LGCs (**Replacement Products**), in which case:
  - (i) the Replacement Products are to be created and transferred by the Seller in a quantity equal to the maximum number of such Green Products that can be created by reference to the same volume of electricity exported from the Facilities at their respective connection points (in MWh) required to create the Base Guaranteed Volume (as at the Execution Date) for each Year for the remainder of the Term;
  - (ii) the Seller must create and transfer to INSW the Replacement Products nominated by INSW in accordance with **clause 8(b)(i)** on such dates nominated by INSW;
  - (iii) the Seller is entitled to invoice INSW (on a Quarterly basis) for an amount equal to the Green Product Unit Price multiplied by the amount of electricity (in MWh) generated by the Facilities during the relevant Quarter up to a maximum of the amount of electricity that would have been required to create the Quarterly Volume during that Quarter if the RET Scheme (as at the Execution Date) was still in effect; and
  - (iv) the Parties will negotiate in good faith and use their best endeavours to agree on any amendments to this document (including:
    - (A) to ensure that INSW continues to be able to claim any such Replacement Products for the purposes of INSW's carbon neutral certification and carbon neutral accounting requirements for the Barangaroo Precinct; and

(B) any reporting requirements as reasonably required by INSW),

required to accommodate the delivery, transfer and sale of the Replacement Products by the Seller to INSW, including any failure to transfer the required volume of Replacement Products, in a manner which is, as far as possible, consistent with the arrangements under this document relating to the delivery, transfer and sale of LGCs prior to the RET Scheme Termination Event (**Required Amendments**). If the Parties fail to agree on the Required Amendments within 30 Business Days of INSW's nomination notice under this **clause 8(b)**, either the Seller or INSW may refer the Required Amendments for determination by an Expert in accordance with **clause 18.2**.

- (c) If a RET Scheme Termination Event occurs then, unless and until INSW nominates any Replacement Products in accordance with **clause 8(b)**:
- (i) the Green Products and all rights, entitlements or benefits commensurate to Green Products are to be created by the Seller by reference to the same volume of electricity exported from the Facilities at their respective connection points (in MWh) required to create the Base Guaranteed Volume (as at the Execution Date) (**INSW Exclusive Green Volume (Contracted)**) for each Year for the remainder of the Term;
  - (ii) INSW will be entitled to, and will retain, priority over all Green Products and all rights, entitlements or benefits commensurate to Green Products that are associated with the INSW Exclusive Green Volume (Contracted) for each Year for the remainder of the Term;
  - (iii) on or before each Transfer Date, the Seller must:
    - (A) provide evidence to INSW of electricity exported from the Facilities equal to the lesser of:
      - (1) the INSW Exclusive Green Volume (Contracted) (in MWh) for the relevant Quarter; and
      - (2) the actual volume of electricity that was exported from the Facilities at their connection points (in MWh) for the relevant Quarter,  
**(INSW Exclusive Green Volume (Actual))**;
    - (B) provide to INSW information on the year, day and time of creation and source information (including details of eligible renewable energy sources) in respect of each MWh of electricity exported from the Facilities during the relevant Quarter that makes up the INSW Exclusive Green Volume (Actual); and

- (C) provide to INSW such information (including in respect of the INSW Exclusive Green Volume (Actual)) as the Seller would, as at immediately prior to the RET Scheme Termination Event, otherwise have been required to provide to the Authority responsible for administering the RET Scheme (being, as at the Execution Date, the Clean Energy Regulator) in relation to the creation of Green Products under the RET Scheme;
  - (iv) the Seller will be entitled to invoice INSW in accordance with **clause 5.1** an amount equal to:
    - (A) the Green Product Unit Price;  
multiplied by
    - (B) the INSW Exclusive Green Volume (Actual) (in MWh) for the relevant Quarter;
  - (v) within 20 Business Days after the end of each Year, the Seller must provide evidence to INSW of electricity exported from the Facilities (in MWh) equal to the INSW Exclusive Green Volume (Contracted) for that Year; and
  - (vi) the Parties will negotiate in good faith and use their best endeavours to agree on any amendments to this document (including any reporting requirements as reasonably required by INSW) required to ensure that INSW continues to be able to claim (including for the purposes of INSW's carbon neutral certification and carbon neutral accounting requirements for the Barangaroo Precinct) the Green Products in respect of the INSW Exclusive Green Volume (Contracted) and INSW Exclusive Green Volume (Actual).
- (d) This **clause 8** applies *mutatis mutandis* in respect of any Replacement Products and associated Green Product Schemes that apply by operation of this **clause 8** subsequent to a RET Scheme Termination Event, to the extent that a repeal, replacement or amendment of a Green Product Scheme results in the Replacement Products being unable to be created or Transferred as contemplated by this document (as may have been amended in accordance with this **clause 8**).
- (e) For the purposes of this **clause 8**, the Parties acknowledge and agree that the following principles apply in construing the operation of this **clause 8** and any negotiations contemplated in this **clause 8**:
- (i) the Seller is required to continue to supply to INSW Green Products and all rights, entitlements or benefits commensurate to Green Products created from electricity generated and exported by the Facilities equal to the volume of electricity (in MWh) that would, but for the RET Scheme Termination Event, have been required to create the Base Guaranteed Volume for each Year for the

remainder of the Term;

- (ii) to the extent that the Seller is unable to supply to INSW the required volume of Green Products or rights, entitlements or benefits commensurate to Green Products (as applicable) referred to in **clause 8(e)(i)** from the Facilities, a shortfall will arise and the Seller must procure the amount of any shortfall of Green Products or rights, entitlements or benefits commensurate to Green Products (as applicable) from an Eligible Facility; and
- (iii) to the extent that the Seller has supplied the relevant volumes referred to in **clause 8(e)(i)** or **8(e)(ii)**, the Seller is entitled to invoice INSW for an amount equal to the Green Product Unit Price multiplied by the volume of electricity (in MWh) that was required to generate the volumes supplied by the Seller up to a maximum of, in respect of a Quarter, the Quarterly Volume for that Quarter and, in respect of a Year, the Base Guaranteed Volume for that Year.

## 9 Priority

- (a) The Seller may not transfer any Green Products relating to any Facility or the electricity generated by any Facility in respect of:
  - (i) for a Year, the amount of electricity required to create the Base Guaranteed Volume; and
  - (ii) for a Quarter, the amount of electricity required to create the Quarterly Volume,to any third party without INSW's prior written consent.
- (b) Without limiting **clause 9(a)**:
  - (i) the Seller acknowledges and agrees that INSW has the exclusive right to any Green Products relating to any Facility or the electricity generated by any Facility in respect of the volumes referred to in **clause 9(a)**; and
  - (ii) except to the extent necessary to allow the Seller to comply with its obligations to Transfer Green Products in accordance with this document, the Seller may not, without INSW's prior written consent, claim or market itself as being entitled to any Green Products relating to any Facility or the electricity generated by any Facility in respect of the volumes referred to in **clause 9(a)**.
- (c) For the purposes of **clauses 9(a)** and **9(b)**, the relevant volumes are deemed to be counted:
  - (i) firstly, towards each Initial Facility in the order in which they appear in **item 1 of schedule 1**; and
  - (ii) secondly, towards each Additional Facility (if any) in the order in which the relevant Additional Facility was nominated by the Seller



under **clause 3.8** (and, if more than one Additional Facility was nominated in the same notice, in the order in which the relevant Additional Facilities first appear in the relevant notice).

- (d) Without limiting **clauses 9(a)** and **9(b)**, the Seller must not do anything which adversely affects INSW's ability to claim (including for the purposes of INSW's carbon neutral certification and carbon accounting requirements for the Barangaroo Precinct) the full benefit of the Green Products Transferred to INSW under and in accordance with this document.

## 10 Force Majeure

### 10.1 Force Majeure Event

- (a) Subject to **clauses 10.1(b)** and **10.1(f)**, a Party (**Affected Party**) will not be liable for any delay to, or failure in, the performance of its obligations under this document (other than an obligation to make a payment) where that delay or failure is caused by a Force Majeure Event and which the Affected Party could not have prevented by the exercise of reasonable care, to the extent caused by, and for the period of, that Force Majeure Event (**Force Majeure**).
- (b) An Affected Party cannot claim the benefit of **clause 10.1(a)** unless the Affected Party:
  - (i) has first notified:
    - (A) if the Affected Party is the Seller, INSW: or
    - (B) if the Affected Party is INSW, the Seller,  
**(Other Non-FM Party)** as soon as reasonably practicable, which must not be more than 3 Business Days, of becoming aware of the existence of the circumstances giving rise to a Force Majeure Event; and
  - (ii) uses all reasonable diligence to remedy the Force Majeure Event as expeditiously as possible.
- (c) A notice under **clause 10.1(b)** must include:
  - (i) full particulars (to the extent known at the relevant time) of the Force Majeure Event;
  - (ii) the commencement and expected duration of the Force Majeure Event; and
  - (iii) specify the obligations the Affected Party considers will be impacted as a result of the Force Majeure Event, and the extent of such impact, including, where the Affected Party is the Seller, the extent to which the Seller's ability to supply the Base Guaranteed Volume and the Quarterly Volumes will be impacted.

- (d) Should a Force Majeure Event:
  - (i) continue, or be reasonably expected to continue, past the expected duration period; or
  - (ii) materially change or develop,past or additional to what is specified in a notice under **clause 10.1(b)**, the Affected Party must notify the Other Non-FM Party within 3 Business Days of such further particulars.
- (e) The Affected Party must notify the Other Non-FM Party when the relevant Force Majeure Event has terminated.
- (f) This clause **10** only applies from the Supply Start Date. If a Force Majeure Event affects the Seller's obligations under this document prior to the Supply Start Date, the Seller's only rights are set out in clause 3.2.
- (g) For the duration of a Force Majeure Event impacting the Seller, INSW retains first priority to the sale and Transfer, in accordance with this document, of all Green Products created by each Facility.

## **10.2 Effect on Volumes and Payment**

- (a) Subject to **clause 10.2(c)**, where the Seller has claimed Force Majeure in accordance with **clause 10.1** and the relevant Force Majeure Event is expected to impact the Seller's ability to supply the Base Guaranteed Volume and/or one or more Quarterly Volumes, INSW will, upon receipt the Seller's notice under **clause 10.1(b)**, determine (acting reasonably):
  - (i) an appropriate reduction to the Base Guaranteed Volume for the relevant Year or Years to reflect the impact of the Force Majeure Event; and
  - (ii) an appropriate reduction to the Quarterly Volume or Volumes for the relevant Quarter or Quarters that are expected to be impacted by the Force Majeure Event,and will notify the Seller of this determination.
- (b) Upon notification by INSW under **clause 10.2(a)**, the reduced Base Guaranteed Volume(s) and Quarterly Volume(s) specified in that notice will apply in respect of the relevant Year or Years and Quarter or Quarters (including for the purposes of any invoices delivered under **clause 5.1(a)**).
- (c) **Clauses 10.2(a)** and **10.2(b)** do not apply to any Force Majeure Event impacting the Seller's ability to supply the Base Guaranteed Volume and/or one or more Quarterly Volumes from any Facility (including as a result of any Force Majeure Event impacting the Seller's ability to construct and commission any Facility) until after Commercial Operation has occurred in relation to that Facility.

### 10.3 Termination for extended Force Majeure

Where a Force Majeure Event affecting the Seller's ability to generate electricity at all of the Facilities and create associated Green Products lasts for a continuous period of more than six months from the date of the notice given under **clause 10.1(b)**, either INSW or the Seller may terminate this document with immediate effect on written notice to the other.

### 10.4 Excluded Facility for extended Force Majeure

- (a) Where a Force Majeure Event has affected the Seller's ability to generate electricity at one or more (but not all) of the Facilities (each such Facility being an **Affected Facility**) and create associated Green Products for a continuous period of more than six months from the date of the notice given under **clause 10.1(b)**, INSW may, by written notice to the Seller, notify the Seller of INSW's intention to nominate one or more Affected Facility (as specified in the notice with each Affected Facility so specified being a **Proposed Excluded Facility**) to be an Excluded Facility in accordance with **clause 10.4(e) (Excluded Facility Intention Notice)**.
- (b) Within 10 Business Days of receiving an Excluded Facility Intention Notice, the Seller may, by written notice to INSW, elect to suspend INSW's right to nominate the relevant Proposed Excluded Facility (as identified in the notice) from becoming an Excluded Facility in accordance with **clause 10.4(e)** and for **clause 10.4(c)** to apply (**Standstill Notice**).
- (c) If the Seller has issued a Standstill Notice in accordance with **clause 10.4(b)** then, subject to **clause 10.4(d)**:
  - (i) the Seller will cease to be entitled to:
    - (A) the benefit of **clause 10.1** in relation to the relevant Force Majeure Event affecting the relevant Proposed Excluded Facility identified in the Standstill Notice;
    - (B) any reduction to the Quarterly Volume and Base Guaranteed Volume under with **clause 10.2** in relation to the relevant Proposed Excluded Facility identified in the Standstill Notice; and
  - (ii) in respect of the number of Green Products that would, but for the Force Majeure Event, have been created by the relevant Proposed Excluded Facility identified in the Standstill Notice, the Seller will be entitled to Transfer to INSW Green Products from an Eligible Facility or, subject to **clause 6.4**, an Eligible NEM Facility and, provided that the Seller has otherwise complied with the requirements in this document in relation to the Transfer of Green Products, any such Green Products Transferred will be deemed to be Green Products created in respect of electricity generated at the relevant Proposed Excluded Facility identified in the Standstill Notice for the purposes of this document.

- (d) **Clause 10.4(c)(ii)** will cease to apply on the earliest of:
- (i) the Seller notifying INSW in writing that it wishes to withdraw its Standstill Notice in respect of the relevant Proposed Excluded Facility identified in the Standstill Notice;
  - (ii) the relevant Force Majeure Event ceasing to effect the relevant Proposed Excluded Facility identified in the Standstill Notice; and
  - (iii) the Seller failing to Transfer to INSW on any Transfer Date a number of Green Products from an Eligible Facility or, subject to **clause 6.4**, an Eligible NEM Facility equal to the number of Green Products that would, but for the Force Majeure Event, have been created by the relevant Proposed Excluded Facility identified in the Standstill Notice.
- (e) If, in respect of a Proposed Excluded Facility:
- (i) the Seller has not issued a Standstill Notice within the period referred to in **clause 10.4(b)**; or
  - (ii) **clause 10.4(c)(ii)** has ceased to apply to that Proposed Excluded Facility as a result of the operation of **clause 10.4(d)(i)** or **10.4(d)(iii)** and that Proposed Excluded Facility continues to be affected by the relevant Force Majeure Event,
- INSW may, by written notice to the Seller, nominate that Proposed Excluded Facility to be an Excluded Facility.
- (f) If INSW has nominated a Proposed Excluded Facility to be an Excluded Facility in accordance with **clause 10.4(e)** then, with effect on and from the first day of the Quarter immediately following the Quarter in which the notice is given by INSW under **clause 10.4(e)** and for the remainder of the Term (**Excluded Facility Removal Period**):
- (i) the Base Guaranteed Volume for each Year in **part A of schedule 4** (including the Year in which the reductions in this **clause 10.4(f)** first takes effect) is reduced by deducting the aggregate Nominal Facility Volume for the Excluded Facility for each Quarter during the Excluded Facility Removal Period in each relevant Year; and
  - (ii) the Excluded Facility will cease to be a Facility for all purposes under this document.

## 11 Invoices

### 11.1 Invoices

All invoices in respect of amounts to be paid by:

- (a) INSW (as **Payor**) to the Seller (as **Payee**); or
- (b) the Seller (as **Payor**) to INSW (as **Payee**),

under this document must:

- (c) be in the form of a tax invoice;
- (d) set out how the amount due from the Payor to the Payee was calculated;  
and
- (e) be dealt with in accordance with this **clause 11**.

### **11.2 Obligation to pay**

Subject to **clauses 11.5** and **11.6**, the Payor that receives an invoice issued in accordance with this document from the Payee must pay to the Payee the amount stated in the invoice within 20 Business Days from the date it was first received by the Payor.

### **11.3 Method of payment**

Any amount paid under an invoice issued in accordance with this document must be made by way of direct bank transfer of immediately available funds to the Payee's nominated bank account.

### **11.4 Interest**

Subject to **clauses 11.5** and **11.6**, any amount due and payable by the Payor to the Payee under this document will bear interest at the Default Rate from the date the unpaid amount was due, until the date the amount is paid in full.

Interest will:

- (a) accrue from day to day;
- (b) compound monthly; and
- (c) be payable on demand.

### **11.5 Set-off**

The Payee may set off any amounts owed to it by the Payor under this document against any amounts specified in an invoice issued by the Payor.

### **11.6 Disputed amounts**

- (a) Notwithstanding anything to the contrary in this document, where a Party Disputes an amount of money required to be paid under this document in good faith (including under **clauses 5** or **6**), the Payor must pay the entirety of the amount required to be paid which is not Disputed.
- (b) Where, as a result of the determination of a Dispute as to a Disputed amount under **clause 18.1**, a Party is required to pay money to another then, in addition to such payment, interest will be payable on the amount to be paid at the Interest Rate and calculated on a daily basis, starting from the date the Disputed amount was initially due for payment, until the date the paying Party actually pays the relevant amount.

## 12 Credit Support

### 12.1 Credit Support

The Seller must provide to INSW and maintain an unconditional and irrevocable bank guarantee in INSW's favour that:

- (a) is for an amount equal to the Credit Support Amount;
- (b) is payable on demand by INSW at a branch located in New South Wales; and
- (c) satisfies the requirements set out in clause 12.2,

(Credit Support).

### 12.2 Credit Support Requirements

Any Credit Support provided by the Seller must:

- (a) be issued from a branch located in Australia by a bank approved by INSW (acting reasonably) which:
  - (i) unless otherwise agreed by INSW on a case by case basis, has a credit rating of at least A or better from Standard and Poor's or at least A2 from Moody's, and
  - (ii) is under the prudential supervision of Australia Prudential Regulation Authority;
- (b) be addressed to INSW on letterhead of the proposed issuing bank, signed by a duly authorised bank officer with the officer's full contact information;
- (c) be capable of being presented for payment at an office of the issuing bank in Sydney;
- (d) be governed by the laws of a State or Territory in Australia; and
- (e) in all other respects be in a form acceptable to INSW (acting reasonably).

### 12.3 Amount of the Credit Support

Subject to **clause 12.4(c)**, the Seller must ensure that at all times the aggregate undrawn or unclaimed amount of the Credit Support is not less than the amount determined in accordance with **item 7 of schedule 1**.

### 12.4 Recourse to Credit Support

- (a) INSW has an irrevocable and unconditional right to draw on the Credit Support in the following circumstances:
  - (i) where an amount is payable by the Seller to INSW in accordance with this document; and
  - (ii) where **clause 12.7(b)** applies.

- (b) Where INSW has a right to draw on the Credit Support in accordance with this **clause 12.3**, INSW may draw on the Credit Support up to an amount which is equal to the estimated value of:
  - (i) in respect of an amount payable by the Seller to INSW in accordance with this document, that amount;
  - (ii) in respect of recourse by INSW in accordance with **clause 12.7(b)**, the full amount of the Credit Support.
- (c) Where INSW has drawn on a Credit Support, the Seller must replenish the Credit Support to the Credit Support Amount within 10 Business Days.

## **12.5 Refund**

If INSW has drawn on a Credit Support:

- (a) for an amount which the Seller was not liable to pay or reimburse INSW under the terms of this document; or
- (b) in excess of an amount for which the Seller was liable to pay or reimburse INSW under the terms of this document;

then INSW must:

- (c) in the case of a drawing referred to in **clause 12.5(a)**, refund the amount drawn to the Seller and reimburse the Seller for any additional costs incurred as a result; or
- (d) in the case of a drawing referred to in **clause 12.5(b)**, refund the difference between the amount that was drawn and the amount for which the Seller is liable to pay INSW.

## **12.6 Return of Credit Support**

INSW must return the Credit Support within 10 Business Days of the full discharge of the Seller's obligations under this document to the extent not drawn in accordance with this document.

## **12.7 Expiry of Credit Support**

- (a) If a Credit Support is due to expire prior to when INSW is obliged to return that Credit Support under **clause 12.6**, then not less than 20 Business Days prior to the expiration of the term of the Credit Support (and any replacement Credit Support provided in accordance with this **clause 12.7**) the Seller must provide to INSW a replacement Credit Support which otherwise complies with this **clause 12**. INSW must return any Credit Support being replaced under this **clause 12.7(a)** in exchange for the replacement Credit Support.
- (b) The Seller agrees that in addition to any other right of INSW to draw on any Credit Support, INSW may make a drawing on a Credit Support if the obligation to provide a replacement Credit Support in accordance with **clause 12.7(a)** is not satisfied prior to the date that is 20 Business Days prior to the expiration of the term of the Credit Support, in which

event INSW may draw the full face value of that Credit Support and hold that amount as security until such time as the Seller provides a replacement Credit Support.

## **12.8 Replacement of Credit Support**

- (a) The Seller may provide to INSW a replacement Credit Support (**New Credit Support**) which complies with the requirements of **clauses 12.1, 12.2 and 12.3**.
- (b) INSW will as soon as reasonably practicable after the receipt of a New Credit Support, return to the Seller the Credit Support held by INSW in exchange for the New Credit Support provided by the Seller, and the New Credit Support will be deemed to be the Credit Support for the purposes of this document.

## **13 Insurance**

### **13.1 Seller to insure**

The Seller must procure and maintain, or ensure that its contractors or subcontractors procure and maintain, the insurance policies required under **schedule 8** in connection with the Seller's obligations under this document and the Facilities (**Required Insurances**).

### **13.2 General requirements**

- (a) Unless INSW otherwise agrees, the Required Insurances:
  - (i) must be effected with a reputable insurer with a credit rating of at least A- (as determined by Standard & Poor's), A3 (as determined by Moody's) (or an equivalent rating by any other generally recognised rating agency acceptable to INSW in its absolute discretion) or better; and
  - (ii) must not contain any exclusion, endorsement or alteration contrary to usual market standards.
- (b) The Seller must:
  - (i) on or before the Commencement Date, provide such evidence as INSW reasonably requires to confirm that all Required Insurances which are required to be obtained on and from the Commencement Date have been effected and are being maintained;
  - (ii) on or before the Commencement Date and otherwise as contemplated in **schedule 3**, give to INSW certified copies of all:
    - (A) certificates of currency; and
    - (B) renewal certificates,in respect of the Required Insurances; and
  - (iii) give INSW written notice if the Seller becomes aware that the



insurer of a Required Insurance intends to materially change or cancel the relevant policy.

### **13.3 Excesses**

As between the Parties, the Seller is responsible for the payment of any excesses or deductibles under the Required Insurances.

### **13.4 Effect of insurance**

The effecting of any Required Insurance in accordance with this **clause 13** does not in any way relieve the Seller of any of its obligations or indemnities provided by the Seller under this document.

### **13.5 Insurance claims**

- (a) The Seller must notify INSW in writing as soon as practicable after becoming aware of any relevant event or circumstances that is or is likely to be an insured event under any Required Insurance (regardless of whether the value of any claim relating to the insured event is or is likely to be less than the relevant deductible).
- (b) The Seller must keep accurate and reasonably detailed records of any relevant event or circumstances that is or is likely to be an insured event under any Required Insurance (regardless of whether the value of any claim relating to the insured event is or is likely to be less than the relevant deductible) until at least six years after the event or circumstances occurred.
- (c) The Seller must cooperate with INSW and any person representing an insurer of any Required Insurances in relation to any potential claim or claim under the insurance, including by providing any information required to make or progress the claim.

## **14 Termination and default**

### **14.1 Default**

- (a) If a Party (the **Defaulting Party**) commits:
  - (i) a Financial Default, then the Non-Defaulting Party may give the Defaulting Party a notice specifying the Financial Default that has occurred and requiring the Defaulting Party to cure the Financial Default within 10 Business Days after receipt of that notice (**Financial Cure Period**); or
  - (ii) a Performance Default, then the Non-Defaulting Party may give the Defaulting Party a notice specifying the Performance Default and requiring the Defaulting Party to cure the Performance Default within a period of time not less than 20 Business Days from receipt of the Default Notice (**Cure Period**).
- (b) If the Defaulting Party fails to cure:
  - (i) a Financial Default within the Financial Cure Period; or

- (ii) a Performance Default within the Cure Period,  
the Non-Defaulting Party may terminate this document by written notice to the Defaulting Party.

#### **14.2 Termination for insolvency**

If a Party (**Insolvent Party**) is subject to an Insolvency Event and the effects of that Insolvency Event are not cured within 5 Business Days of their occurrence, then:

- (a) if the Insolvent Party is the Seller, INSW may;
- (b) if the Insolvent Party is INSW, the Seller may,

terminate this document with immediate effect by giving notice to the Insolvent Party.

#### **14.3 Termination by INSW**

INSW is only entitled to terminate this document:

- (a) in accordance with **clause 2.2(d)**;
- (b) in accordance with **clause 3.3**;
- (c) in accordance with **clause 3.6**;
- (d) in accordance with **clause 6.3(a)**;
- (e) in accordance with **clause 6.3(b)**;
- (f) in accordance with **clause 10.3**;
- (g) in accordance with **clause 14.1**;
- (h) in accordance with **clause 14.2**;
- (i) in accordance with **clause 19.2(c)**; or
- (j) if the Seller repudiates this document.

#### **14.4 Termination by Seller**

The Seller is only entitled to terminate this document:

- (a) in accordance with **clause 10.3**;
- (b) in accordance with **clause 14.1**;
- (c) in accordance with **clause 14.2**; or
- (d) if INSW repudiates this document.

#### **14.5 Effect of early termination**

(a) If this document is terminated (except under **clauses 2.2(d)** or **10.3**) the terminating Party (**Non-Liable Party**) will calculate the Early Termination Payment to be made by the non-terminating Party (**Liable Party**) to the Non-Liable Party, and:

- (i) subject to **clause 14.5(a)(ii)**, the Liable Party must pay the Early Termination Payment to the Non-Liable Party within 20 Business

Days of receipt of an invoice from the Non-Liable Party in respect of the Early Termination Payment; and

- (ii) if the Liable Party disputes the amount of the Early Termination Payment in accordance with **clause 14.5(b)**, the Liable Party is only required to pay the amount of the Early Termination Payment determined by the Expert within 10 Business Days of such determination.
- (b) If the Liable Party disputes the Non-Liable Party's determination of the Early Termination Payment, it must refer the matter to dispute resolution by an Expert under **clause 18.2** as soon as reasonably practicable and in any event within 20 Business Days of receipt of the non-defaulting Party's invoice.
- (c) Each Party agrees that:
  - (i) the calculation of the Early Termination Payment is a genuine pre-estimate of the Non-Liable Party's anticipated losses arising from the termination of this document prior to the expiry of the Term; and
  - (ii) the Early Termination Payment constitutes not more than fair and reasonable compensation for the damage which the Non-Liable Party will bear upon the occurrence of the circumstances which give rise to the payment and protects a legitimate commercial interest of the Non-Liable Party for the occurrence of such circumstances.
- (d) If the obligation to pay an Early Termination Payment is for any reason determined to be unenforceable, the Parties agree to treat termination of this document in the circumstances for which an Early Termination Payment would have been payable as arising from a breach of a fundamental term. In such circumstances the Parties agree that the Liable Party must pay the Non-Liable Party damages for its loss of bargain associated with the early termination of this document and the Parties acknowledge and agree that such damages may include loss of profit, loss of revenue and loss of income, provided that the amount of such damages will be limited to the amount which would have been recoverable as an Early Termination Payment had the obligation to pay the Early Termination Payment not been determined to be unenforceable.
- (e) The Non-Liable Party's right to receive the Early Termination Payment is its sole and exclusive remedy in connection with the early termination of this document and, other than pursuant to **clause 14.5(d)**, the Non-Liable Party is not entitled to recover any other losses or damages whether arising under contract, in tort (including negligence) or statute or any other basis in law or equity.

- (f) For the avoidance of doubt, if the terminating Party is INSW and the Seller comprises more than one Party, each Party comprising the Seller is a Liable Party.

#### **14.6 Survival**

- (a) The termination of this document does not affect any rights and liabilities of any Party which had accrued prior to the date of termination.
- (b) Any provisions of this document which by their nature survive termination will continue independently from the other obligations of the Parties and survive termination of this document.

### **15 Assignment and change of control**

#### **15.1 Assignment**

- (a) Subject to **clauses 15.3 and 15.4**, a Party (the **Transferor**) must not assign, transfer, novate or otherwise deal with any right, title or interest in this document without the prior written consent of:
  - (i) if the Transferor is the Seller or a Party comprising the Seller, INSW;
  - (ii) if the Transferor is INSW, the Seller, (**Continuing Party**), which is not to be unreasonably withheld where:
    - (iii) the transferee is, in the reasonable opinion of the Continuing Party, legally, financially and technically capable of performing the Transferor's obligations under this document; and
    - (iv) the transferee enters into a deed of covenant with all of the Parties (in a form reasonably acceptable to the Continuing Party) assuming and covenanting to perform and discharge all obligations and liabilities of the Transferor under this document on and from the date of transfer.
- (b) Any purported dealing in breach of this **clause 15.1** is of no effect.

#### **15.2 Change of Ownership**

- (a) Subject to **clauses 15.2(b), 15.2(c) and 15.2(d)**, the Seller must obtain the prior written consent of INSW in respect of any proposed Change of Ownership of the Seller (including any Party comprising the Seller), which must not be unreasonably withheld where the Change of Ownership will, in INSW's reasonable opinion, not materially impact the Seller's legal, technical or financial capability to perform and discharge its obligations and liabilities under this document subsequent to the Change of Ownership occurring.
- (b) In the case of a proposed Change of Ownership of CPE, **clause 15.2(a)** does not apply where:
  - (i) the Change of Ownership occurs after either of the following has

occurred for all of the Initial Facilities:

- (A) the Facility has achieved Commercial Operations; or
  - (B) the Facility has become an Excluded Facility and ceased to be a Facility under this document in accordance with **clause 3.7(b)(iii)**; or
- (ii) the Change of Ownership occurs as a result of, or in connection with, any initial public offering undertaken as part of CPE (or any new or existing direct or indirect holding company (as defined in the Corporations Act) of CPE) becoming a Listed Entity.
- (c) In the case of a proposed Change of Ownership of [REDACTED] **clause 15.2(a)** does not apply where the Change of Ownership is in respect of [REDACTED] only and [REDACTED] has covenanted in favour of INSW (on terms acceptable to INSW, acting reasonably) agreeing to be bound by the terms of this document.
- (d) In the case of a proposed Change of Ownership of [REDACTED] **clause 15.2(a)** does not apply where the Change of Ownership is in respect of [REDACTED] only and [REDACTED] has covenanted in favour of INSW (on terms acceptable to INSW, acting reasonably) agreeing to be bound by the terms of this document.

### 15.3 Transfer by INSW

- (a) INSW may assign, novate or otherwise transfer any or all of its rights or obligations under this document to an entity that is wholly owned by or is an agency of the State of New South Wales or in connection with the reform, restructuring or privatisation of INSW, and the Seller hereby consents to INSW doing so.
- (b) INSW will provide the Seller with prior notice of any transfer under **clause 15.3(a)**.
- (c) Where INSW proposes to assign, novate or otherwise transfer any of its rights or obligations under this document in accordance with **clause 15.3(a)**, the Seller must do all such things and sign all such documents as may be required by law or reasonably required by INSW to give effect to such transaction.

### 15.4 Transfer by CPE

- (a) Where CPE is the Seller, it may assign and transfer its rights under this document to [REDACTED] may assume CPE's obligations and liabilities and accede to this document if all of the following are satisfied:
  - (i) the Seller is not a Defaulting Party;
  - (ii) the assignment or transfer is for all of the Seller's interest in this document;

- (iii) [REDACTED]  
[REDACTED]  
[REDACTED]
  - (iv) [REDACTED] is, in the reasonable opinion of INSW, legally, financially and technically capable of performing the Seller's obligations under this document;
  - (v) all Facility Approvals and Agreements necessary for [REDACTED] to hold in order to comply with its obligations under this document have been assigned, transferred or novated to [REDACTED]; and
  - (vi) [REDACTED] and CPE have executed and delivered the Deed of Assignment and Assumption to INSW.
- (b) Where CPE is the Seller, it may assign and transfer its rights under this document to [REDACTED] may assume CPE's obligations and liabilities and accede to this document if all of the following are satisfied:
- (i) the Seller is not a Defaulting Party;
  - (ii) the assignment or transfer is for all of the Seller's interest in this document;
  - (iii) [REDACTED] is, in the reasonable opinion of INSW, legally, financially and technically capable of performing the Seller's obligations under this document;
  - (iv) all Facility Approvals and Agreements necessary for [REDACTED] to hold in order to comply with its obligations under this document have been assigned, transferred or novated to [REDACTED] and
  - (v) [REDACTED] and CPE have executed and delivered the Deed of Assignment and Assumption [REDACTED] to INSW.
- (c) Any purported dealing in breach of this **clause 15.4** is of no effect.
- (d) On and from the Assignment Date:
- (i) subject to the satisfaction of the requirements in **clause 15.4(a)** or **clause 15.4(b)**, INSW:
    - (A) agrees to perform in favour of [REDACTED] (as applicable) (as the Seller) all obligations under this document which arise or relate to events occurring on or after the Assignment Date; and
    - (B) releases CPE from all obligations and liabilities that may be accrued by CPE under this document on and from the Assignment Date;
  - (ii) CPE releases INSW from all obligations and liabilities that may be accrued by INSW under this document on and from the Assignment Date; and
  - (iii) [REDACTED] (as applicable) will be taken to be the Seller under



[REDACTED]

## 16 Liability

### 16.1 No liability for Consequential Loss

- (a) No Party is liable to another Party under this document for Consequential Loss.
- (b) The Parties agree that the Seller's obligation to pay:
  - (i) any amounts in an invoice issued under **clause 3.4(b)(vi)** or **6.2(c)(ii)**;



- (ii) any CP Termination Amount; or
  - (iii) any Early Termination Payment,  
is not Consequential Loss.
- (c) The Parties agree that INSW's obligation to pay any Early Termination Payment is not Consequential Loss.

## **16.2 Where Seller comprises more than one Party**

Where the Seller is comprised of more than one Party:

- (a) each Party comprising the Seller that is a party to this document is jointly and severally liable for the obligations and liabilities of the Seller under this document;
- (b) a right of the Seller is held by the Parties comprising the Seller jointly;
- (c) a matter which is within the control of any Party comprising the Seller is deemed to be within the control of all of the Parties comprising the Seller;
- (d) for the purposes of **clause 20**, an entity is owned or Controlled by the Seller if that entity is owned or Controlled by any Party comprising the Seller; and
- (e) each Party comprising the Seller must procure that each of the other Parties comprising the Seller complies with the obligations of the Seller under this document.

## **17 Confidentiality**

### **17.1 Confidentiality**

Each Party (**Recipient**) agrees not to disclose information provided by:

- (a) where the Recipient is the Seller or a Party comprising the Seller, INSW;
- (b) where the Recipient is INSW, the Seller or a Party comprising the Seller, (**Disclosing Party**) (including the existence or contents of this document) except:
  - (c) information that is publicly available other than via a breach of this document;
  - (d) to the Personnel and auditors of the Recipient;
  - (e) to any bank or financial institution from whom the Recipient is seeking to obtain finance or their professional advisers, upon obtaining a similar undertaking of confidentiality from such bank or institution or their professional advisers;
  - (f) with the consent of the Disclosing Party (such consent not to be unreasonably withheld);
  - (g) where the Recipient is INSW:

- (i) to any Authority or as contemplated by **clause 7.3**;
- (ii) as permitted under **clause 17.2**; or
- (iii) in accordance with **clause 20.4**; or
- (h) any disclosure required by an Applicable Law, an Authority, a court or tribunal, a securities exchange or a ratings agency.

## **17.2 Disclosure under GIPA Act**

- (a) The Seller acknowledges that INSW may disclose this document (and information concerning the terms of this document) under or in accordance with any one or more of the following:
  - (i) the GIPA Act;
  - (ii) to satisfy any disclosure or accountability requirements of the government of New South Wales; or
  - (iii) pursuant to any government policies:
    - (A) relating to the public disclosure of confidential information; or
    - (B) which are of general application,and the Seller will provide to INSW any other information which INSW reasonably requires to comply any such obligations.
- (b) If INSW is required to include a copy of this document in the government contracts register pursuant to the GIPA Act, INSW will use reasonable endeavours not to disclose any specific charges and volumes under this document, but may disclose the total estimated value of the transaction and the Term.
- (c) In complying with its disclosure obligations under this **clause 17.2**, INSW will consider, but will not be bound by, any proposal made by the Seller in respect of the disclosure of information.

## **17.3 Announcements**

- (a) Neither the Seller nor any of its Related Entities (including any Related Entities of any Party comprising the Seller) will issue, give or make any announcement or other public statement concerning the making or the contents of this document unless and to the extent:
  - (i) required by an order of a court or tribunal arising out of, or in connection with, this document;
  - (ii) required by lawful requirement of an Authority or applicable stock exchange;
  - (iii) if required under any law, or administrative guideline, directive, request or policy;
  - (iv) the announcement or publicity has been approved in writing by INSW in accordance with **clause 17.3(c)**; or
  - (v) the information disclosed in such an announcement has already

been included in an announcement or public statement given by INSW.

- (b) INSW may give or make any announcement or other public statement concerning the making or the contents of this document without the prior written consent of the Seller, provided it does not disclose any specific charges and volumes under this document other than the total estimated value of the transaction and the Term.
- (c) Where the Seller proposes or is required to issue, give or make an announcement or other public statement concerning the making or the contents of this document, it must:
  - (i) notify INSW at least 3 Business Days prior to doing so, with such notice including a copy of the proposed announcement or public statement; and
  - (ii) incorporate any reasonable amendments required by INSW in respect of that proposed announcement or public statement prior to issuing, giving or making it.

#### **17.4 Survival of confidentiality obligations**

The provisions of this **clause 17** continue to bind the Parties after the termination or expiry of this document.

## **18 Dispute Resolution**

### **18.1 Disputes**

- (a) If a Dispute arises, a Party (**Disputing Party**) must give notice to:
  - (i) where the Disputing Party is the Seller, INSW;
  - (ii) where the Disputing Party is INSW, the Seller, (**Recipient Party**) requesting that the Dispute be referred for resolution by negotiation between representatives of the Disputing Party and Recipient Party with the authority to settle the Dispute (**Representatives**).
- (b) The Representatives must meet and enter into discussions in good faith to resolve the Dispute (in whole or in part) within 15 Business Days of the date on which the notice under **clause 18.1(a)** was received (or such later date as the Parties may agree).
- (c) Any agreement reached by the Representatives will be reduced to writing and will be contractually binding on the Parties.

### **18.2 Referral to expert**

- (a) If the Parties have not resolved the Dispute within the time period specified in **clause 18.1(b)**, either the Disputing Party or the Recipient Party may refer the Dispute to an Expert.

- (b) If a matter is referred to an Expert under **clause 8(b)(iv), 14.5(b)** or **18.2(a)**, the Parties will attempt to appoint an Expert jointly within 10 Business Days.
- (c) If the Expert is not appointed within 10 Business Days of the date of the referral under **clause 18.2(a)**, either the Disputing Party or the Recipient Party may refer the appointment of an Expert to the Chair of the Resolution Institute.
- (d) Each of the Disputing Party and the Recipient Party:
  - (i) may make submissions to the Expert within 10 Business Days of the Expert's appointment and the Expert may request data, information or submissions in relation to information the Expert finds necessary for the determination as soon as reasonably practicable;
  - (ii) must comply with such requests from the Expert as soon as reasonably practicable and no later than 5 Business Days of the relevant request; and
  - (iii) must supply a copy of any information provided in writing to the Expert pursuant to **clause 18.2(d)(i)** to the other Parties at the same time as the information is supplied to the Expert.
- (e) The Expert:
  - (i) acts as an expert and not as an arbitrator;
  - (ii) determines how the dispute is heard or assessed; and
  - (iii) is not bound by the rules of evidence.
- (f) The Expert's determination of the Required Amendments or the Dispute (as applicable) is final and binding upon the Parties, in the absence of fraud or manifest bias or error.
- (g) The Disputing Party and the Recipient Party must pay the Expert's remuneration in equal shares and will bear their own costs incurred in preparing and presenting any submissions or evidence to the Expert.
- (h) The Parties must continue to perform and comply with their respective obligations under this document (so far as it is reasonably practicable) to the extent that such obligations are not the subject of the Dispute.
- (i) This **clause 18.2** does not restrict or limit the right of any Party to commence proceedings of an interlocutory nature.

## 19 Corporate and social responsibility

### 19.1 Participation Plans

- (a) The Seller must comply with the Participation Plans.

- (b) Within 20 Business Days after the end of each Year, the Seller must provide to INSW a report on the Seller's compliance with the Participation Plans and the annual outcomes under those Participation Plans for that Year. The report must be in such form as INSW may require from time to time and must include, amongst other things, details of the financial commitments and expenditure towards and in support of aboriginal participation that have been made during or in respect of the Year in accordance with the Participation Plans.

## **19.2 Anti-bribery and corruption**

- (a) The Seller agrees that, in connection with its performance of this document, it will comply with all Applicable Laws relating to anti-corruption and anti-money laundering (including, where they apply to the Seller or its Related Entities (including any Related Entity of a Party comprising the Seller), those of jurisdictions outside of Australia) and warrants that it has in place procedures and systems for ensuring compliance with these laws.
- (b) The Seller warrants that it and each of its Related Entities (including any Related Entity of a Party comprising the Seller) and their respective Personnel has not made or offered, and will not make or offer, any payment or other transfer of valuable consideration, directly or indirectly to any person, for the purpose of obtaining, influencing or rewarding the award of this document or for any improper advantage or for any improper purpose in connection with the performance of this document.
- (c) If the Seller breaches its obligations or warranties under this **clause 19.2**, INSW may terminate this document with immediate effect upon written notice to the Seller.

## **19.3 Naming rights**

The Seller agrees, for the Term, to:

- (a) name each Facility with such name as may be nominated by INSW, provided such name is appropriate and reasonable having regard to the interests of all stakeholders in the Barangaroo Precinct (**Facility Name**);
- (b) refer to each Facility by the relevant Facility Name in any and all written communications and advertising material referring to that Facility; and
- (c) provide, erect and maintain (at the Seller's cost and with INSW's prior written approval) the Signage.

This **clause 19.3** survives the termination or expiry of this document.

## **19.4 Dealings with Sanctioned Persons etc**

The Seller must not, at any time during the Term, sell, or enter into any arrangements in respect of, electricity generated at a Facility to or with a Sanctioned Person.

## 20 Modern Slavery

### 20.1 Modern Slavery Policy

- (a) The Seller must have and implement a Modern Slavery Policy in relation to its own business that covers the obligations it has for the performance of this document and the construction, commissioning and operation of the Facilities.
- (b) The Modern Slavery Policy must at all times, at a minimum, detail:
  - (i) the Seller's steps to identify and assess risks of Modern Slavery practices in the operations and supply chains used in the performance of this document or the construction, commissioning or operation of the Facilities;
  - (ii) the Seller's processes for addressing and responding to any actual or suspected Modern Slavery practices of which it becomes aware in the operations and supply chains used in the performance of this document or the construction, commissioning or operation of the Facilities;
  - (iii) the content and timing of training for the Seller's Personnel about Modern Slavery; and
  - (iv) the Grievance Mechanism/s available to the Seller's Personnel.
- (c) The Seller must comply with the Modern Slavery Policy and, where applicable, the Modern Slavery Laws in its performance of this document and in the construction, commissioning and operation of the Facilities. For the avoidance of doubt, nothing in this **clause 20** derogates from the Seller's other obligations arising under this document.
- (d) The Seller must, if and to the extent requested by INSW from time to time, provide INSW with a copy of the Modern Slavery Policy and information on its implementation.

### 20.2 Risk identification

- (a) The Seller must take reasonable steps to identify, assess and address risks of Modern Slavery practices in the operations and supply chains used in the provision of the goods and/or services under this document or the construction, commissioning or operation of the Facilities.
- (b) If at any time the Seller becomes aware of Modern Slavery practices in the operations and supply chains used in the performance of this document or the construction, commissioning or operation of the Facilities, the Seller must as soon as reasonably practicable:
  - (i) take all reasonable action to address or remove these practices, including where relevant by addressing any practices of other entities in the Seller's supply chains; and
  - (ii) take all reasonable steps to remediate any adverse impacts caused or contributed to by the Seller from these practices in

accordance with the United Nations' Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework; and

- (iii) notify INSW in writing as soon as it becomes aware of either or both of the following:
  - (A) a material change to any of the Modern Slavery Information it has provided to INSW in relation to Modern Slavery; and
  - (B) any actual or suspected occurrence of Modern Slavery in the Seller's operations or supply chains (or those of any entity that the Seller owns or Controls).
- (c) Any action taken by the Seller under this **clause 20.2** will not affect any rights of INSW under this document.

### **20.3 Statements and reporting**

- (a) In providing Modern Slavery Information to INSW as to any actual or suspected occurrence of Modern Slavery in the Seller's operations or supply chains (or in those of any entity that it Controls), the Seller must provide sufficient Modern Slavery Information:
  - (i) to identify where the occurrence has arisen in those operations or supply chains and its scale and severity; and
  - (ii) to enable INSW to be satisfied, acting reasonably, that the Seller is taking reasonable steps to respond to and address that occurrence in accordance with its Modern Slavery Policy and procedures of the Seller and any relevant code of practice/conduct or other guidance issued by the Anti-slavery Commissioner or by the New South Wales Procurement Board established under the *Public Works and Procurement Act 1912 (NSW)*.
- (b) In providing any requested Modern Slavery Information to INSW, the Seller must:
  - (i) make such inquiries in relation to its operations and supply chains as may be reasonably expected to inform its response; and
  - (ii) communicate openly about the extent to which the Modern Slavery Information it provides is complete and accurate (including a statement as to the limitations of the Modern Slavery Information provided).

### **20.4 Modern Slavery Information**

- (a) The Seller consents to INSW sharing Modern Slavery Information obtained from the Seller in respect of Modern Slavery, including records referred to in **clause 20.4(c)**, with any Authority:
  - (i) for the purpose of identifying or addressing that actual or potential Modern Slavery; or
  - (ii) to the extent INSW has a reasonable belief of Modern Slavery

actually or potentially occurring in the operations or supply chains of the Seller or any entity that it owns or Controls.

- (b) Without limiting any other provision of this **clause 20**, the Seller:
  - (i) agrees that the communication of such information to any Authority is a communication falling within section 30 of the *Defamation Act 2005* (NSW); and
  - (ii) releases and indemnifies INSW and any Authority, including the State of New South Wales, from and against any Claim in respect of any matter arising out of such communications, including the use of such information by the recipient.
- (c) The Seller must, during the Term and for a further period of seven years after its termination or expiry:
  - (i) maintain; and
  - (ii) upon INSW's reasonable request, give INSW access to, and/or copies of,  
  
a complete set of records in the possession or control of the Seller to trace, so far as practicable, the supply chain of all goods and services provided under this document and to enable INSW to assess the Seller's compliance with this **clause 20**.
- (d) This **clause 20.4** survives the termination or expiry of this document.

## 20.5 Employee rights

Without limiting **clause 20.1**, in performing this document and in the construction, commissioning and operation of the Facilities, the Seller must:

- (a) not require any Personnel to pay fees, charges, expenses or financial obligations incurred in order for the Personnel to secure their employment or placement, regardless of the manner, timing or location of the imposition or collection of such fees, charges, expenses or financial obligations;
- (b) not destroy or exclusively possess, whether permanently or otherwise, the travel or identity documents of any Personnel; and
- (c) ensure its Personnel can access a Grievance Mechanism to safely report any instances of Modern Slavery in the operations and supply chains used by the Seller in its performance of this document or the construction, commissioning or operation of the Facilities.

## 20.6 Subcontractors

The Seller must take reasonable steps to ensure that any subcontracts of the whole or part of this document contain Modern Slavery provisions that are reasonably consistent with the provisions in this **clause 20**, having regard to the nature of the procurement.



## 21 Access to Facilities

- (a) Any person authorised by INSW may (only when accompanied by a representative of the Seller) enter and inspect (including to take photographs and videos for marketing purposes), during regular business hours, a Facility subject to:
  - (i) INSW giving reasonable notice to the Seller (including identifying the relevant person or persons) ; and
  - (ii) obtaining the approval of the Seller, with such approval not to be unreasonably withheld or delayed.
- (a) Where the Seller has approved a person to enter and inspect a Facility in accordance with **clause 21(a)**:
  - (i) the Seller must provide a representative of the Seller to accompany the person or persons authorised by INSW; and
  - (ii) INSW must ensure that the relevant person authorised by INSW complies with all safety procedures which usually apply in respect of the relevant Facility (as notified by the Seller).
- (b) Where INSW gives notice to the Seller under **clause 21(a)(i)** in respect of more than one entry per Facility per Year, it will not be unreasonable for the Seller to withhold its approval under **clause 21(a)(ii)** if INSW does not agree to pay the Seller's reasonable costs of providing a representative of the Seller to accompany the person or persons identified in INSW's notice.

## 22 Warranties

### 22.1 Seller's Warranties

The Seller represents and warrants to INSW (and each Party comprising the Seller represents and warrants to INSW in respect of itself) that:

- (a) on and from the Supply Start Date, it holds all applicable Authorisations required under any applicable Green Product Scheme or Applicable Law to create, register and transfer Green Products;
- (b) on and from the Supply Start Date, it has and will comply with all relevant laws, including obtaining, holding and maintaining all applicable Authorisations, licences and registrations required to operate the Facilities;
- (c) with respect to all Green Products which are Transferred by the Seller to INSW under this document:
  - (i) the Seller is the legal and beneficial owner and enjoys full legal title to the Green Products;
  - (ii) the Green Products were created (and generated) in accordance with the requirements of any Green Product Scheme;

- (iii) the Green Products are registered in accordance with any Green Product Scheme; and
- (iv) the Green Products are not subject to any Encumbrance or other claim by a third Party; and
- (d) it will ensure it holds a Register Account on each Transfer Date, and that this Register Account will, subject to any Registration Disruption Event or where **clause 8(a)** could apply, be able to be used to record the holding and Transfer of the LGCs on each Transfer Date.

## 22.2 Trust warranties

Without limiting **clause 22.1**, to the extent that a Party comprising the Seller is the trustee of a trust, that Party represents and warrants to INSW that:

- (a) it enters into this document as trustee of the trust (**Seller Trust**) established under a trust deed (**Seller Trust Deed**);
- (b) the execution, delivery and performance of this document is authorised under the Seller Trust Deed and does not and will not (with or without the lapse of time, the giving of notice or both) contravene, conflict with or result in a breach of or default under the Seller Trust Deed;
- (c) it has full power, capacity and lawful authority to execute and deliver this document and to consummate and perform its obligations under this document in its capacity as trustee of the Seller Trust;
- (d) this document constitutes a legal, valid and binding obligation on the Party in its capacity as trustee of the Seller Trust, enforceable in accordance with its terms;
- (e) it has considered the transactions provided for in this document and is of the opinion that entry into this document is a proper exercise of its powers and discretions as trustee of the Seller Trust;
- (f) the beneficiaries of the Seller Trust have given their fully informed consent to the Party entering into this document, where such consent is necessary to authorise the Party to enter into this document;
- (g) the Seller Trust has been validly created and is in existence;
- (h) it has been validly appointed as trustee of the Seller Trust;
- (i) it is the only trustee of the Seller Trust and no action has been taken or is proposed to remove it as trustee of the Seller Trust;
- (j) it is not in default under the terms of the Seller Trust;
- (k) it has the right to be fully indemnified out of the assets of the Seller Trust in respect of all obligations and liabilities of the Seller under this document and those assets of the Seller Trust are available for satisfaction of all liabilities and other obligations incurred by the trustee under this document, and has not done or omitted to do anything that would result in the Party's right of indemnity being restricted or limited in any way; and

- (l) no action has been taken, or is proposed, to terminate the Seller Trust.

### **22.3 INSW's Warranties**

INSW represents and warrants to the Seller that:

- (a) it holds all applicable Authorisations required under any Green Product Scheme to receive the Transfer of the Green Products; and
- (b) it will ensure it holds a Register Account on each Transfer Date, and that this Register Account will, subject to any Registration Disruption Event or where **clause 8(a)** could apply, be able to be used to record the holding and Transfer of the LGCs on each Transfer Date.

### **22.4 Mutual warranties**

Each Party represents and warrants to the other Parties on and from:

- (a) in the case of INSW and CPE, the Execution Date;
- (b) in the case of a Party that accedes to this document in accordance with **clause 15.4**, the relevant Assignment Date,

that:

- (c) it has full corporate power and authority to enter into, perform and observe its obligations under this document; and
- (d) its obligations under this document are valid and binding and enforceable in accordance with their terms.

## **23 GST**

- (a) Unless the context requires otherwise, words and phrases in this clause that have a specific meaning in the GST Act shall have the same meaning in this **clause 23**.
- (b) If a Party is a member of a GST group, references to GST which the Party must pay and to input tax credits to which the Party is entitled include GST which the representative member of the GST group must pay and input tax credits to which the representative member is entitled.
- (c) Unless otherwise stated, all amounts expressed to be payable under or in connection with this document are exclusive of any GST.
- (d) A recipient of a taxable supply under or in connection with this document must pay to the supplier, in addition to the consideration for the taxable supply, an amount equal to any GST paid or payable by the supplier in respect of the taxable supply (**GST Amount**). The recipient must make that payment to the supplier as and when the consideration or part of it is provided, except that the recipient need not pay unless the recipient has received a Tax Invoice (or an Adjustment Note) for that taxable supply.
- (e) If an adjustment event occurs in relation to a supply made under or in connection with this document, the GST Amount will be recalculated to

reflect that adjustment and an appropriate payment will be made between the Parties.

- (f) Where a supplier incurs a cost or expense for which it may be reimbursed by, indemnified against, claim against or set-off against another Party under this document, the amount to be paid or credited is the cost or expense (reduced by the input tax credit that the supplier is entitled to claim in respect of that cost or expense) plus any GST Amount payable under this **clause 23**.
- (g) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.
- (h) If a Party has a claim under or in connection with this document whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).
- (i) This **clause 23** will not merge upon completion and will continue to apply after expiration or termination of this document.

## 24 Notices

### 24.1 General

A notice, demand, certification, process or other communication relating to this document must be in writing in English and may be given by an agent of the sender.

### 24.2 How to give a communication

In addition to any other lawful means, a communication may be given by being:

- (a) personally delivered;
- (b) left at the Party's current delivery address for notices;
- (c) sent to the Party's current postal address for notices by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail; or
- (d) sent by email to the Party's current email address for notices.

### 24.3 Particulars for delivery of notices

- (a) The particulars for delivery of notices are initially:

#### **INSW**

Delivery address: Level 27, 201 Kent Street, Sydney NSW 2000

Postal address: As above

Email address: [REDACTED]

Attention: [REDACTED]

**Seller (including each Party comprising the Seller)**

Delivery address: Level 12, 201 Miller Street, North Sydney NSW 2060

Postal address: As above

Email address: [REDACTED]

Attention: [REDACTED]

- (b) Either INSW or the Seller may change its particulars for delivery of notices by notice to the other.

**24.4 Communications by post**

Subject to **clause 24.6**, a communication is given if posted:

- (a) within Australia to an Australian postal address, 3 Business Days after posting; or
- (b) outside of Australia to an Australian postal address or within Australia to an address outside of Australia, 10 Business Days after posting.

**24.5 Communications by email**

Subject to **clause 24.6**, a communication is given if sent by email, an email is taken to be received at the time the email was sent, as recorded on the device from which the sender sent the email, provided that the sender does not receive a delivery failure message or out of office message within 3 hours of sending the message.

**24.6 After hours communications**

If a communication is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

**24.7 Process service**

Any process or other document relating to litigation, administrative or arbitral proceedings relating to this document may be served by any method contemplated by this **clause 24** or in accordance with any applicable law.

**25 General**

**25.1 Legal costs**

Except as expressly stated otherwise in this document, each Party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this document.

## **25.2 Amendment**

This document may only be varied or replaced by a document executed by the Parties.

## **25.3 Waiver and exercise of rights**

- (a) A single or partial exercise or waiver by a Party of a right relating to this document does not prevent any other exercise of that right or the exercise of any other right.
- (b) A Party is not liable for any loss, cost or expense of any other Party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

## **25.4 Rights cumulative**

Except as expressly stated otherwise in this document, the rights of a Party under this document are cumulative and are in addition to any other rights of that Party.

## **25.5 Consents**

Except as expressly stated otherwise in this document, a Party may conditionally or unconditionally give or withhold any consent to be given under this document and is not obliged to give its reasons for doing so.

## **25.6 Further steps**

Each Party must promptly do whatever another Party reasonably requires of it to give effect to this document and to perform its obligations under it.

## **25.7 Governing law and jurisdiction**

- (a) This document is governed by and is to be construed in accordance with the laws applicable in New South Wales.
- (b) Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

## **25.8 Liability**

Subject to **clause 16.2**, an obligation of two or more persons binds them separately and together.

## **25.9 Counterparts**

This document may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

## **25.10 Entire understanding**

- (a) This document contains the entire understanding between the Parties as to the subject matter of this document.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this

document are merged in and superseded by this document and are of no effect. No Party is liable to any other Party in respect of those matters.

(c) No oral explanation or information provided by any Party to another:

(i) affects the meaning or interpretation of this document; or

(ii) constitutes any collateral agreement, warranty or understanding between any of the Parties.

### **25.11 Relationship of Parties**

This document is not intended to create a partnership, joint venture or agency relationship between the Parties.

# Schedule 1

## Terms of Sale

Item	Term	Detail
1	Initial Facilities	<p>(a) Facility #1 (Nominated First Facility)</p> <p>CPE Moama Solar Farm, being a 4.95MWac solar farm to be located at 55 Milgate Road, Moama NSW 2731</p> <p>(b) Facility #2</p> <p>CPE Hay Solar Farm, being a 4.95MWac solar farm to be located at 19 Murray Street, Hay NSW 2711</p> <p>(c) Facility #3</p> <p>CPE Deniliquin Solar Farm, being a 4.95MWac solar farm to be located at 39 Hogans Lane, Deniliquin NSW 2710</p> <p>(d) Facility #4</p> <p>██</p> <p>██</p>
2	CP Sunset Date	██████████
3	Supply Start Date	██████████
4	Base Guaranteed Volume	In respect of a Year, the number of Green Products specified in <b>part A</b> of <b>schedule 4</b> for that Year.
5	Quarterly Volume	In respect of a Quarter, the number of Green Products specified in the column headed "Quarterly Volume" in <b>part B</b> of <b>schedule 4</b> for that Quarter.
6	Green Product Unit Price	██████████ per Green Product
7	Credit Support Amount	<p>For:</p> <p>(a) the period on and from the Execution Date until (and including) the Commercial Operation Date of the last Initial Facility to achieve Commercial Operation, ██████████ and</p> <p>(b) the period commencing on and from the date immediately following the period referred to in</p>



Item	Term	Detail
		item 7(a) of this schedule 1 until the Expiry Date, [REDACTED]
8	CP Termination Amount	[REDACTED]

## Schedule 2

### Conditions

Condition	
1	Financial Close has occurred in respect of the Nominated First Facility.
2	All Construction Facility Approvals and Agreements have been obtained or executed in respect of the Nominated First Facility (as applicable).

## Schedule 3

### Relevant information for reporting

#### **Part A - Monthly Construction Meeting**

At each Monthly Construction Meeting in respect of a Facility, the Seller must:

- (a) provide a status update of the construction and commissioning of the Facility, including as against the Milestone Schedule;
- (b) identify and provide information on any issues affecting or likely to affect the construction, commissioning or operation of the Facility; and
- (c) provide information as to changes, amendments, replacements or variations to the program, any relevant Authorisations, or Facility Approvals and Agreements in respect of the Facility.

#### **Part B - Quarterly Report and Annual Report**

- (a) In respect of each Quarterly Report and Annual Report provided by the Seller, such report must include, for the period to which the report relates:
  - (i) certificate or registration numbers in respect of each Green Product Transferred by the Seller to INSW during the relevant Quarter or Year (as applicable); and
  - (ii) for the information referred to in **item (a)(i)** of this **part B** of **schedule 3**:
    - (A) the Quarter and Year of creation and (to the extent it is different) the Quarter and Year when the associated electricity was generated and exported to the grid; and
    - (B) the Facility, Eligible Facility or Eligible NEM Facility, for each Green Product Transferred to INSW.
- (b) In respect of each Annual Report provided by the Seller, such report must include (in addition to the matters set out in **item (a)** of this **part B** of **schedule 3**)
  - (i) a report for the relevant Year that includes:
    - (A) data on all electricity generated and exported to the grid by each Facility and in aggregate for all Facilities (in MWh) during the relevant Year; and
    - (B) the total number of Green Products (of any type) created from electricity generated by each Facility and in aggregate for all Facilities during the relevant Year; and
  - (ii) the certificates of currency for all Required Insurances for the Year to which the Annual Report relates.



# Schedule 4

## Green Product Volumes

### A Base Guaranteed Volumes

Subject to **part C** of this **schedule 4**:

Year	Base Guaranteed Volume
1 January 2025 – 30 June 2025	██████
1 July 2025 – 30 June 2026	██████
1 July 2026 – 30 June 2027	██████
1 July 2027 – 30 June 2028	██████
1 July 2028 – 30 June 2029	██████
1 July 2029 – 30 June 2030	██████
1 July 2030 – 30 June 2031	██████
1 July 2031 – 30 June 2032	██████
1 July 2032 – 30 June 2033	██████
1 July 2033 – 30 June 2034	██████
1 July 2034 – 30 June 2035	██████

Year	Base Guaranteed Volume
1 July 2035 – 30 June 2036	██████
1 July 2036 – 30 June 2037	██████
1 July 2037 – 30 June 2038	██████
1 July 2038 – 30 June 2039	██████
1 July 2039 – 30 June 2040	██████
1 July 2040 – 30 June 2041	██████
1 July 2041 – 30 June 2042	██████
1 July 2042 – 30 June 2043	██████
1 July 2043 – 30 June 2044	██████
1 July 2044 – 30 June 2045	██████
1 July 2045 – 30 June 2046	██████

Year	Base Guaranteed Volume
1 July 2046 – 30 June 2047	██████
1 July 2047 – 30 June 2048	██████

Year	Base Guaranteed Volume
1 July 2048 – 30 June 2049	██████
1 July 2049 – 31 December 2049	██████

## B Quarterly Volumes

Subject to **part C** of this **schedule 4**:

Quarter	Quarterly Volume
1 July – 30 September	████ of Base Guaranteed Volume for the Year in which the Quarter occurs
1 October – 31 December	████ of Base Guaranteed Volume for the Year in which the Quarter occurs
1 January – 31 March	████ of Base Guaranteed Volume for the Year in which the Quarter occurs
1 April– 30 June	████ of Base Guaranteed Volume for the Year in which the Quarter occurs

provided that, in the case of:

- (a) **(adjustment for first half year)**: the Quarter commencing:
- (i) 1 January 2025, the Quarterly Volume is █████ of Base Guaranteed Volume for the Year in which the Quarter occurs; and
  - (ii) 1 April 2025, the Quarterly Volume is █████ of Base Guaranteed Volume for the Year in which the Quarter occurs; and
- (b) **(adjustment for last half year)**: the Quarter commencing:
- (i) 1 July 2049, the Quarterly Volume is █████ of Base Guaranteed Volume for the Year in which the Quarter occurs; and
  - (ii) 1 October 2049, the Quarterly Volume is █████ of Base Guaranteed Volume for the Year in which the Quarter occurs.

## C Base Guaranteed Volumes

### C.1 Definitions

In this **part C** of **schedule 4**, these terms have the following meanings:

**Adjusted Expiry Date** The Expiry Date (as adjusted as a result of the extension of time to the Supply Start Date in accordance with **clause 3.2(e)**);

**Adjusted Supply Start Date** The Supply Start Date (as adjusted in accordance with **clause 3.2(e)**).

**Original Expiry Date** The Expiry Date as determined under this document as at the Execution Date.

**Original Supply Start Date** The Supply Start Date as specified in this document as at the Execution Date.

**Reference Quarter** For a relevant Quarter that commences on:

- (a) 1 January, the Quarter commencing 1 January 2048 and ending 31 March 2048;
- (b) 1 April, the Quarter commencing 1 April 2048 and ending 30 June 2048;
- (c) 1 July, the Quarter commencing 1 July 2047 and ending 30 September 2047; and
- (d) 1 October, the Quarter commencing 1 October 2047 and ending 31 December 2047.

### C.2 Quarterly Volume and Additional Volume adjustments

If an extension of time to the Supply Start Date has been granted in accordance with **clause 3.2(e)**, the Quarterly Volume calculated in accordance with **part B** of this **schedule 4**:

- (a) for a Quarter which ends before the Adjusted Supply Start Date are deemed to be zero;
- (b) for a Quarter (**relevant Quarter**) in which the Adjusted Supply Start Date occurs are deemed to be adjusted as follows:

$$A = B \times N/Q$$

where:

**A** is the adjusted Quarterly Volume for the relevant Quarter;

**B** is the Quarterly Volume for the relevant Quarter as calculated in accordance with in **part B** of this **schedule 4** as at the Execution Date;



**N** is the number of days in the period commencing on the Adjusted Supply Start Date and ending on the last day of the relevant Quarter (inclusive); and

**Q** is the total number of days in the period commencing on later of:

- (i) the Original Supply Start Date; and
- (ii) the first to occur of 1 January, 1 April, 1 July or 1 October in the relevant Quarter;

- (c) for the Quarter (**relevant Quarter**) in which the Original Expiry Date occurs are deemed to be adjusted as follows:

$$A = B \times N/Q$$

where:

**A** is the adjusted Quarterly Volume for the relevant Quarter;

**B** is the Quarterly Volume for the relevant Quarter as calculated in accordance with in **part B** of this **schedule 4** as at the Execution Date;

**N** is the total number of days in the period commencing on the first day of the relevant Quarter and ending on the earlier of:

- (iii) the Adjusted Expiry Date; and
- (iv) the first to occur of 31 March, 30 June, 30 September and 31 December in the relevant Quarter; and

**Q** is the total number of days in the period commencing on the first day of the relevant Quarter and ending on the Original Expiry Date; and

- (d) for each Quarter (**relevant Quarter**) which commences after the Original Expiry Date occurs are deemed to be adjusted as follows:

$$A = B \times N/M$$

where:

**A** is the adjusted Quarterly Volume for the relevant Quarter;

**B** is the Quarterly Volume for the Reference Quarter for the relevant Quarter;

**N** is the total number of days in the period commencing on the first day of the relevant Quarter and ending on the earlier of:

- (i) the Adjusted Expiry Date; and
- (ii) the first to occur of 31 March, 30 June, 30 September and 31 December in the relevant Quarter; and

**M** is the total number of days in the Reference Quarter for the relevant Quarter; and

- (e) for any other Quarter will not be adjusted.

### **C.3 Base Guaranteed Volumes adjustments**

If an extension of time to the Supply Start Date has been granted in accordance with **clause 3.2(e)**, the Base Guaranteed Volumes specified in **part A** of this **schedule 4**:

- (a) for each Year (**relevant Year**) which includes a Quarter (**affected Quarter**) to which **clause C.2(a)** or **C.2(b)** of this **part C** of **schedule 4** applies is adjusted by deducting:
  - (i) to the extent **clause C.2(a)** of this **part C** of **schedule 4** applies to an affected Quarter in the relevant Year, the Quarterly Volume (as calculated in accordance with in **part B** of this **schedule 4** as at the Execution Date) for that affected Quarter; and
  - (ii) to the extent **clause C.2(b)** of this **part C** of **schedule 4** applies to an affected Quarter in the relevant Year, the difference between:
    - (A) the Quarterly Volume as calculated in accordance with in **part B** of this **schedule 4** as at the Execution Date for the affected Quarter; and
    - (B) the Quarterly Volume for the affected Quarter as adjusted by **clause C.2(b)** of this **part C** of **schedule 4**;
- (b) for each Year (**relevant Year**) which includes a Quarter (**affected Quarter**) to which **clause C.2(c)** or **C.2(d)** of this **part C** of **schedule 4** applies is adjusted by adding:
  - (i) to the extent **clause C.2(c)** of this **part C** of **schedule 4** applies to an affected Quarter in the relevant Year, the difference between:
    - (A) the Quarterly Volume as calculated in accordance with in **part B** of this **schedule 4** as at the Execution Date for the affected Quarter; and
    - (B) the Quarterly Volume for the affected Quarter as adjusted by **clause C.2(c)** of this **part C** of **schedule 4**; and
  - (ii) to the extent **clause C.2(d)** of this **part C** of **schedule 4** applies to an affected Quarter in the relevant Year, the Quarterly Volume (as adjusted in accordance with clause **C.2(d)** of this **part C** of **schedule 4**) for the affected Quarter; and
- (c) for any other Year will not be adjusted.

### **C.4 Other adjustments**

For the avoidance of doubt, the Quarterly Volume and Base Guaranteed Volume, as adjusted by this **part C** of **schedule 4**, may be further adjusted by **clause 3.7** or **10.4**.

# Schedule 5

## Facility Milestone Schedule

### Milestones for each Facility

- 1 Financial Close has occurred in respect of the Facility.

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- 2 All Facility Approvals and Agreements have been obtained or executed in respect of the Facility (as applicable)

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- 3 Commercial Operation achieved for the Facility

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# Schedule 6

## Participation Plans

# Aboriginal Participation Plan

## 1. Introduction

CleanPeak's Aboriginal Participation Plan (APP) outlines our commitment to meaningful engagement, collaboration, and inclusion of Aboriginal communities in the development, operation, and benefits of our renewable energy projects in New South Wales. The plan seeks to build respectful and mutually beneficial relationships with Aboriginal stakeholders while promoting social, economic, and cultural sustainability.

## 2. Purpose

The purpose of the Aboriginal Participation Plan is to:

- Facilitate open and transparent communication with Aboriginal communities throughout each project lifecycle.
- Ensure meaningful participation of Aboriginal people in decision-making processes related to project development, operation, and benefits.
- Identify opportunities for capacity-building, training, employment, and business development for Aboriginal individuals and organisations.
- Respect and preserve Aboriginal cultural heritage and promote cultural awareness within our company and the communities in which we operate.
- Establish mechanisms for ongoing consultation and collaboration between the company and Aboriginal stakeholders.

## 3. Principles

Our Aboriginal Participation Plan is guided by the following principles:

- **Respect:** We respect the unique cultural, social, and economic contributions of Aboriginal communities and strive to honour their traditional knowledge and heritage.
- **Inclusion:** We are committed to fostering inclusive and equitable partnerships that create opportunities for meaningful participation by Aboriginal people at all levels.
- **Collaboration:** We recognise the value of collaborative decision-making, engaging in continuous dialogue, and working together to achieve shared goals.
- **Sustainability:** We aim to create enduring social and economic benefits for Aboriginal communities, enhancing their capacity to thrive over the long term.
- **Cultural Awareness:** We actively promote understanding and respect for Aboriginal cultures within our company and among our employees.

#### 4. Engagement and Consultation

- Establish a dedicated **Aboriginal Engagement Team** responsible for building and maintaining relationships with Aboriginal communities.
- Develop a comprehensive stakeholder engagement strategy that includes consultation, information sharing, and involvement of Aboriginal stakeholders in project planning, design, and decision-making processes.
- Conduct regular community meetings, workshops, and information sessions to update Aboriginal and local communities on project developments, milestones, and impacts.

#### 5. Economic Opportunities and Employment

- Identify and prioritize opportunities for local Aboriginal businesses, suppliers, and contractors to participate in the supply chain of our projects.
- Consider developing specialised training programs, apprenticeships, or internships to enhance the skills and employability of Aboriginal individuals in the renewable energy sector.
- Establish a clear process for fair and equal access to employment and procurement opportunities for Aboriginal community members.

#### 6. Cultural Heritage Protection

- Conduct comprehensive cultural heritage assessments in consultation with Aboriginal Traditional Owners and cultural heritage experts.
- Develop and implement measures to protect and preserve Aboriginal cultural heritage sites and artifacts during project development and operation.
- Provide cultural awareness training for company staff and contractors to ensure respectful engagement with Aboriginal cultural heritage.

#### 7. Community Investment and Benefits

- Collaborate with Aboriginal communities to identify community development projects and initiatives that align with their priorities and aspirations.
- Establish a community benefits fund to contribute to local projects, initiatives, and capacity-building efforts identified by Aboriginal stakeholders.
- Provide financial support for education, training, and cultural programs for Aboriginal community members.

#### 8. Reporting and Review

- Regularly report progress and achievements of Aboriginal Participation Plan goals and initiatives to Aboriginal stakeholders, regulatory authorities, and the public.

- Report annually to Infrastructure NSW by 31 August each year on expenditure on Aboriginal businesses, suppliers, and contractors as a percentage of total expenditure on the facilities being built and/or operated under the Green Products Purchase Agreement in the preceding financial year.
- Conduct periodic reviews and evaluations of the plan's effectiveness in meeting its objectives, making adjustments and improvements as necessary.

## 9. Conclusion

CleanPeak is committed to implementing this Aboriginal Participation Plan with integrity and dedication. Through meaningful collaboration and engagement, we aim to foster a future where Aboriginal communities benefit from and actively participate in the growth of the renewable energy sector in New South Wales.

# Schedule 7

## Modern Slavery Policy





# **Modern Slavery Prevention Policy**

### Document Details

<b>Document Owner</b>	Human Resources
<b>Author</b>	██████████
<b>Approved by</b>	CleanPeak Energy Board of Directors
<b>Any questions about this document</b>	██████████ ████████████████████
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## 2 Introduction

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### 2.1 Purpose

Modern slavery is a global problem that affects millions of people. At CleanPeak, we condemn the practice of modern slavery and are committed to the fair and humane treatment of people in all our business operations and relationships. We recognise that the renewable energy industry is vulnerable to modern slavery risk, particularly in regard to the supply and manufacture of solar panels and their component parts, but potentially in other areas of our operations also.

This policy is aimed at reducing and eradicating the risk of modern slavery from occurring within CleanPeak's business operations and supply chains.

This policy reflects CleanPeak's commitment to:

- the UNGP on Business and Human Rights
- the ILO Declaration on Fundamental Principles and Rights at Work
- the UN Declaration on the Rights of Indigenous Peoples.

### 2.2 Risks Controlled under this Policy

The following risks are controlled under this policy:

- Ethical and human rights concerns: the absence of a modern slavery policy disregards the ethical responsibility of organisations to prevent and address modern slavery. A policy reduced the likelihood of contributing to exploitative labour conditions and human rights abuses, resulting in harm to individuals, loss of trust among stakeholders, and potential boycotts or public backlash.
- Legal and reputational risks: without a modern slavery policy, CleanPeak faces the risk of unknowingly facilitating or benefiting from modern slavery practices within their supply chains.

### 2.3 Responsibilities under this Policy

The CleanPeak Board has overall responsibility for approving this policy.

This policy will be reviewed by the Board on a regular basis and updated as required.

Role	Responsibility	Frequency
Employees	Each employee must ensure that they are aware of what constitutes modern slavery and their responsibility to reduce the risk of modern slavery impacts within CleanPeak's operations in accordance with this policy.	Ongoing

<b>Senior Managers</b>	The General Manager Operations, will have the primary day-to-day responsibility for the implementation of this policy, monitoring its use and ensuring that the appropriate processes and controls are in place, and amended as appropriate, to ensure it can operate effectively.	Ongoing
<b>Board</b>	The Board of Directors has responsibility for ensuring they receive and act upon regular reports from management on modern slavery risk, and for keeping key stakeholders informed of progress toward minimising this risk.	Ongoing

## 2.4 Definitions

<b>Term</b>	<b>Definition</b>
<b>CleanPeak</b>	CleanPeak includes, but is not limited to: <ul style="list-style-type: none"> <li>• CleanPeak Energy Pty Ltd</li> <li>• CleanPeak District Energy Pty Ltd</li> <li>• CPE Tonsley Pty Ltd</li> <li>• CPE Mascot Pty Ltd</li> <li>• CPE Central Park Pty Ltd</li> <li>• CPE Funding Pty Ltd</li> <li>• CPE Funding No.2 Holdings Pty Ltd</li> <li>• CleanPeak Energy Retail Pty Ltd</li> <li>• CleanPeak Funds Management Pty Ltd</li> </ul>
<b>Modern Slavery</b>	Modern slavery is a term used to refer to a range of exploitative practices including: <ul style="list-style-type: none"> <li>• servitude</li> <li>• forced labour</li> <li>• debt bondage</li> <li>• forced marriage</li> <li>• child labour</li> <li>• deceptive recruiting for labour or services</li> <li>• human trafficking.</li> </ul>
<b>ILO</b>	International Labour Organisation
<b>UN</b>	United Nations
<b>UNGP</b>	UN Guiding Principles on Business and Human Rights

## **3 Scope & Application**

---

### **3.1 Scope**

This policy is aimed at reducing and eradicating the risk of modern slavery from occurring within CleanPeak's business operations and supply chains.

This policy reflects CleanPeak's commitment to:

- the UN Guiding Principles on Business and Human Rights
- the ILO Declaration on Fundamental Principles and Rights at Work
- the UN Declaration on the Rights of Indigenous Peoples.

### **3.2 Application**

This policy applies to CleanPeak Energy Pty Ltd and all its subsidiaries and related entities, hereinafter referred to as 'CleanPeak', including all employees, company directors, contractors, consultants and related parties.

CleanPeak expects all who have, or seek to have, a business relationship with us to familiarise themselves with this policy and take verifiable steps towards compliance.

## 4 Policy

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### 4.1 Understanding Modern Slavery

Modern slavery is a term used to refer to a range of exploitative practices including servitude, forced labour, debt bondage, forced marriage, child labour, deceptive recruiting for labour or services, and human trafficking.

It is estimated that more than 40 million people globally are currently victims of modern slavery. While the estimated prevalence of modern slavery in Australia is comparatively low, it is likely that modern slavery exists in the supply chains for goods and services sold in Australia and by Australian companies, including potentially CleanPeak.

CleanPeak takes a risk-based approach to dealing with modern slavery involving the following key steps:

- STEP 1: Risk assessment
- STEP 2: Risk mitigation
- STEP 3: Remediation
- STEP 4: Reporting
- STEP 5: Continuous Improvement

### 4.2 Identifying Modern Slavery

The first step towards reducing and eradicating modern slavery risk involves a thorough **risk assessment** to identify the likelihood of modern slavery practices occurring in CleanPeak's operations and supply chain.

As part of staff training, CleanPeak provides a briefing to all employees to all new employees on CleanPeak's suite of policies and procedures and has put in place a rolling program of detailed briefings on policies and procedures through the Lunch & Learn series to ensure that all staff remain informed and up-to-date. This briefing covers the rationale, the scope and the content of each policy, to develop a consistent understanding among all CleanPeak personnel of the policies in existence and of the expectations on them to understand and follow all CleanPeak policies.

CleanPeak will regularly undertake a risk assessment of our internal operations and our supply chain of goods and services – including, but not limited to, solar panels, inverters, batteries, and other power generation equipment, as well as design, construction and facilities maintenance services.

We understand that multiple risk factors potentially influence the nature and extent of modern slavery risk, particularly when these factors intersect. We will use the following risk factors to inform our risk analysis:

- **Country of operation** – noting which of our own or our supplier’s manufacturing operations are located in countries associated with a higher risk of modern slavery practices.
- **Category of goods/service** – noting which of our own or our supplier’s goods or services are in industries with known incidences of modern slavery.
- **Resources used in goods** – noting which of our material components contain metals and/or minerals that may be sourced from regions known to be more exposed to risks of modern slavery practices.
- **Type of workforce** – noting which workers employed across parts of our operations or contracted services are at increased risk of modern slavery due to the type of work they undertake.

### 4.3 Preventing Modern Slavery

Where the risk assessment reveals a heightened risk of modern slavery or other human rights abuses occurring in CleanPeak’s operations or supply chain, we will work to **mitigate** this risk through an enhanced due diligence process.

This will include but not be limited to:

- Ensuring all supplier contracts incorporate specific prohibition against modern slavery.
- Ensuring a *Code of Conduct for Suppliers* is in place which articulates CleanPeak’s expectations around human rights and zero tolerance for modern slavery.
- Obtaining written assurances from suppliers attesting to their adherence with CleanPeak’s codes and contract terms and evidencing their own Policy Statements that prohibit the practice of modern slavery within their operations and those of their upstream suppliers.

In the event that the above preventative actions cannot be achieved, CleanPeak will seek to terminate the business relationship that gives rise to modern slavery risk, unless:

- There are credible assessments of potential adverse human rights impacts of doing so; or
- The relationship is “crucial” to CleanPeak’s business (i.e. it provides an essential product or service for which no reasonable alternative source exists). In this case CleanPeak will work with the entities concerned and/or collaborate with other actors, to influence, incentivise or otherwise ensure that the risk of modern slavery is reduced.

In addition, CleanPeak will undertake proactive steps to discover and develop alternate suppliers for goods or services in industries, regions or workforces that are deemed at high risk of exposure to modern slavery practices.



## 4.4 Responding to Modern Slavery

CleanPeak recognises that despite our best efforts to do otherwise, there may be instances where we have inadvertently caused or contributed to adverse human rights impacts. In such situations, CleanPeak recognises its responsibility to actively engage in **remediation** processes.

Where adverse human rights impacts have occurred that CleanPeak has not caused or contributed to, but which are directly linked to our operations or business relationships, CleanPeak will cooperate and collaborate with any industry or judicial mechanisms that have been established to address these impacts.

Any employee who witnesses or suspects modern slavery may register a grievance in accordance with our Grievance Handling Policy.

## 4.5 Reporting on Modern Slavery

In order to demonstrate our commitment to reducing and eradicating the risk of modern slavery in our business operations and supply chains, CleanPeak will provide regular internal reports to the Board on the implementation of this policy.

This information may be disclosed to investors and other stakeholders, subject to CleanPeak Board approval and taking into account any commercial confidentiality requirements.

CleanPeak will report publicly on modern slavery risk in accordance with any legislative requirements.

## 4.6 Continuous Improvement

CleanPeak recognises that that tackling modern slavery requires all employees to remain vigilant to the risk in all aspects of business and business relationships. Our commitment to continuous improvement is supported by:

- **Awareness and Training Programs** – CleanPeak provides annual training for all employees on modern slavery prevention as part of our mandatory Lunch & Learn staff training program that occurs on a fortnightly basis throughout the year. This training covers the rationale, scope and content of our Modern Slavery Prevention Policy and equips staff with the knowledge and skills to identify, mitigate, and if necessary report, instances of modern slavery occurring in CleanPeak’s operations or supply chain, in accordance with this policy.
- **Reporting and Complaints Mechanisms** – CleanPeak has reporting mechanisms in place for complaints or disclosures in relation to modern slavery, which allow for confidential reporting and protection from reprisal. For staff, this mechanism is outlined in CleanPeak’s Grievance Handling Policy, and for any non-staff this mechanism is outlined in CleanPeak’s Whistleblower policy.
- **Collaboration in industry-led initiatives** – Acknowledging we are just one of many small end-stream providers of renewable energy and do not have the resources or buying power to significantly influence supplier behaviour, CleanPeak will work collaboratively in an industry-wide approach, to improve

supply-chain transparency and accountability so that the risk of modern slavery is reduced.

#### **4.7 Related Policies and Documents**

The following policies and documents should be considered in relation to this Policy:

- CleanPeak Human Rights Policy
- CleanPeak Code of Business Conduct & Ethics
- CleanPeak Supplier Code of Conduct
- CleanPeak Grievance Handling Policy
- CleanPeak Whistleblower Policy



# **Grievance Handling Policy**

### Document Details

<b>Document Owner:</b>	Human Resources
<b>Author:</b>	██████████
<b>Approved by:</b>	Board of Directors
<b>Any questions about this document:</b>	████████████████████ ██
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## 2 Introduction

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### 2.1 Purpose

At CleanPeak, we make all necessary efforts to foster a workplace where there is no tolerance of discrimination, harassment or bullying behaviour at all times.

The purpose of this policy is to outline CleanPeak's resolution pathways available to staff should they experience or witness unacceptable or unlawful behaviour in the workplace. This includes acts of discrimination, harassment or bullying and a breach of policy or legal obligation that applies to our business.

### 2.2 Risks Controlled under this Policy

This policy controls the following risks:

- ensures that all employees understand their individual and collective responsibilities – by documenting the grievance mechanism, we seek to gain the trust of our stakeholders in a legitimate and accessible process to deal with grievance;
- ensures all employees behave in a respectful and appropriate manner;
- ensures managers understand their responsibility to address inappropriate workplace behaviours, and provides a source of continuous learning to identify lessons for improving the grievance process and preventing the occurrence of similar grievances in the future;
- ensures a fair and equitable procedure is in place to address any issues raised by seeking to ensure that aggrieved parties have access to reasonable sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- ensures all employees understand the process used to address any issues raised, by providing a clear and known procedure with clarity on the types of processes used; and
- ensures consistent role modelling of appropriate behaviours across the business by providing a transparent mechanism that keeps aggrieved parties informed about the progress of its investigation and resolution.

### 2.3 Responsibilities under this Policy

Role	Responsibility	Frequency
All employees, contractors (temporary or otherwise) and agents of CleanPeak	To adhere to this policy, its application and administration	Ongoing
Managers	To follow this policy and ensure its consistent application	Ongoing

Role	Responsibility	Frequency
Human Resources	To educate all employees and senior managers about this policy, its application and administration	Ongoing

## 2.4 Definitions

Term	Definition
<b>CleanPeak</b>	CleanPeak includes, but is not limited to: <ul style="list-style-type: none"> <li>• CleanPeak Energy Pty Ltd</li> <li>• CleanPeak District Energy Pty Ltd</li> <li>• CPE Tonsley Pty Ltd</li> <li>• CPE Mascot Pty Ltd</li> <li>• CPE Central Park Pty Ltd</li> <li>• CPE Funding Pty Ltd</li> <li>• CPE Funding No.2 Holdings Pty Ltd</li> <li>• CleanPeak Energy Retail Pty Ltd</li> <li>• CleanPeak Funds Management Pty Ltd</li> </ul>
<b>Grievance</b>	A formal work-related complaint, issue and/or objection made by an employee

## **3 Scope**

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### **3.1 Scope**

This policy applies to all employees, contractors (temporary or otherwise) and agents of CleanPeak Energy Pty Ltd.



## 4 Procedure

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### 4.1 Standards of Behaviour

At CleanPeak we are committed to maintaining a workplace that encourages, cooperation, collaboration and trust among all staff members.

On occasions, inappropriate behaviours may occur, so a grievance process is in place to resolve complaints or concerns.

Employees can report grievances when:

- they have been victims of workplace harassment;
- their health and safety has been compromised;
- they've witnessed poor supervisor and/or management behaviour;
- there are unjust changes made to the employment agreement;
- they suspect the existence of modern slavery practices, either within a supplier or elsewhere;
- policy guidelines are violated; and
- there is a dispute between co-workers, suppliers, and/or management.

This policy applies whenever and wherever staff members are at work, even if this work is undertaken outside ordinary business hours or away from our offices. This includes:

- off-site training days;
- company social and sporting events;
- team celebrations; and
- stakeholder engagements, events and conferences.

### 4.2 Dealing with a Concern Directly

We encourage all staff members to try and resolve issues arising from unacceptable workplace behaviour directly with the relevant parties in the first instance.

If a staff member is concerned about another person's behaviour, and is comfortable to do so, we encourage them to raise the concern in good faith directly with that person. It is important to make all efforts to resolve the concern with the other person in a respectful, constructive and reasonable way, that reflects CleanPeak's values.

Lastly, it is expected that if the parties involved agree on a reasonable way of resolving the concern, that will be the end of the matter.

### **4.3 Raising Concerns**

Staff members may speak to Human Resources or their Manager confidentially if they would like to discuss how to deal with the concern directly with the other person.

If concerns relate to harassment, bullying or discriminatory behaviour, staff members should have a confidential discussion with Human Resources about how to deal with the concern.

If concerns relate to modern slavery practices, staff members should raise their concerns with the CEO or COO.

### **4.4 Internal Investigation**

If a concern is raised, it may be investigated by CleanPeak in a way which is suitable in the circumstances. We may decide to follow an informal process, or to follow a formal process. Either way, in investigating a grievance CleanPeak will inform you of the process to be followed, the likely time required for each stage of the process and the range of possible outcomes to be obtained. Further, as the investigation proceeds, CleanPeak will keep all parties to a grievance informed about the progress of the investigation.

### **4.5 Raising Concerns with External Agencies**

CleanPeak may elect to manage the entire process - or any part of it - internally, or engage an independent external third party to assist in any aspect of the process. If CleanPeak decides to involve an external third party, it will seek to ensure that the third party follows a process based on the effectiveness criteria for non-judicial grievance mechanisms set out in the UN Guiding Principles on Business and Human Rights.

### **4.6 EAP Support**

CleanPeak provides a free, confidential and independent Employee Assistance Program (EAP) to all members of staff and volunteers.

Staff members may use the confidential EAP services to seek professional counselling on any work related or non-work related matter. This support is operated by a third party and is available 24 hours a day, 7 days a week.

### **4.7 Further Information**

For further information on this policy please contact Human Resources.



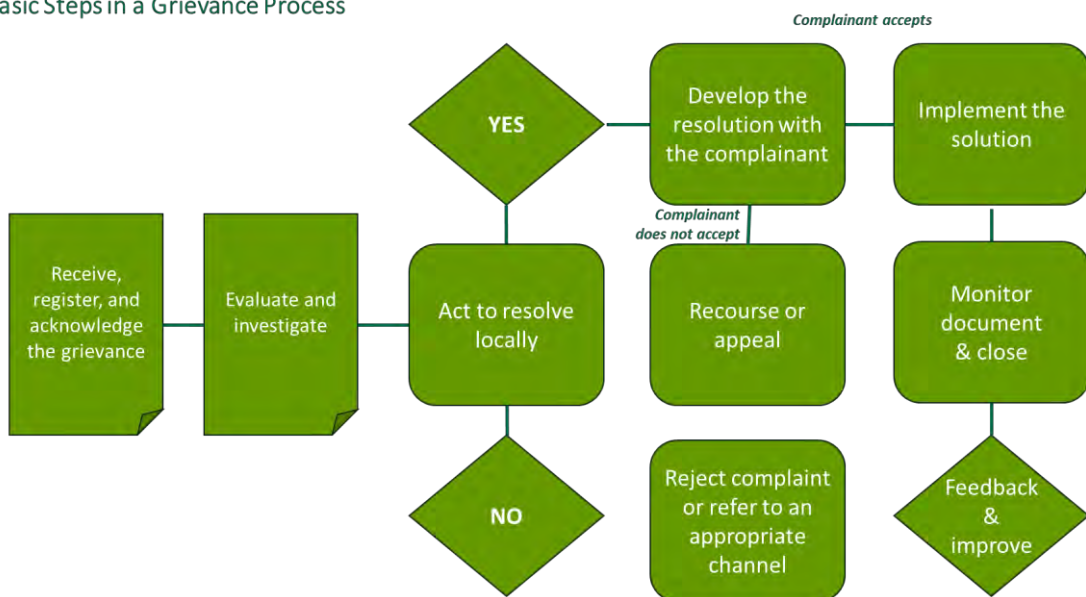
## 5 Grievance Handling Process

### 5.1 Flowchart

The flowchart below outlines the basic process to be followed to resolve grievances.

### Grievance Process

Basic Steps in a Grievance Process



## Schedule 8

### Required Insurances

#### A General insurances

The following Required Insurances apply on and from the Commencement Date until the Expiry Date:

Required Insurance	Details
<b>Public liability</b>	<p><b>Scope of cover:</b> Legal liability of the Seller, its contractors and subcontractors to INSW, INSW's Personnel and third parties for loss of or damage to property, death or injury (except to the extent covered under workers' compensation insurance) in relation to the Seller's performance of this document and the construction, commissioning and operation of the Facilities.</p> <p><b>Sum insured:</b> [REDACTED] [REDACTED] [REDACTED].</p>
<b>Workers compensation</b>	All workers compensation insurance as required by law.
<b>Motor vehicle</b>	All third party and/or compulsory third party motor vehicle insurance as required by law.

#### B Construction insurances

The following Required Insurances apply to each Facility on and from the Commencement Date until the expiry of the relevant period of insurance specified below:

Required Insurance	Details
<b>Material damage insurance</b>	<p><b>Scope of cover:</b> In respect of each Facility, physical loss, destruction or damage to property of every description whether undergoing manufacture or construction or whilst in storage or in transit when such property is located outside the Facility.</p>

Required Insurance	Details
	<p><b>Sum insured:</b> [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p><b>Period of insurance:</b> On and from the Commencement Date until Commercial Operation is achieved for the Facility.</p>
<p><b>Professional indemnity</b></p>	<p><b>Scope of cover:</b> In respect of each Facility, civil liability arising from an act, error or omission of the Seller or its contractors and subcontractors in relation to the performance of the Seller's (or its contractors' and subcontractors') professional activities and duties in connection with the Seller's performance of this document or the construction, commissioning or operation of the Facilities.</p> <p><b>Sum insured:</b> [REDACTED] [REDACTED]</p> <p><b>Period of insurance:</b> On and from the Commencement Date until the date which is 7 years after the day on which Commercial Operation is achieved for the Facility.</p>

## C Operational insurances

The following Required Insurances apply to each Facility on and from the date on which Commercial Operation is achieved for the Facility until the expiry of the relevant period of insurance specified below:

Required Insurance	Details
<p><b>Industrial special risk insurance</b></p>	<p><b>Scope of cover:</b> In respect of each Facility, all loss, destruction or damage to any buildings, plant and machinery comprising the Facility (including accidental loss, destruction or damage), as well as loss of profits or revenue or increased expenses caused by such loss, destruction or damage.</p> <p><b>Sum insured:</b> [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p>

Required Insurance	Details
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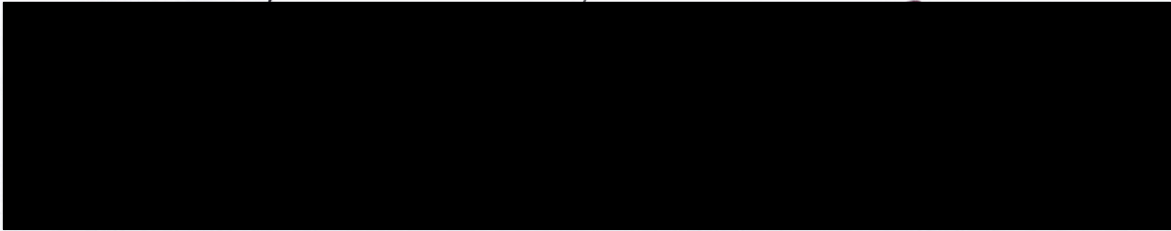
	<p><b>Period of insurance:</b> On and from the date on which Commercial Operation is achieved for the Facility until the Expiry Date.</p>
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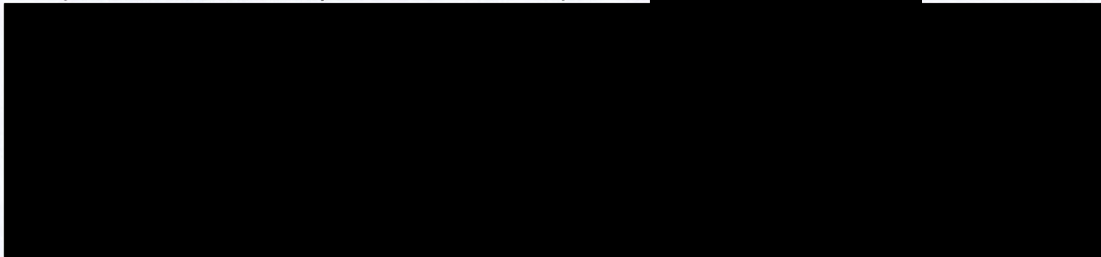
## Execution

**Executed** as an agreement.

**Executed by Infrastructure NSW (ABN )**  
**85 031 302 516)**



**Executed by CleanPeak Energy Pty Ltd )**  
**(ABN 85 169 761 648)**





# Annexure A

## Deed of Assignment and Assumption



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CleanPeak Energy Pty Ltd

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# Green Products Purchase Agreement - Deed of Assignment and Assumption

## Contents

<b>1</b>	<b>Definitions</b>	<b>96</b>
<b>2</b>	<b>Supplemental and collateral</b>	<b>97</b>
<b>3</b>	<b>Transactions</b>	<b>97</b>
<b>4</b>	<b>Assignment and assumption</b>	<b>97</b>
<b>5</b>	<b>Accession to the GPPA</b>	<b>98</b>
<b>6</b>	<b>General</b>	<b>98</b>
	<b>Execution</b>	<b>99</b>

**Date**

**By**

[REDACTED]  
[REDACTED]

**CleanPeak Energy Pty Ltd** (ABN 85 169 761 648) of [Level 12, 201 Miller Street, North Sydney NSW 2060] (**CPE**)

**In favour of**

**Infrastructure NSW** (ABN 85 031 302 516) of [AON Tower, Level 27, 201 Kent Street, Sydney NSW 2000] (**INSW**)

[REDACTED]  
[REDACTED]

**CleanPeak Energy Pty Ltd** (ABN 85 169 761 648) of [Level 12, 201 Miller Street, North Sydney NSW 2060] (**CPE**)

---

## Background

- A INSW and CPE are parties to the GPPA.
- B CPE has agreed to assign its rights under the GPPA to [REDACTED] has agreed to assume CPE's liabilities and obligations, and accede to, the GPPA on the terms contained in this document.
- 

## Terms

### 1 Definitions

In this document, terms that are defined in the GPPA have the same meaning in this document unless otherwise defined in this document or the context otherwise requires. The following words also have the following meanings in this document.

**Assignment Date** [insert].

**GPPA** The Green Power Purchase Agreement dated [##] originally between CPE and INSW.

## 2 Supplemental and collateral

This deed is supplemental and collateral to the GPPA.

## 3 Transactions

CPE and [REDACTED] have agreed that on and from the Assignment Date:

- (a) CPE will assign its rights under the GPPA to [REDACTED] will assume CPE's obligations and liabilities under the GPPA on the terms set out in **clause 4**; and
- (b) [REDACTED] will accede to the GPPA on the terms set out in **clause 5**.

## 4 Assignment and assumption

### 4.1 Assignment by CPE

On and from the Assignment Date:

- (a) CPE assigns to [REDACTED] absolutely all of its rights, entitlements and interests in the GPPA; and
- (b) [REDACTED] will be entitled to all of the rights, entitlements and interests to which CPE was entitled in relation to the GPPA that arise on or after the Assignment Date.

### 4.2 Assumption by [REDACTED]

On and from the Assignment Date, [REDACTED] agrees to perform the obligations of CPE and the Seller under the GPPA in favour of INSW.

### 4.3 References

On and from the Assignment Date, all references to the Seller in the GPPA are to be construed as references to [REDACTED]

### 4.4 Address for notices

On the date on which this document is delivered to INSW but with effect on and from the Assignment Date, [REDACTED] will be taken to have notified INSW under clause 24.3(b) of the GPPA of the following updated particulars for delivery of notices under the GPPA:

#### **Seller**

Delivery address: [insert]

Postal address: [insert]

Email address: [insert]

Attention: [insert]

## 5 Accession to the GPPA

- (a) With effect on and from the Assignment Date, [REDACTED]
  - (i) agrees to accede to the GPPA as the Seller; and
  - (ii) covenants in favour of INSW to observe, perform and be bound by the terms of the GPPA as if [REDACTED] had been a signatory to the GPPA.
- (b) [REDACTED] confirms it has been given a copy of the GPPA.
- (c) [REDACTED] confirms the GPPA and agrees to be bound by it.
- (d) [REDACTED] gives to INSW each of the representations and warranties in clauses 22.2 and 22.4 of the GPPA as if those clauses (and any necessary definitions) are set out in full in this document except that each reference in those clauses (and definitions, if applicable) to:
  - (i) "Supply Start Date" is a reference to the Assignment Date; and
  - (ii) the "Seller" or "Party" is a reference to [REDACTED]and [REDACTED] acknowledges and agrees that clause 7.6(c)(iv) of the GPPA applies as if such representations and warranties are representations and warranties given by [REDACTED] under the GPPA.

## 6 General

- (a) This document is governed by and is to be construed in accordance with the laws applicable in New South Wales.
- (b) Each of [REDACTED] and CPE irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.
- (c) Clauses 1.2 and 1.4 of the GPPA apply as if those clauses (and any necessary definitions) are set out in full in this document.
- (d) [REDACTED] is liable for and must pay all duty (including any fine or penalty) on or relating to this document, any document executed under it or any dutiable transaction evidenced or effected by it.
- (e) This document is a deed. Factors which might suggest otherwise are to be disregarded.

# Execution

**Executed** as a **deed**.



**Executed by CleanPeak Energy Pty Ltd )  
(ABN 85 169 761 648) )**

.....  
Company Secretary/Director

.....  
Director

.....  
Name of Company Secretary/Director  
(print)

.....  
Name of Director (print)

# Annexure B

## Deed of Assignment and Assumption [REDACTED]



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[REDACTED]

---

CleanPeak Energy Pty Ltd

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# Green Products Purchase Agreement – Deed of Assignment and Assumption

[REDACTED]

## Contents

<b>1</b>	<b>Definitions</b>	<b>96</b>
<b>2</b>	<b>Supplemental and collateral</b>	<b>97</b>
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<b>6</b>	<b>General</b>	<b>98</b>
	<b>Execution</b>	<b>99</b>

**Date**

**By**

[REDACTED]  
[REDACTED]

**CleanPeak Energy Pty Ltd** (ABN 85 169 761 648) of [Level 12, 201 Miller Street, North Sydney NSW 2060] (**CPE**)

**In favour of**

**Infrastructure NSW** (ABN 85 031 302 516) of [AON Tower, Level 27, 201 Kent Street, Sydney NSW 2000] (**INSW**)

[REDACTED]  
[REDACTED]

**CleanPeak Energy Pty Ltd** (ABN 85 169 761 648) of [Level 12, 201 Miller Street, North Sydney NSW 2060] (**CPE**)

---

## Background

- A INSW and CPE are parties to the GPPA.
- B CPE has agreed to assign its rights under the GPPA to [REDACTED] has agreed to assume CPE's liabilities and obligations, and accede to, the GPPA on the terms contained in this document.

---

## Terms

### 1 Definitions

In this document, terms that are defined in the GPPA have the same meaning in this document unless otherwise defined in this document or the context otherwise requires. The following words also have the following meanings in this document.

**Assignment Date** [insert].

**GPPA** The Green Power Purchase Agreement dated [##] originally between CPE and INSW.

## 2 Supplemental and collateral

This deed is supplemental and collateral to the GPPA.

## 3 Transactions

CPE and ██████ have agreed that on and from the Assignment Date:

- (a) CPE will assign its rights under the GPPA to ██████ will assume CPE's obligations and liabilities under the GPPA on the terms set out in **clause 4**; and
- (b) ██████ will accede to the GPPA on the terms set out in **clause 5**.

## 4 Assignment and assumption

### 4.1 Assignment by CPE

On and from the Assignment Date:

- (a) CPE assigns to ██████ absolutely all of its rights, entitlements and interests in the GPPA; and
- (b) ██████ will be entitled to all of the rights, entitlements and interests to which CPE was entitled in relation to the GPPA that arise on or after the Assignment Date.

### 4.2 Assumption by ██████

On and from the Assignment Date, ██████ agrees to perform the obligations of CPE and the Seller under the GPPA in favour of INSW.

### 4.3 References

On and from the Assignment Date, all references to the Seller in the GPPA are to be construed as references to ██████

### 4.4 Address for notices

On the date on which this document is delivered to INSW but with effect on and from the Assignment Date, ██████ will be taken to have notified INSW under clause 24.3(b) of the GPPA of the following updated particulars for delivery of notices under the GPPA:

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Delivery address: [insert]

Postal address: [insert]

Email address: [insert]

Attention: [insert]

## 5 Accession to the GPPA

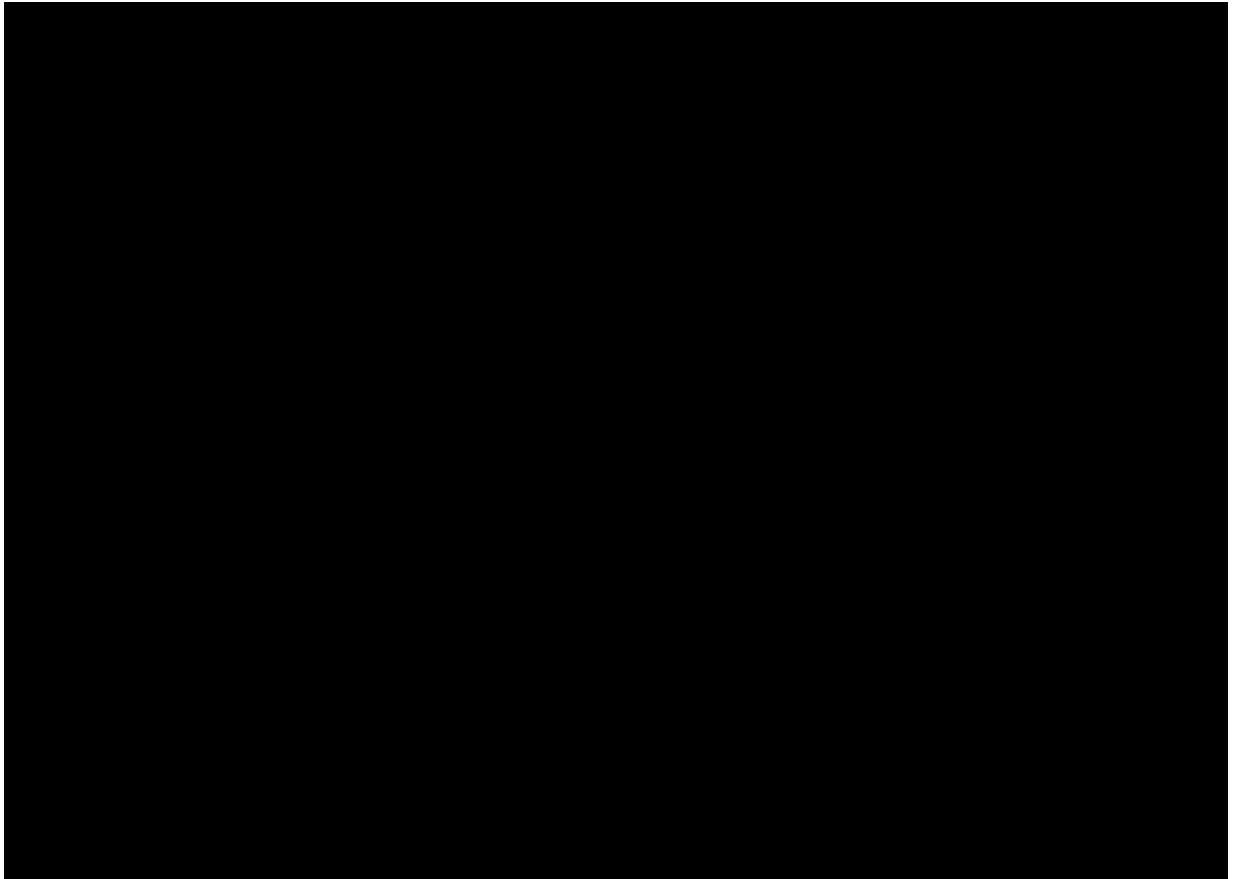
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  - (ii) covenants in favour of INSW to observe, perform and be bound by the terms of the GPPA as if [REDACTED] had been a signatory to the GPPA.
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- (d) [REDACTED] is liable for and must pay all duty (including any fine or penalty) on or relating to this document, any document executed under it or any dutiable transaction evidenced or effected by it.
- (e) This document is a deed. Factors which might suggest otherwise are to be disregarded.

# Execution

**Executed** as a deed.



**Executed by CleanPeak Energy Pty Ltd )  
(ABN 85 169 761 648) )**

.....  
Company Secretary/Director

.....  
Director

.....  
Name of Company Secretary/Director  
(print)

.....  
Name of Director (print)