



Deed of company arrangement

Resource Generation Limited ACN 059 950 337
(Administrators Appointed) (**Company**)

William James Harris, Anthony Norman Connelly,
Jason Preston
(**Deed Administrators**)

Deed of company arrangement

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Details

Date 11 August 2021

Parties

Name **William James Harris, Anthony Norman Connelly and Jason Preston**
Short form name **Deed Administrators**
Notice details Level 15, 175 Eagle St, Brisbane City QLD 4000

Name **Resource Generation Limited ACN 059 950 337 (Administrators Appointed)**
Short form name **Company**
Notice details Level 15, 175 Eagle St, Brisbane City QLD 4000

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Background

- A On 2 July 2021 the Company entered into voluntary administration.
- B The Administrators formed the opinion that it would be in the interests of the Company's creditors for the Company to execute a Deed of Company Arrangement.
- C On 6 August 2021, at a meeting of the Company's creditors held pursuant to section 439A(1) of the Act, the creditors of the Company resolved that the Company should execute a deed of company arrangement on terms substantially in the form of this Deed.
- D This Deed has been prepared in compliance with the Administrators' obligations under section 444A(3) of the Act.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this Deed unless the contrary intention appears:

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

Administration Period means the period of time commencing on the Relevant Date and concluding on the Commencement Date.

Administrators means William James Harris, Anthony Norman Connelly and Jason Preston.

Administrators' Firm means McGrathNicol.

ASIC means the Australian Securities and Investments Commission.

Business Day means:

- (a) for receiving a notice under clause 16, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is sent; and
- (b) for all other purposes, a day that is not a Saturday, Sunday, public holiday or bank holiday in the State of Queensland.

Business Hours means from 9.00am to 5.00pm on a Business Day.

Claim means any debt payable by, and all actions, suits, claims or causes of action against, the Company (whether present or future, certain or contingent, ascertained or sounding only in damages) however arising, provided the circumstances giving rise to it occurred before the Relevant Date.

Commencement Date means the date this Deed is executed by the last party to sign it.

Costs means all costs, charges, expenses, disbursements and taxes incurred in connection with the performance of the Deed Administrators' duties, obligations and responsibilities under the Act and this Deed during the Deed Period, including those incurred in connection with advisors.

Court means a court having jurisdiction to hear and determine matters under the Act.

Creditor means any person with a Claim.

Deed means this deed of company arrangement, as amended from time to time and includes the recitals of and any schedule to this deed.

Deed Period means the period commencing on the Commencement Date and ending on the Deed Termination Date.

Deed Termination Date means the Fixed Date or any earlier date on which this Deed terminates.

Directors means each person that is, from time to time, a director of the Company within the meaning of section 9 of the Act.

Employee means any person who was or is presently employed by the Company.

Enforcement Process has the same meaning as in section 9 of the Act.

Fixed Date means six months after the Commencement Date or such later date as may be approved by Creditors as a variation to the terms of this Deed.

GST means any tax imposed by or under the GST Act without any regard to input tax credit.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Insolvency Practice Rules (Corporations) means the *Insolvency Practice Rules (Corporations) 2016 (Cth)*.

Insolvency Practice Schedule (Corporations) means Schedule 2 to the Act (titled the '*Insolvency Practice Schedule (Corporations)*').

Insured Claim means a Claim which a Creditor has against the Company, which would have been entitled to priority in a liquidation of the Company under section 562 of the Corporations Act, where:

- (a) the Company is insured against the Claim under a contract of insurance (not being a contract of reinsurance) entered into before the Relevant Date; and
- (b) an amount in respect of that Claim would be payable by the insurer to the Company under the contract of insurance, but only to the extent of such part of the Claim as would be discharged by payment from the insurer and provided that the Creditor complies with the requirements of clause 9 in connection with such claim.

Legal Personal Representative means a trustee or executor appointed to the Deed Administrators upon death, incapacity, insanity or any combination of them.

Lessor means any person who is the legal or beneficial owner of property, leased or hired by the Company, in the possession of or occupied by the Company at the date of execution of this Deed.

Liability means any liability or obligation (whether actual, contingent or prospective), including for any Loss of whatever description irrespective of when the acts, events or things giving rise to the liability or obligation occurred.

Loss includes any loss, damage, cost, Claim, liability or expense.

Meeting means the meeting of the Company's creditors held on 6 August 2021, pursuant to section 439A(1) of the Act.

Member has the meaning as defined in section 9 of the Act.

Officer means each person that is, from time to time, an officer of the Company within the meaning of section 9 of the Act.

Other Liabilities means all liabilities other than Costs (including claims, suits, actions and debts) incurred in the performance of the Deed Administrators' duties, obligations and responsibilities under the Act and this Deed during the Deed Period, including in connection with the payment of suppliers for debts arising before the Relevant Date which the Deed Administrators determine need to be paid.

Owner means any person who is the legal or beneficial owner of property in the possession of the Company at the date of execution of this Deed.

Powers means the rights, powers, privileges, functions, authorities and discretions:

- (a) given to the Deed Administrators under this Deed;
- (b) stated in clause 2 of Schedule 8A of the Regulations;
- (c) conferred by the Company's constitution (if any) or otherwise by law on its Directors;
- (d) stated as being available to deed administrators in the Act or Regulations;
- (e) arising by operation of law.

PPSA means the *Personal Property Securities Act 2009* (Cth), as amended from time to time.

Prescribed Provisions means the provisions prescribed by section 444A(5) of the Act and as contained in Schedule 8A of the Corporations Regulations.

Property has the same meaning as in section 9 of the Act.

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

Related Entity has the meaning as defined in section 9 of the Act.

Relevant Date means 2 July 2021, being the date of commencement of the voluntary administration of the Company.

Remuneration means the remuneration payable to the Deed Administrators for work performed by them, their partners, employees or agents with respect to acting as administrators of this Deed,

as determined in accordance with clause 12.1 and section 60-5 of the Insolvency Practice Schedule (Corporations).

Resolution means the resolution of the Company's creditors passed at the Meeting approving the this Deed.

Secured Creditor means any Creditor holding a Security Interest over any property of the Company and includes an owner or lessor of PPSA retention of title property (as defined in section 51F of the Act) of the Company.

Security means any arrangement relating to the Property of the Company which provides for and secures the payment of any Claim and includes any 'security interest' as defined in subsections 12(1) or 12(2) of the PPSA.

Security Interest means any security interest arising out of or in consequence of any Security held in respect of the Company.

Superannuation Contribution means a contribution payable by the Company to a fund or scheme for the purposes of making provision for, or obtaining, superannuation benefits for an Employee, or for dependents of such an Employee.

Superannuation Debt means a claim or debt (or part thereof) against the Company by way of Superannuation Contribution.

Superannuation Guarantee Charge means a charge imposed by the *Superannuation Guarantee Charge Act 1992* (Cth).

1.2 Interpretation

In this Deed, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph or schedule is a reference to a clause, paragraph or schedule, as the case may be, of this Deed;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to Australian Eastern Standard Time;
- (g) a reference to a party is to a party to this Deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Act has the meaning given to it in the Act;
- (k) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it;

- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.3 Incorporation of definitions

Unless the contrary intention appears in this Deed, where a word or expression is defined or given meaning in the Act or the Regulations, the word or expression has the same meaning when used in this Deed.

1.4 Headings

Headings are for ease of reference only and do not affect interpretation.

1.5 Recitals

The recitals, outlined under the heading 'Background', are incorporated into and form part of this Deed.

2. Objects of this Deed

The objects of this deed are:

- (a) to achieve a better return for the Company's creditors than would result from an immediate winding up of the Company;
- (b) to allow the Deed Administrators to seek proposals for the restructure or rearrangement of the Company's business, property and affairs;
- (c) to allow the Deed Administrators to continue the administration and investigation of the Company's business, property and affairs;
- (d) to enable the Deed Administrators to report to creditors and to allow creditors to approve any proposal to restructure or rearrange the Company's business, property and affairs by agreeing to vary this Deed.

3. Operation

This Deed will commence and take effect on the Commencement Date.

4. Prescribed Provisions

The Prescribed Provisions are included in this Deed to the extent they are not inconsistent with the provisions of this deed. In the event that the subject matter addressed by a provision of this Deed is the same or substantially the same as a Prescribed Provision, the terms of this Deed prevail.

5. Officers and Control

5.1 Control of the Company

During the Deed Period the Deed Administrators will control the Company and unless authorised by the Deed Administrators, the Officers of the Company cannot perform or exercise, and must not purport to perform or exercise, a function or power as an Officer of the Company.

5.2 Effect of this Deed on Officers

- (a) During the Deed Period, the Officers of the Company must:
 - (i) co-operate with and assist the Deed Administrators in the performance by the Deed Administrators of their obligations under this Deed;

- (ii) carry out and perform such operations, functions, powers and other matters as may be delegated to them by the Deed Administrators; and
- (iii) perform their obligations pursuant to this Deed.

6. Effect of deed on Creditors

This Deed binds all Creditors of the Company so far as concerns Claims arising on or before the Relevant Date.

7. Moratorium

7.1 Moratorium

Subject to clause 7.2, during the Deed Period a Creditor bound by this Deed cannot:

- (a) make or concur in an application for an order to wind up the Company;
- (b) proceed with such an application made before this Deed became binding on such person;
- (c) begin, revive or continue or take any further steps in any action, suit, mediation or proceeding against the Company or in relation to any of its property;
- (d) begin, revive or continue or take any further steps in respect of any Enforcement Process in relation to the Company's property;
- (e) commence, continue or take any additional step in any arbitration against the Company or to which the Company is a party;
- (f) take any action whatsoever to seek to recover any part of its Claim from the Company; or
- (g) otherwise enforce any right it may have or acquire against the Company in respect of any Claim,

except in the case only of clauses 7.1(c) and 7.1(d) and only to the extent concerning Property, with leave of a Court and in accordance with such terms (if any) as a Court imposes.

7.2 Secured Creditors, Owners and Lessors

- (a) This Deed does not prevent a Secured Creditor from realising or otherwise dealing with its Security Interest except so far as:
 - (i) the Secured Creditor and any other secured creditor of the Company voted in favour of the Resolution;
 - (ii) the Court orders under section 444F(2) of the Act.
- (b) This Deed does not affect a right that an Owner or Lessor of property has in relation to that property except so far as:
 - (i) the Owner or Lessor (as the case may be) voted in favour of the Resolution;
 - (ii) the Court orders under section 444F(4) of the Act.

8. Property available to pay creditors' claims

Unless this Deed is varied by a resolution of Creditors, no Property of the Company is available under this Deed to pay the Claims of Creditors.

9. Insured Claims

9.1 Rights of Creditors who have Claims covered by insurance

If insurance is held by or on behalf of the Company in respect of an Insured Claim:

- (a) subject to 9.1(d), the Creditor may, in relation to its Insured Claim and notwithstanding that the Commencement Date has occurred, take action to recover the amount due in respect of the Claim against the Company, but such action must not exceed what is necessary to obtain payment from the insurer;
- (b) to the extent that the Creditor is able, by settlement, arbitral award or judgment, to obtain payment from the insurer on account of the Insured Claim, the Creditor may retain that amount in full satisfaction of its Claim;
- (c) the Company is not required to provide assistance to a Creditor in relation to a Claim under this clause or take action in response to enforcement action taken by a Creditor in accordance with this clause;
- (d) where a Creditor intends to take enforcement action in relation to a Claim under this clause:
 - (i) the Creditor must, prior to taking an enforcement action in relation to the Claim, provide the Company with an indemnity in the form of Schedule 1 (**Creditor Indemnity**) prior to, and during, any enforcement action in relation to the Claim;
 - (ii) if requested by the Company, provide the Company with evidence, to the reasonable satisfaction of the Company, that the Creditor will be (and will continue to be) in a financial position, or have access to sufficient funds, to enable it to satisfy the Creditor Indemnity; and
 - (iii) the Company may plead this Deed as a bar to any enforcement action taken by a Creditor in relation to the Claim in circumstances where the Creditor has not, prior to commencing that enforcement action, given the Indemnity referred to in clause 9.1(d)(i) to the Company.

9.2 Insured Claims where payment not obtained from insurer

To the extent that the Creditor is unable to seek or obtain payment of its Insured Claim from the insurer (including, without limitation, by reason of any excess or deductible applicable to the insurance policy, or failure by the Company to take action) the provisions of clause 7.1 of this Deed apply to that Creditor.

10. Section 444DA and 444DB requirements

10.1 Priority Employee Claims

For the purposes of section 444DA of the Act, any Employee will retain a priority until the Deed Termination Date in respect of the Property under the Deed Administrators' control at least equal to what they would have been entitled to if the property of the Company had been applied in accordance with sections 556, 559, 560 and 561 of the Act.

10.2 Superannuation Contribution

- (a) For the purposes of section 444DB of the Corporations Act, the Deed Administrators must determine that a Superannuation Debt is not admissible to proof against the Company if:
 - (i) that debt (or that part of the debt) by way of a Superannuation Guarantee Charge:
 - (A) has been paid; or
 - (B) is, or is to be, admissible against the Company; and
 - (ii) the Deed Administrators are satisfied that the Superannuation Guarantee Charge is attributable to the first mentioned debt.

11. Administrators of this Deed

11.1 Appointment

- (a) The Deed Administrators are appointed to administer this Deed.

- (b) The Deed Administrators accept their appointment.

11.2 Joint and Several appointment

- (a) The appointment of the Deed Administrators is a joint and several appointment.
- (b) The rights, privileges, functions, and Powers may be exercised by the Deed Administrators jointly or severally.

11.3 Agency

In exercising the Powers conferred by this Deed and carrying out the duties arising under this Deed, the Deed Administrators act as agents for and on behalf of the Company.

11.4 Management

The Deed Administrators will retain day to day management and control of the Company until the Deed Termination Date to the exclusion of the Directors of the Company.

11.5 Powers

The Deed Administrators have the Powers.

11.6 Solicitors and consultants

- (a) The Deed Administrators may engage solicitors and consultants.
- (b) The Deed Administrators may delegate their Powers including by way of appointing agents and may authorise such agents to act on behalf of the Deed Administrators or the Company.

11.7 Reasonable care and diligence

The Deed Administrators must:

- (a) act honestly in exercising their Powers and performing their functions and duties under this Deed; and
- (b) exercise the degree of care and diligence that a reasonable person would exercise in the circumstances of the Company.

11.8 Insufficient Property

Except as required by law, and notwithstanding anything else in this Deed, the Deed Administrators are not required to administer this Deed if there is insufficient Property to pay the Deed Administrators' Remuneration, Administrators' Remuneration, and Costs.

11.9 Limitation of Deed Administrators' liability

- (a) Subject to the Act and to the extent permitted by law, in the performance or exercise, or purported performance or exercise, of any of the Deed Administrators' functions, Powers and duties under this Deed, except in the case of fraud, unlawful or dishonest conduct, the Deed Administrators will not be personally liable for:
 - (i) any debt, liability or other obligation which the Deed Administrators may incur on behalf of the Company pursuant to this Deed;
 - (ii) any loss or damage caused by any act, default or omission by the Deed Administrators or on behalf of the Deed Administrators in the performance of the Deed Administrators' powers, functions and duties under this Deed; or
 - (iii) any debt payable or liabilities incurred by the Company after the Commencement Date including any amounts payable by the Deed Administrators for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of the Company.

11.10 Deed Administrators' resignation

Any Deed Administrator may resign at any time by giving not less than 14 days' prior written notice to the Company unless that resignation would result in there being no remaining Deed Administrator in which event the Deed Administrator must:

- (a) convene a meeting of Creditors in accordance with this Deed to nominate a replacement deed administrator/s;
- (b) assign to a replacement deed administrator/s nominated by the Creditors the Deed Administrators' rights, title and benefits under this Deed;
- (c) do all things necessary to effect the assignment referred to in clause 11.10(b).

11.11 Applications to Court

Nothing in this Deed shall limit the rights of the Deed Administrators, at any time during the Deed Period, to:

- (a) apply to the Court for directions or orders including pursuant to section 447A(1), section 447C of the Act or Division 90 Subdivision B of the Insolvency Practice Schedule (Corporations);
- (b) make an application to the Court pursuant to section 444F of the Act;
- (c) make any other application to the Court.

12. Deed Administrators' remuneration, costs and other liabilities

12.1 Remuneration, Costs and Other Liabilities

Subject to section 60-5 of the Insolvency Practice Schedule (Corporations), the Deed Administrators, their partners and employees will be:

- (a) remunerated and reimbursed by the Company in respect of any work done by them as Deed Administrators at the hourly rates charged from time to time by the Administrators' Firm, as the case may be; and
- (b) reimbursed by the Company for all Costs and Other Liabilities incurred, except in the instance of fraud or any unlawful or dishonest conduct on the part of the Deed Administrators.

12.2 Indemnity

Without limiting any other provision of the Deed, the Deed Administrators are entitled to be indemnified by the Company for:

- (a) the Remuneration incurred by the Deed Administrators;
- (b) except in the case of fraud, unlawful or dishonest conduct, all Costs and Other Liabilities incurred by them; and
- (c) any amount for which Deed Administrators are entitled to exercise a lien at law or in equity on the property of the Company.

12.3 Continuing indemnity

The indemnity in clause 12.2 of this Deed is a continuing indemnity and will endure for the benefit of the Legal Personal Representatives despite the removal of the Deed Administrators and the appointment of new deed administrators or the termination of this Deed for any reason whatsoever.

12.4 Indemnity not to be affected or prejudiced

The indemnity under clause 12.2:

- (a) will not be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Administrators or Deed Administrators;

- (b) extends to all actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Administrators or Deed Administrators, the approval and execution of this Deed; and
- (c) does not otherwise affect or prejudice any other rights that the Deed Administrators may have against the Company or any other person, including any other claim for indemnity.

12.5 Deed Administrators' lien

To secure the rights of indemnity under clause 12.2, the Deed Administrators have a lien over the Property of the Company.

12.6 Priority

To the extent permitted by law, the Deed Administrators' right of indemnity under clause 12.2 and their lien under clause 12.5 shall have priority over the claims of all Creditors.

13. Reporting

13.1 Bi-Monthly reporting

During the Deed Period, the Deed Administrators shall provide a report to Creditors on the final day of every second month. Where that day does not fall on a Business Day the report is to be provided on the following Business Day. The first report to Creditors under this clause is to be provided on the final day of the month following the month in which this Deed is executed. The report should outline:

- (a) a summary of significant changes or work undertaken since the previous report to Creditors;
- (b) details of the investigations performed by the Deed Administrator since the previous report to Creditors;
- (c) fees charged and disbursements paid by the Deed Administrator since the previous report to Creditors;
- (d) the receipt of proposals made to the Deed Administrator which may result in a variation to this Deed
- (e) where possible, an estimate of the Deed Termination Date or an estimate of when a proposal to vary the Deed will be made to Creditors.

13.2 Reporting subject to confidentiality requirements

The reporting requirements set out in clause 13.1 are subject to any obligation of confidentiality, arising by way of agreement or otherwise, to which the Deed Administrator is subject. Further, if the Deed Administrators consider that disclosure of a proposal may adversely affect the implementation or completion of that proposal it is not required to be included in the report to creditors, however, the Deed Administrators should seek to report on the proposal in terms which preserves its efficacy. Nothing in this sub-clause removes or reduces the Deed Administrators' obligation to seek creditor approval for the a variation to this Deed.

13.3 No obligation to report unreasonable proposal

If the Deed Administrator considers that a proposal is unreasonable or unrealistic they are not required to disclose that proposal under clause 13.1.

14. Meetings of Creditors

14.1 Deed Administrators may convene meetings

The Deed Administrators may convene a meeting of Creditors from time to time, including for the purposes of varying this Deed.

14.2 How meeting convened

A meeting convened under this clause 14 will be convened in the manner prescribed by the provisions of Division 75 of the Insolvency Practice Schedule (Corporations) and Division 75 of the Insolvency Practice Rules (Corporations).

14.3 Meeting procedures

Except to the extent that the Act, Insolvency Practice Schedule (Corporations) and the Insolvency Practice Rules (Corporations) may be inconsistent with the provisions of this Deed, the provisions of Division 75 of the Insolvency Practice Schedule (Corporations) and Division 75 of the Insolvency Practice Rules (Corporations) apply to meetings of Creditors convened under this Deed.

14.4 Meeting if Deed is no longer practicable

If the Deed Administrators determine that it is no longer practicable or desirable to continue with or implement this Deed, the Deed Administrators must convene a meeting of Creditors to determine the future of the Deed administration including considering a resolution:

- (a) that this Deed be terminated and the Company be wound up; or
- (b) that this Deed be varied; or
- (c) such other resolution as is permitted by the Act.

15. Termination of this Deed

15.1 Early Termination

This Deed will terminate before the Fixed Date if:

- (a) the Court makes an order terminating this Deed under section 445D of the Corporations Act; or
- (b) if the Creditors, with Claims that have not otherwise been released or extinguished, pass a resolution terminating this Deed at a meeting convened under the provisions of Division 75 of the Insolvency Practice Schedule (Corporations) and Division 75 of the Insolvency Practice Rules (Corporations), by notice setting out the proposed resolution.

15.2 Consequences of early termination

If this Deed terminates:

- (a) pursuant to subclauses 15.1(a) or (b), then within 14 days so much of the Deed Fund as remains and is not needed to satisfy any claim by the Deed Administrators under the indemnity in clause 12.2 or lien in clause 12.5 shall be returned to the Company. For the avoidance of doubt, the Deed Administrators' Remuneration and Costs include any such Remuneration and Costs arising in connection with any application to a Court to terminate, void or validate this Deed pursuant to sections 445D, 445G, 447A of the Act or Division 90 Subdivision B of the Insolvency Practice Schedule (Corporations);
- (b) the Powers, functions, duties, obligations and responsibilities of the Deed Administrators under this Deed will end;
- (c) the Deed Administrators will be released and discharged from the office of Deed Administrators of this Deed and from all obligations, duties and responsibilities imposed upon the Deed Administrators by virtue of their appointment under this Deed; and
- (d) if the Creditors resolve that the Company be wound up, the Company will, as provided in section 446A of the Act, be taken to have passed a special resolution that the Company be wound up and the Deed Administrators will be appointed as joint and several liquidators of the Company.

15.3 Termination on Fixed Date

This Deed will terminate on the Fixed Date.

15.4 Effect of termination

In accordance with section 445H of the Act, the termination or avoidance, in whole or in part, of this Deed does not affect the previous operation of this Deed.

15.5 Survival of clauses

Despite any other provision of this Deed, clauses 11.9, 12, 15.2 and 16 survive the termination of this Deed.

16. Notices

16.1 Service of Notices

A notice, demand, consent, approval or communication under this Deed (**Notice**) must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) may be hand delivered or sent by prepaid post or email to the recipient's address for Notices specified in the Details, as varied by any Notice given by the recipient to the sender.

16.2 Effective on receipt

A Notice given in accordance with clause 16.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, on the third Business Day after the date of posting (or the seventh Business Day after the date of posting if posted to or from a place outside Australia); or
- (c) if sent by email, when sent by the sender unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

17. GST

- (a) Words used in this clause which have a defined meaning in the GST Law have the same meaning as in the GST Law unless the context otherwise indicates.
- (b) Unless expressly included, the consideration for any supply under or in connection with this Deed is exclusive of GST.
- (c) To the extent that any supply made by a party (**Supplier**) under or in connection with this Deed is a taxable supply, the consideration for that supply is increased by, and the recipient of the supply (**Recipient**) must pay to the Supplier, an additional amount equal to the GST payable on the supply (**Additional Amount**).
- (d) The Recipient need not pay the Additional Amount until it receives a Tax Invoice from the Supplier for the relevant taxable supply.

18. General provisions

18.1 Variation of this Deed by Creditors

This Deed may be varied by a resolution of Creditors passed at a meeting of Creditors but only if the variation is not materially different from a proposed variation set out in the notice of meeting.

18.2 Inconsistency with the Act etc.

If there is any inconsistency between this Deed and the Act, Regulations, the Insolvency Practice Schedule (Corporations), the Insolvency Practice Rules (Corporations) this Deed prevails to the extent permitted by law.

18.3 Severance

- (a) Subject to clause 18.3(b) if a provision of this Deed is illegal or unenforceable in any relevant jurisdiction, it may be severed for the purposes of that jurisdiction without affecting the enforceability of the other provisions of this Deed.
- (b) Clause 18.3(a) does not apply if severing the provision:
 - (i) materially alters the:
 - (A) scope and nature of this Deed; or
 - (ii) would be contrary to public policy.

18.4 This Deed prevails over constitution, contracts etc.

If there is any inconsistency between this Deed and the constitution, memorandum, articles of incorporation or association and similar documents of the Company (if any) or any other obligations binding on the Company, this Deed prevails to the extent of that inconsistency, and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which will be borne by the Deed.

18.5 Entire Deed

This Deed records the entire deed of company arrangement entered into by the Company and supersedes all previous negotiations and undertakings in relation to its subject matter, and all summaries or outlines of its intended contents issued to the Creditors.

18.6 Waiver

Waiver of any provision of or right under this Deed

- (a) must be in writing signed by the party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in any written waiver.

18.7 Severability

Part or all of any provision of this Deed that is illegal or unenforceable may be severed from this Deed and the remaining provisions of this Deed continue in force.

18.8 Governing law

This Deed is governed by the law of Australia.

18.9 Counterparts

This Deed may be executed in counterparts. All executed counterparts constitute one document. Exchange may be effected by email pdf copy.

Signing page

EXECUTED as a deed

Executed by Resource Generation Limited (Administrators appointed) in accordance with Section 442A of the *Corporations Act 2001*



Signature of Administrator

William James Harris

Joint and Several Administrator



Signature of witness

Melissa Smith

Name of witness

Signed by William James Harris in the presence of



Signature of witness

Melissa Smith

Name of witness (print)



William James Harris

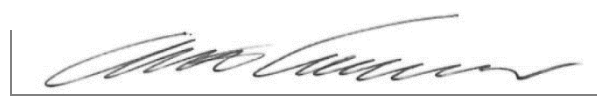
Signed by Anthony Norman Connelly in the presence of



Signature of witness

Melissa Smith

Name of witness (print)



Anthony Norman Connelly

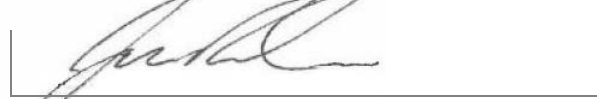
Signed by Jason Preston in the presence of



Signature of witness

Melissa Smith

Name of witness (print)



Jason Preston

Schedule 1 – Creditor Indemnity

To: [insert name of Company] (**Company**)

INDEMNITY IN RELATION TO INSURED CLAIM

I/We [**insert creditor name**] refer to the deed of company arrangement in respect of the Company (**DOCA**) dated [**insert date**].

I/We wish to take legal proceedings to enforce a Claim under clause 9 of the DOCA (**Insured Claim**) against the Company. The Insured Claim is [insert full description].

I/We irrevocably and unconditionally indemnify the Company against any costs, expenses, judgments (including but not limited to any judgment or order obtained by me/us against the Company, or any amounts required to be paid by the Company in connection with any judgment or order), suits or actions incurred directly or indirectly as a consequence of commencing legal proceedings in relation to the Insured Claim (**Costs**) to the extent that the Company is not indemnified for such costs pursuant to a contract of insurance entered into before [**insert Relevant Date**] or such Costs are not otherwise paid by the

Company's insurer.

I/We confirm our agreement to be bound by the terms of clause 10 of the DOCA in respect of the Insured Claim.

Dated: [**insert date**]

Executed as a deed poll in favour of [**insert name of Company**].

Signed sealed and delivered for and on

behalf of [**Creditor name**] by an authorised officer
in the presence of

Signature of witness

Name of witness (print)

Signature of officer

Name of officer (print)

Office held