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Infigen Energy Ltd
ABN 39 105 051 616

Infigen Energy Trust
ARSN 116 244 118

3 June 2020

UAC intention to make an off-market takeover offer

Infigen Energy Limited and Infigen Energy Trust (ASX: IFN) (together **Infigen** or the **Company**) acknowledges the announcement made earlier today by UAC Energy Holdings Pty Ltd (**UAC**) with respect to its intention to make an off-market takeover offer to acquire all of the Infigen stapled securities it does not already own for A\$0.80 per stapled security (**Proposal**).

The Proposal is attached to this announcement. The Infigen Board notes that the Proposal is subject to very detailed conditions.

The Board of Infigen is considering its response to the Proposal. Infigen securityholders are advised to **TAKE NO ACTION** in respect of the Proposal or any document received from UAC in relation to the Proposal until the Infigen Board makes a formal recommendation.

The Infigen Board will keep securityholders informed of further developments as they occur.

Goldman Sachs and Lazard are acting as Infigen's financial advisers. Gilbert + Tobin are acting as legal adviser.

Ends

This release was authorised by the Chairman of the Board, Len Gill.

For further information please contact:

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About Infigen

Infigen is leading Australia to a clean future, today. Our strategy is to provide Australian businesses with firm supplies of reliable and competitively priced clean energy.

We generate renewable energy from our fleet of owned wind farms. We also source renewable energy from our portfolio of contracted assets. We manage intermittency risk with our fast start assets, enabling us to provide our customers with firm prices and firm volumes for renewable energy.

For more information, please visit: www.infigenenergy.com

UAC announces takeover bid for Infigen Energy

- UAC Energy Holdings Pty Ltd ACN 640 077 747 (**UAC**) has acquired an aggregate interest in 12.82% of the stapled securities in Infigen Energy (**Infigen**) (ASX: IFN)
- UAC intends to make an all cash takeover bid of A\$0.80 per Infigen stapled security¹
- Attractive 43.4% premium to the one-month volume weighted average price (**VWAP**) of A\$0.56 per stapled security
- Compelling value and cash certainty for Infigen securityholders
- Conditions to the takeover will include Foreign Investment Review Board (**FIRB**) approval and certain conditions relating to potential change of control provisions in Infigen's debt financing agreements
- The Offer will not be subject to a minimum acceptance condition

Transaction details

UAC, an investment holding company owned by the AC Energy Group and the UPC Renewables Group, today announced that it has acquired an aggregate interest in 12.82% of the Infigen stapled securities, consisting of beneficial ownership of 9.90% of the Infigen stapled securities and an economic interest in a further 2.92% of the Infigen stapled securities via a Total Return Swap (**TRS**). The TRS provides UAC with an option to acquire the underlying Infigen Stapled Securities, conditional on receiving approval under the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

UAC also announced that it intends to make an off-market takeover bid of A\$0.80 per Infigen stapled security² (the **Offer**), implying a total equity value of A\$777 million for 100% of Infigen.

The Offer price is attractive and represents compelling value in the context of the price performance of Infigen stapled securities, with the strong support from Infigen securityholders for UAC's recent on-market purchasing of Infigen stapled securities at the Offer price highlighting the attractiveness of the Offer.

The Infigen stapled security price has not closed higher than the Offer price since August 2017. Further, the Offer price represents a premium of:

- 35.6% to the closing price of Infigen stapled securities on 2 June 2020, being the last trading day before the announcement of the Offer (the **Announcement Date**);
- 43.4% to the 1-month VWAP of Infigen stapled securities up to and including 2 June 2020³;
- 57.9% to the 3-month VWAP of Infigen stapled securities up to and including 2 June 2020⁴; and
- 36.9% to the 12-month VWAP of Infigen stapled securities up to and including 2 June 2020⁵.

The Offer is particularly attractive in the context of recent falls in electricity prices as well as Infigen's relatively high debt servicing costs, its limited track-record in paying distributions and decisions taken

¹ This Offer price will be reduced by the value of any distribution announced by Infigen on or following the Announcement Date if UAC decides not to rely on the defeating condition in respect of the announcement of the relevant distribution (see condition (p) in the attachment to this announcement).

² This Offer price will be reduced by the value of any distribution announced by Infigen on or following the Announcement Date if UAC decides not to rely on the defeating condition in respect of the announcement of distributions (see condition (p) in the attachment to this announcement).

³ VWAP is calculated based on market value traded on ASX divided by market volume traded on ASX. VWAP calculated from 4 May 2020 to 2 June 2020 (inclusive). Source: IRESS.

⁴ VWAP is calculated based on market value traded on ASX divided by market volume traded on ASX. VWAP calculated from 3 March 2020 to 2 June 2020 (inclusive). Source: IRESS.

⁵ VWAP is calculated based on market value traded on ASX divided by market volume traded on ASX. VWAP calculated from 3 June 2019 to 2 June 2020 (inclusive). Source: IRESS.



by Infigen to suspend investment in a number of projects and defer the delivery of its development pipeline.

UAC Chairman, Anton Rohner, said:

“An acquisition of Infigen is consistent with our shareholders’ strategies of investing in attractive opportunities in the renewable energy sector.

“The businesses of Infigen and UPC\AC Renewables Australia are complementary from an investment perspective. We have ready access to capital and significant renewable energy expertise that will position us well to support Infigen’s pipeline of projects and focus on much needed renewable energy investment and associated employment in Australia.”

Offer conditions

The Offer will be subject to a number of conditions, including approval from FIRB and certain conditions relating to potential change of control provisions in Infigen’s debt financing agreements. The Offer will not be subject to a minimum acceptance condition. A full list of the conditions to the Offer is set out in the attachment to this announcement.

Timetable and next steps

UAC intends to provide a copy of the Bidder’s Statement to ASIC, ASX and Infigen shortly. The Bidder’s Statement will contain detailed information relating to the Offer, including the key reasons to accept the Offer and instructions on how to accept the Offer. The Bidder’s Statement will be sent to all Infigen securityholders in due course.

About UAC

UAC is an Australian proprietary company that is owned by AC Energy Group (**AC Energy**) (as to 75%) and UPC Renewables Australia (trading as UPC\AC Renewables Australia) (as to 25%). UPC\AC Renewables Australia is in turn operated as a joint venture between AC Energy and the UPC Renewables Group which has been operating in Australia for three and a half years and directly employs 30 full time employees.

UPC\AC Renewables Australia is developing a portfolio of Australian renewable energy projects, which include:

- Robbins Island Renewable Energy Park and Jim’s Plain Renewable Energy Park in North West Tasmania (~1,000 -1,200MW), a key project for the Marinus Link and “Battery of the Nation Project”;
- New England Solar Farm in regional NSW, which has already received development approval from the NSW government and independent planning commission (~720MW);
- Baroota Pumped Hydro Project (~250MW) and Bridle Track Solar Project in South Australia (~300MW); and
- Axedale Solar Farm in Victoria (160MW).

AC Energy and the UPC Renewables Group are long-time investment partners in Asia, with a successful track record of operating renewable energy projects in the Philippines and Indonesia, and projects in development in Vietnam, India, Korea, and Taiwan.

AC Energy is a wholly owned subsidiary of Ayala Corporation which is listed on the Philippines Stock Exchange with a market capitalisation of approximately A\$13.8 billion.

For further information please visit the respective websites:

www.uacenergy.com.au

www.upcrenewables.com

www.acenergy.com.ph

www.upc-ac.com

**Possible further acquisitions**

UAC reserves the right to acquire a further economic interest in Infigen stapled securities via a TRS to take it up to an aggregate interest of 19.9% of the stapled securities in Infigen.

Advisers

Credit Suisse is acting as financial adviser and Herbert Smith Freehills is acting as legal adviser to UAC Energy in relation to the Offer.

For media enquiries please contact:

Miche Paterson, Newgate Communications +61 400 353 762

This release has been authorised by the board of directors of UAC.



Offer conditions

Attached

Attachment

Offer conditions

(a) **Foreign Investment Review Board approval**

One of the following occurring:

- (1) the Treasurer, or his delegate, advises UAC in writing before the end of the Offer Period to the effect that there are no objections to the acquisition of Stapled Securities under the Offer;
- (2) the Treasurer becomes precluded by the passage of time from making an order or decision under Division 2 of Part 3 of the FATA in relation to the acquisition of Stapled Securities under the Offer and that acquisition is not prohibited by section 82 of the FATA; or
- (3) where an interim order is made under section 68 of the FATA in respect of the acquisition of Stapled Securities under the Offer, the subsequent period for making an order or decision under Part 3 of the FATA elapses without the Treasurer making such an order or decision.

(b) **Other regulatory approvals**

Before the end of the Offer Period, all approvals, waivers, exemptions, declarations, statements of no objection, orders, notices or consents that are required by Law, or by or from any Public Authority, as are necessary to permit:

- (1) the Offer to be lawfully made to and accepted by Infigen Securityholders; and
- (2) the Offer and any transactions or arrangements contemplated by the Bidder's Statement to be completed (including, without limitation, full, lawful and effectual implementation of the intentions set out in the Bidder's Statement),

are:

- (3) granted, given, made or obtained on an unconditional basis, remain in full force and effect in all respects, and do not become subject to any notice, intimation or indication of intention to revoke, suspend, restrict, modify or not renew the same; or
- (4) no longer required, including as a result of the expiry of any statutory period.

(c) **No regulatory action**

Between the Announcement Date and the end of the Offer Period (each inclusive):

- (1) there is not in effect any preliminary or final decision, order or decree issued by any Public Authority;
- (2) no action or investigation is announced, commenced or threatened by any Public Authority; and
- (3) no application is made to any Public Authority (other than by UAC or any associate of UAC),

in consequence of or in connection with the Offer (other than an application to, or a decision or order of, or action or investigation by, ASIC or the Takeovers Panel in exercise of the powers and discretions conferred by the Corporations Act) which restrains, prohibits or impedes, or threatens to restrain, prohibit or impede, or may otherwise materially impact upon, the making of the Offer and the completion of the Offer and any transactions or arrangements contemplated by the Bidder's Statement (including, without limitation, full, lawful, timely and effectual implementation of the intentions set out in the Bidder's Statement) or which requires the divestiture by UAC of any Stapled Securities or the divestiture by any Infigen Group Member of any material assets of the Infigen Group.

(d) **Disclosure of Change of Control Provisions in Financing Arrangements**

Infigen fully and fairly discloses:

- (1) to UAC in writing before the date of Infigen's Target's Statement;
- (2) in an announcement to ASX before the date of Infigen's Target's Statement; or
- (3) in Infigen's Target's Statement,

any and all provisions in the Financing Arrangements that may result in:

- (4) any monies borrowed or raised by, or any other monetary obligations of, any Infigen Group Member being or becoming capable of being declared payable or repayable immediately or earlier than the payment date specified in the applicable Financing Arrangement or otherwise accelerated;
- (5) the terms of any Financing Arrangement being or becoming capable of being varied, amended or modified or operating in a manner that is adverse to the interests of any Infigen Group Member;
- (6) any Financing Arrangement being or becoming capable of being terminated or rescinded;
- (7) any commitment to provide financial accommodation under any Financing Arrangement being terminated, cancelled or suspended or becoming capable of being terminated, cancelled or suspended;
- (8) any party being or becoming entitled to exercise any right arising on a breach or default, right to terminate any right or obligation, right to suspend any right or obligation or step-in right under or in connection with any Financing Arrangement; or
- (9) IERL ceasing to be, or being or becoming capable of being removed as, the responsible entity of IET, or an Entity that is not an Infigen Group Member being, or being or becoming capable of being, appointed as a responsible entity of an Infigen Group Member,

(including if such event, change, condition, matter, circumstance or thing is subject to (x) the satisfaction, fulfilment or failure of a contingency or condition, (y) one or more defeating conditions to the Offer being fulfilled or freed or (z) the effluxion of time) as a direct or indirect result of:

- (10) UAC or an associate of UAC announcing or making the Offer;
- (11) UAC or an associate of UAC acquiring, or acquiring a relevant interest in, any Stapled Securities or any number or percentage of them;
- (12) UAC or an associate of UAC acquiring control of Infigen;
- (13) UAC or an associate of UAC implementing or seeking to implement any of its intentions for the Infigen Group as described in the Bidder's Statement;
- (14) any of the directors of Infigen or IERL making a recommendation in relation to the Offer; or
- (15) any actual or proposed change in, or change in control of, the responsible entity or trustee of an Infigen Group Member,

(sections (d)(4) to (15) inclusive being the **Change of Control Provisions**).

(e) **Waiver of Change of Control Provisions**

Between the Announcement Date and the end of the Offer Period (each inclusive):

- (1) no party to any Financing Arrangements exercises, purports to exercise, states an intention to exercise, has (or may have), or states that it believes it has (or may have), any rights (whether or not subject

to contingencies or conditions) under or in connection with any Change in Control Provision; and

- (2) no event, change, condition, matter, circumstance or thing described in section (d)(4) to (9) (inclusive) occurs automatically under any Change of Control Provisions and no party to any Financing Arrangements states that any such event has occurred or may occur; and

by no later than the date which is 10 days prior to the end of the Offer Period:

- (3) each party to any Financing Arrangements (other than an Infigen Group Member) provides to Infigen or any other Infigen Group Member (as applicable) a written binding, irrevocable and unconditional waiver or release of any rights it may have under or in connection with any Change of Control Provisions; and
- (4) Infigen fully and fairly discloses details of each such waiver or release:
 - (A) to UAC in writing;
 - (B) in Infigen's Target's Statement; or
 - (C) in an announcement to ASX before the date of Infigen's Target's Statement; and

each such waiver or release is not varied, revoked or qualified before the end of the Offer Period.

(f) **No material adverse change**

- (1) Between the Announcement Date and the end of the Offer Period (each inclusive) none of the following occurs:
 - (A) an event, change, condition, matter, circumstance or thing occurs, will occur, or is reasonably likely to occur;
 - (B) information is disclosed or announced by Infigen concerning any event, change, condition, matter, circumstance or thing that has occurred (including prior to the Announcement Date), will occur, or is reasonably likely to occur; or
 - (C) information concerning any event, change, condition, matter, circumstance or thing that has occurred (including prior to the Announcement Date), will occur, or is reasonably likely to occur, is discovered or otherwise becomes known to UAC (whether or not becoming public),

(each of (A), (B) and (C), a **Specified Event**) which, whether individually or when aggregated with all other events, changes, conditions, matters, circumstances or things that have occurred (including prior to the Announcement Date), will occur, or are reasonably likely to occur, has had, will have or would be considered reasonably likely to have:

- (D) a material adverse effect on the business, assets, liabilities, financial or trading position, profitability or prospects of the Infigen Group, taken as a whole; or
- (E) without limiting the generality of section (f)(1)(D), the effect of a diminution in:
 - (i) the value of the consolidated net assets of the Infigen Group, taken as a whole, by at least \$50 million against what it would reasonably have been expected to have been but for such Specified Event;
 - (ii) the consolidated EBITDA of the Infigen Group, taken as a whole, by at least \$15 million in any financial year for the Infigen Group against what it

would reasonably have been expected to have been but for such Specified Event;

- (iii) the consolidated net profits after tax of the Infigen Group, taken as a whole, of at least \$4 million in any financial year for the Infigen Group against what they would reasonably have been expected to have been but for such Specified Event,

including as a direct or indirect result of UAC making the Offer, acceptances of the Offer, or the acquisition of Stapled Securities by UAC whether pursuant to the Offer or otherwise.

- (2) For the purposes of section (f)(1)(C), UAC shall not be taken to know of information concerning any event, change, condition, matter, circumstance or thing before the Announcement Date, unless the information has been fully and fairly disclosed by Infigen in its public filings with the ASX before the Announcement Date.

(g) **No prescribed occurrences**

Between the Announcement Date and the end of the Offer Period (each inclusive), none of the following prescribed occurrences (being the occurrences listed in section 652C of the Corporations Act) happen:

- (1) Infigen converting all or any of the Stapled Securities into a larger or smaller number of securities;
- (2) Infigen or a Subsidiary of Infigen (where applicable, acting through its responsible entity or trustee) resolving to reduce its capital in any way;
- (3) Infigen or a Subsidiary of Infigen (where applicable, acting through its responsible entity or trustee) entering into a buyback agreement or resolving to approve the terms of a buyback agreement under subsection 257C(1) or 257D(1) of the Corporations Act;
- (4) Infigen or a Subsidiary of Infigen (where applicable, acting through its responsible entity or trustee) issuing Stapled Securities or other securities (other than Stapled Securities issued in accordance with the terms of the Performance Rights) or granting an option over its Stapled Securities or other securities or agreeing to make such an issue or grant such an option;
- (5) Infigen or a Subsidiary of Infigen (where applicable, acting through its responsible entity or trustee) issuing, or agreeing to issue, convertible notes;
- (6) Infigen or a Subsidiary of Infigen (where applicable, acting through its responsible entity or trustee) disposing or agreeing to dispose of the whole, or a substantial part, of its business or property;
- (7) Infigen or a Subsidiary of Infigen (where applicable, acting through its responsible entity or trustee) granting, or agreeing to grant, a Security Interest in the whole, or a substantial part, of its business or property;
- (8) Infigen or a Subsidiary of Infigen (where applicable, acting through its responsible entity or trustee) resolving that it be wound up;
- (9) the appointment of a liquidator or provisional liquidator of Infigen or of a Subsidiary of Infigen;
- (10) the making of an order by a court for the winding up of Infigen or a Subsidiary of Infigen;
- (11) an administrator of Infigen or a Subsidiary of Infigen being appointed under section 436A, 436B or 436C of the Corporations Act;
- (12) Infigen or a Subsidiary of Infigen executing a deed of company arrangement; and

- (13) the appointment of a receiver, or receiver and manager, in relation to the whole, or a substantial part, of the property of Infigen or a Subsidiary of Infigen.

(h) **Financing**

- (1) Between the Announcement Date and the end of the Offer Period (each inclusive), no Infigen Group Member (where applicable, acting through its responsible entity or trustee):
- (A) incurs, increases or guarantees any financial accommodation of any kind, other than incurring or increasing any financial indebtedness owed solely to Infigen or to an Infigen Group Member (where applicable, acting through its responsible entity or trustee) that is directly or indirectly wholly-owned by Infigen; or
 - (B) provides any financial accommodation to any Entity other than solely to Infigen or an Infigen Group Member (where applicable, acting through its responsible entity or trustee) that is directly or indirectly wholly-owned by Infigen,
- in either case, of a maximum aggregate amount of \$35,000,000 or more.
- (2) Between the Announcement Date and the end of the Offer Period (each inclusive), in respect of any Financing Arrangement:
- (A) there is no subsisting event of default, termination event or review event (in each case however described) or event which with the giving of notice, lapse of time or other condition would constitute such an event (for this purpose any such event subsists if it has occurred and has not been waived or remedied in accordance with the terms of the relevant arrangement, agreement or instrument);
 - (B) no amount is accelerated or is or becomes (or becomes reasonably likely to be) capable of being accelerated prior to its stated maturity;
 - (C) no commitment (including one to provide any financial accommodation) is cancelled or suspended or is or becomes capable of being cancelled or suspended;
 - (D) no party is entitled or becomes entitled to exercise any right arising on a breach or default, right to terminate any right or obligation, right to suspend any right or obligation or any step-in right;
 - (E) neither Infigen nor any other Infigen Group Member (where applicable, acting through its responsible entity or trustee):
 - (i) breaches any covenant or makes any representation that is incorrect or misleading and which breach or misrepresentation is not remedied in accordance with the cure rights under the arrangement, agreement or instrument;
 - (ii) relies on any waiver or amendment to avoid the potential breach of any covenant or to avoid the making of any misrepresentation or to avoid an event of default, potential event of default or review event occurring;
 - (iii) allows an event of default, termination event or review event (in each case however described) or event which with the giving of notice, lapse of time or other condition would constitute such an event, to occur or subsist which is not remedied in

- accordance with the relevant cure rights under the arrangement, agreement or instrument;
 - (iv) allows an obligation to pay any amount to be accelerated or become capable of being accelerated; or
 - (v) permanently reduces the amount of debt prior to its maturity date or cancels any commitment.
 - (3) Infigen states in its Target's Statement what the aggregate debt (net of cash at bank available at call) of the Infigen Group is as at a date which is no more than 7 days before the date of its Target's Statement.
 - (4) Between the Announcement Date and the end of the Offer Period (each inclusive), UAC does not become aware that the aggregate debt (net of cash at bank available at call) of the Infigen Group exceeds \$454 million.
- (i) **No change of control or other adverse rights under Material Contracts**
- (1) For the purposes of this section (i), **Material Contract** means any agreement, contract, deed, arrangement, constitution, by-laws, articles of association (or similar), right or instrument, including any Financing Arrangement (each of the foregoing items being an **Arrangement** in this section (i)), which:
 - (A) involves the provision of financial accommodation to or by Infigen or any other Infigen Group Member (where applicable, acting through its responsible entity or trustee);
 - (B) imposes, or would reasonably be expected to impose, obligations or liabilities on any party of at least \$5 million per annum or \$25 million over the life of the Arrangement;
 - (C) contributes, or would reasonably be expected to contribute, \$26 million per annum of consolidated revenue, or has a notional reference capacity of 35MW, to the Infigen Group; or
 - (D) is otherwise material to Infigen or in the context of the Infigen Group taken as a whole.
 - (2) For the purposes of this section (i), **Relevant Material Contract** means a Material Contract (which Infigen or any other Infigen Group Member (where applicable, acting through its responsible entity or trustee)) is party to or a beneficiary under) under which any party (other than Infigen or any other Infigen Group Member (where applicable, acting through its responsible entity or trustee)) to such Material Contract has the right (**Relevant Right**) to:
 - (A) terminate, cancel or rescind that Material Contract or any part of it, or suspend performance of its obligations under that Material Contract or any part of it;
 - (B) vary, amend or modify that Material Contract;
 - (C) exercise, enforce or accelerate any right under that Material Contract (including rights of pre-emption); or
 - (D) benefit from the operation of a provision which automatically terminates, varies, amends or modifies that Material Contract,

(including where that Relevant Right is subject to (x) the satisfaction, fulfilment or failure of a contingency or condition, (y) one or more defeating conditions to the Offer being fulfilled or freed or (z) the effluxion of time) as a direct or indirect result of:

- (E) UAC or an associate of UAC announcing or making the Offer;
 - (F) UAC or an associate of UAC acquiring, or acquiring a relevant interest in, any Stapled Securities or any number or percentage of them;
 - (G) UAC or an associate of UAC acquiring control of Infigen;
 - (H) UAC or an associate of UAC implementing or seeking to implement any of its intentions for the Infigen Group as described in the Bidder's Statement;
 - (I) any of the directors of Infigen or IERL making a recommendation in relation to the Offer; or
 - (J) any actual or proposed change in, or change in Control of, the responsible entity or trustee of any Infigen Group Member.
- (3) Infigen states in its Target's Statement in response to the Offer or in an announcement to ASX before the date of Infigen's Target's Statement, whether or not Infigen or any other Infigen Group Member (where applicable, acting through its responsible entity or trustee) is party to, bound by or subject to, a Relevant Material Contract, and the statement is not materially varied, revoked or qualified before the end of the Offer Period.
- (4) If Infigen or any other Infigen Group Member (where applicable, acting through its responsible entity or trustee) is party to, bound by or subject to, a Relevant Material Contract, details of the Relevant Material Contract are specified in Infigen's Target's Statement or in an announcement to ASX before the date of the Target's Statement, with such details to include the following:
- (A) the nature of the Relevant Material Contract;
 - (B) the identity of the parties to the Relevant Material Contract; and
 - (C) the rights of the counterparties under the Material Contract that makes the contract a Relevant Material Contract.
- (5) By no later than the date that is 10 days prior to the end of the Offer Period:
- (A) each relevant party to a Relevant Material Contract provides to Infigen or any other Infigen Group Member (as applicable) a written binding, irrevocable and unconditional waiver or release of all Relevant Rights (**Relevant Release**);
 - (B) Infigen fully and fairly discloses details of each such Relevant Release:
 - (i) to UAC in writing;
 - (ii) in Infigen's Target's Statement; or
 - (iii) in an announcement to ASX before the date of Infigen's Target's Statement; and
- each Relevant Release is not varied, revoked or qualified before the end of the Offer Period.
- (6) Between the Announcement Date and the end of the Offer Period (each inclusive), no party to any Material Contract (other than Infigen, any other Infigen Group Member or any responsible entity or trustee of any other Infigen Group Member), or a related body corporate, associate or affiliate of such a party, makes a written statement (whether or not such statement is or becomes public) to the effect that

a Relevant Material Contract exists, unless in respect of such contract:

- (A) the events referred to in sections (i)(5)(A) and (i)(5)(B) occur by no later than the date that is 10 days prior to the end of the Offer Period; and
 - (B) none of the events referred to in the final unnumbered paragraph in section (i)(5) occur.
- (7) Between the Announcement Date and the end of the Offer Period (each inclusive), no Infigen Group Member (where applicable, acting through its responsible entity or trustee) enters into, amends or agrees to enter into or amend any Material Contract, material commitment or other material arrangement or issues a notice of termination, terminates or agrees to terminate, waives or otherwise forgoes any rights under any such Material Contract, commitment or arrangement, other than in the ordinary course of business.

(j) **No material acquisitions, disposals, capital expenditure or changes in the conduct of business**

Between the Announcement Date and the end of the Offer Period (each inclusive), neither Infigen nor any other Infigen Group Member (where applicable, acting through its responsible entity or trustee):

- (1) acquires or disposes of, or enters into, agrees to enter into or announces any agreement for the acquisition or disposal of, any asset or business, or enters into any transaction or arrangement, which would or would be likely to involve a material change in:
 - (A) the manner in which Infigen or any other Infigen Group Member (where applicable, acting through its responsible entity or trustee) conducts its business; or
 - (B) the nature (including balance sheet classification), extent or value of the assets or liabilities of Infigen or any other Infigen Group Member (where applicable, acting through its responsible entity or trustee);
- (2) without limiting section (j)(1), enters into, agrees to enter into or announces any transaction or arrangement which would or may involve Infigen or any other Infigen Group Member (where applicable, acting through its responsible entity or trustee):
 - (A) acquiring or disposing of, or agreeing to acquire or dispose of, one or more companies, trusts or businesses (or any interest therein);
 - (B) acquiring, leasing or disposing of, or agreeing to acquire, lease or dispose of, any assets (including any real property, units in trusts or shares in companies) which have an aggregate value in excess of \$35,000,000;
 - (C) agreeing to incur capital expenditure on or after the Announcement Date of more than \$35,000,000 (individually or in aggregate); or
 - (D) entering into any contract or commitment (including the acquisition of, or agreement to acquire, any asset or entering into any lease or agreement for lease) that:
 - (i) requires payment by an Infigen Group Member (where applicable, acting through its responsible entity or trustee) of an amount in excess of \$35,000,000 (individually or in aggregate);
 - (ii) cannot be terminated on less than 12 months' notice without penalty; or

- (iii) is not in the ordinary course of business;
- (3) waives any material third party default where the financial impact on the Infigen Group will be in excess of \$35,000,000 (individually or in aggregate);
- (4) accepts as a compromise of a matter less than the full compensation due to an Infigen Group Member (where applicable, acting through its responsible entity or trustee) where the financial impact of the compromise on the Infigen Group is more than \$35,000,000 (individually or in aggregate);
- (5) gives or agrees to give any encumbrance over any of its assets other than in the ordinary course of business;
- (6) voluntarily changes any accounting policy applied by it to report its financial position, other than advised by its auditors or as required by Law;
- (7) enters into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments other than in the ordinary course of business;
- (8) (i) enters into or materially alters, varies or amends any employment, consulting, severance or similar agreement or arrangement with one or more of its officers, directors, other executives or employees, or (ii) without limiting the generality of the foregoing, increases compensation or benefits for any of the above, where the aggregate of all increases in compensation or benefits is greater than 10% of the aggregate value of such compensation or benefits to which those persons were entitled before the Announcement Date;
- (9) pays any of its officers, directors, other executives or employees a termination or retention payment, other than in accordance with contractual arrangements in effect before the Announcement Date and which have been publicly disclosed; or
- (10) conducts its business other than in the ordinary course, or authorises, commits, agrees or announces an intention to do any of the matters set out above.

(k) **No Insolvency Event**

Between the Announcement Date and the end of the Offer Period (each inclusive), neither Infigen nor any other Infigen Group Member (where applicable, acting through its responsible entity or trustee) suffers or is reasonably likely to suffer an Insolvency Event (including after the end of the Offer Period).

(l) **Responsible entity and other changes**

Between the Announcement Date and the end of Offer Period (each inclusive), none of the following occurs:

- (1) Infigen or IERL implements, or agrees or proposes to implement or otherwise participate in, any transaction, proposal or arrangement under which (if implemented) management of IET is or would be 'externalised' in any way;
- (2) IERL is removed or replaced as responsible entity of IET or an agreement is entered into, or there is any intention announced by Infigen, to remove or replace IERL as responsible entity of IET;
- (3) the trustee of any Infigen Group Member as at the Announcement Date ceases to be the trustee of that Infigen Group Member, unless the outgoing trustee is replaced as trustee by another Infigen Group Member;

- (4) Infigen enters into or amends any contract or commitment (or any series of related contracts or commitments) which relates to the provision of investment management, administration or related services to Infigen;
- (5) a change of Control occurs, is reasonably likely to occur, is proposed to occur, or is agreed to occur in respect of Infigen, other than as a result of the Offer;
- (6) a change of Control occurs, is reasonably likely to occur, is proposed to occur, or is agreed to occur in respect of IERL, other than as a result of the Offer;
- (7) a change is made, proposed to be made, or agreed to be made to any of the constitutional documents of Infigen or of any other Infigen Group Member; or
- (8) any special or extraordinary resolution is passed, proposed to be passed, or agreed to be passed in respect of Infigen or of any other Infigen Group Member.

(m) **No untrue statements to ASX or ASIC**

Between the Announcement Date and the end of the Offer Period (each inclusive), UAC does not become aware that any document filed or lodged by or on behalf of any Infigen Group Member, with ASX or ASIC:

- (1) contains a statement which is incorrect or misleading in a material particular; or
- (2) from which there is a material omission.

(n) **Equal access**

Between the Announcement Date and the end of the Offer Period (each inclusive), Infigen promptly, and in any event within 2 Business Days, provides to UAC a copy of all information that is not generally available (within the meaning of the Corporations Act) relating to the Infigen Group or its assets, liabilities or operations, that has been provided by any Infigen Group Member or any of their respective directors, officers, agents or representatives to any person other than UAC, including for the purposes of soliciting, encouraging or facilitating any proposal with respect to a Competing Proposal, other than in the ordinary course of business.

(o) **No issue of convertible securities, derivatives or other rights**

Between the Announcement Date and the end of the Offer Period (each inclusive), Infigen does not issue or grant, or agree to issue or grant, any securities, derivatives or other rights (including Performance Rights) convertible into or that may result in the issue of Stapled Securities, or any other incentives which are convertible into or may result in the issue of, Stapled Securities, under the Infigen Energy Equity Plan or otherwise, and does not alter its capital structure or the rights attached to any of the Stapled Securities (other than pursuant to the issue of Stapled Securities that come to be in the bid class between the Register Date and the end of the Offer Period in accordance with the terms of, or otherwise in connection with, Performance Rights, securities, derivatives or other rights that are on issue as at the Register Date).

(p) **No distributions**

Between the Announcement Date and the end of the Offer Period (each inclusive), Infigen does not announce, make, declare or pay any distribution (whether by way of dividend, bonus, capital reduction or otherwise and whether in cash or in specie).

Definitions

Term	Meaning
\$ or A\$	Australian dollars, the lawful currency of the Commonwealth of Australia.
Announcement Date	the date of the announcement of the Offer by UAC, being 3 June 2020.
ASIC	the Australian Securities and Investments Commission.
ASX	as the context requires, ASX Limited (ABN 98 008 624 691) or the securities market conducted by it.
Bidder's Statement	the statement of UAC under Part 6.5 Division 2 of the Corporations Act relating to the Offer.
Business Day	a day on which banks are open for business in Sydney, Australia, excluding a Saturday, Sunday or public holiday.
Change of Control Provisions	has the meaning given in section (d).
Competing Proposal	any proposal, agreement, arrangement or transaction (or expression of interest therefor), which, if entered into or completed, would mean a third party (either alone or together with any associate) may or would: 1 directly or indirectly acquire a relevant interest in, or have a right to acquire, a legal, beneficial or economic interest in, or control of, 10% or more of the Stapled Securities; 2 acquire Control of Infigen; 3 directly or indirectly acquire or become the holder of, or otherwise acquire or have a right to acquire, a legal, beneficial or economic interest in, or control of, a material part of Infigen's business or assets or the business or assets of the Infigen Group; or 4 otherwise directly or indirectly acquire or merge with Infigen, whether by way of takeover bid, members' or creditors' scheme of arrangement, shareholder approved acquisition, capital reduction, buy back, sale or purchase of shares, other securities or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement or other transaction or arrangement. For the avoidance of doubt, each successive material modification or variation of any proposal, agreement, arrangement or transaction in relation to a Competing Proposal will constitute a new Competing Proposal.

Control	has the meaning given in section 50AA of the Corporations Act.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
EBITDA	earnings before interest, tax, depreciation and amortisation.
Entity	has the meaning set out in section 64A of the Corporations Act.
FATA	the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth).
Financing Arrangements	1 Infigen's Term Loan A facility, as referred to in Infigen's ASX announcement dated 9 April 2018 (which was stated to be in an amount of \$160 million); 2 Infigen's Term Loan B facility as referred to in Infigen's ASX announcement dated 9 April 2018 (which was stated to be in an amount of \$365 million); 3 Infigen's working capital facility, as referred to in Infigen's ASX announcement dated 9 April 2018 (which was stated to be in an amount of \$20 million); 4 Infigen's LC & Bank Guarantee Facility, as referred to in Infigen's ASX announcement dated 9 April 2018 (which was stated to be in an amount of \$60 million); 5 Infigen's Bodangora project finance facility, as referred to in Infigen's 2019 annual report (which was stated to be maturing in September 2034); 6 any other material arrangements for or relating to financial accommodation to which any Infigen Group Member (where applicable, acting through its responsible entity or trustee) is a party, or by or to which any Infigen Group Member (where applicable, acting through its responsible entity or trustee) or any of its assets is bound or subject; and 7 any arrangement, agreement, instrument or transaction entered into or provided for under, in relation to, any of the above, (and Financing Arrangement means any of them).
IEL	Infigen Energy Limited (ABN 39 105 051 616).
IERL	Infigen Energy RE Limited (ABN 61 113 813 997), the responsible entity of IET.
IET	Infigen Energy Trust (ARSN 116 244 118).
Infigen	IEL and IET (and where applicable IERL acting in its capacity as responsible entity of IET), whose securities are stapled.
Infigen Energy Equity Plan	the equity plan approved by Infigen Securityholders in April 2009 as amended with the approval of Infigen Securityholders in November 2011.

Infigen Group	1 each of IEL and IET (and where applicable IERL acting in its capacity as responsible entity of IET); 2 each Entity that is a Subsidiary of any of IEL, IET or IERL; and 3 each Entity that one or more of IEL, IET or IERL directly or indirectly, through one or more intermediaries, Controls (including any sub-trust of IET), (and Infigen Group Member means any member of the Infigen Group (where applicable, acting through its responsible entity or trustee)).
Infigen Register	the registers of members of IEL and unitholders of IET maintained in accordance with the Corporations Act.
Infigen Securityholder or Securityholder	each person who is registered as the holder of a Stapled Security in the Infigen Register.
Insolvency Event	in respect of an Entity, that the Entity: 1 is unable to pay any of its debts as and when due and payable or is deemed to be insolvent under any Law (in the case of an Entity that is a trustee, the relevant debts being the debts of the trust and not the trustee's debts in any other capacity); 2 applies or resolves to be wound up, given protection against creditors, placed in bankruptcy, or any analogous process (in the case of an Entity that is a trust, an application or resolution in respect of the winding up of, grant of protection against creditors in respect of, placement into bankruptcy of, or analogous process in relation to, the trust); 3 seeks to appoint or becomes subject to the appointment of a receiver, liquidator, provisional liquidator, administrator, manager, other controller (as defined in the Corporations Act) or trustee in bankruptcy or other similar official in respect of it or all or a substantial part of its assets (in the case of an Entity that is a trust, to all or a substantial part of the assets of the trust); 4 seeks protection from its creditors under any Law or proposes or enters into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors; 5 is being deregistered as a company or other body corporate or otherwise dissolved; or 6 has happen to it anything analogous to or having similar effect to any of the events specified above under the Laws of any jurisdiction.
Law	includes: 1 any statute, regulation, rule, by-law, ordinance, proclamation, treaty, decree, convention, rule of any applicable stock exchange, or requirement or approval (including of any Public Authority); 2 any judgment, court order, injunction or rule or principle of common law or equity; and 3 that law as amended, consolidated, supplemented, re-enacted or replaced.

Offer	the offer for Stapled Securities under the terms and conditions contained in the Bidder's Statement.
Offer Period	the period during which the Offer will remain open for acceptance in accordance with terms and conditions contained in the Bidder's Statement.
Performance Rights	the unlisted performance rights granted in accordance with the Infigen Energy Equity Plan.
Public Authority	any government or any governmental, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, tribunal, entity, agency or authority, whether in Australia or elsewhere, including (without limitation) any minister of the Crown in the right of the Commonwealth of Australia or any State of Australia, any other federal, state, provincial or local government, the Takeovers Panel, ASIC, ACCC and FIRB, and including any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions, and ASX or any other stock exchange.
Register Date	the date set by UAC under section 633(2) of the Corporations Act.
Security Interest	has the same meaning as in section 51A of the Corporations Act.
Stapled Security or Infigen Stapled Security	a fully paid ordinary share in IEL and a fully paid ordinary unit in IET, each stapled to the other.
Subsidiary	in relation to an Entity, has the meaning given to that term in the Corporations Act and for the purposes of these conditions: 1 an Entity will be deemed to be a 'Subsidiary' of an Entity if the first mentioned Entity is required by accounting standards to be consolidated with the second mentioned Entity; 2 a trust may be a 'Subsidiary', for the purposes of which any units or other beneficial interests in that trust will be deemed to be shares; and 3 a corporation will be a 'Subsidiary' of a trust if the corporation would have been a subsidiary (as defined in the Corporations Act) if both trusts were bodies corporate.
Target's Statement	the document (including any appendices, attachments or annexures), to be prepared by Infigen under Part 6.5 Division 3 of the Corporations Act (provided that for the purposes of these conditions, this does not include any supplementary target's statement prepared by Infigen).
Treasurer	the Treasurer of the Commonwealth of Australia.
UAC	UAC Energy Holdings Pty Ltd (ACN 640 077 747).

Interpretation

In these conditions, unless the context otherwise appears:

- (a) words and phrases have the same meaning (if any) given to them in the Corporations Act;
- (b) words importing a gender include any gender;
- (c) words importing the singular include the plural and vice versa;
- (d) specifying anything after the words 'include', 'including', 'for example' or similar expressions does not limit what else is included;
- (e) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and vice versa;
- (f) a reference to a section is a reference to a section of these conditions;
- (g) a reference to any statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances, or by laws amending, varying, consolidating or replacing it and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (h) headings and bold type are for convenience only and do not affect the interpretation of these conditions;
- (i) a reference to time is a reference to time in Sydney, Australia;
- (j) a reference to writing includes facsimile transmissions; and
- (k) a reference to dollars, \$, A\$, cents, ¢ and currency is a reference to the lawful currency of the Commonwealth of Australia.