

# Issuance of New Stapled Securities

relating to Spark Infrastructure's acquisition of a 14.1% interest in DUET Group

**20 May 2014**

**NOT FOR DISTRIBUTION OR RELEASE IN THE UNITED STATES**

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## Summary information

This Presentation contains summary information about Spark and its activities current as at 20 May 2014 and information regarding the interest in DUET Group. The information in this Presentation is subject to change without notice and does not purport to be complete or comprehensive. It does not purport to summarise all information that an investor should consider when making an investment decision. It should be read in conjunction with Spark's other periodic and continuous disclosure announcements lodged with the ASX, which are available at [www.asx.com.au](http://www.asx.com.au).

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Spark reserves the right to vary the timetable included in this Presentation.

## Not financial product advice

This Presentation is not financial advice or a recommendation to acquire Spark's stapled securities and has been prepared without taking into account the objectives, financial situation or needs of individuals. Before making an investment decision prospective investors should consider the appropriateness of the information having regard to their own objectives, financial situation and needs and seek such legal, financial and/or taxation advice as they deem necessary or appropriate to their jurisdiction.

# Disclaimer

## Financial data

All dollar values are in Australian dollars (A\$). This Presentation includes certain financial data that may be considered “non-GAAP financial measures” under Regulation G of the U.S. Securities Exchange Act of 1934, as amended. Such non-GAAP financial measures do not have a standardized meaning prescribed by Australian Accounting Standards and may not be comparable to similarly titled measures presented by other entities, and should not be construed as an alternative to other financial measures determined in accordance with Australian Accounting Standards. Investors are cautioned, therefore, not to place undue reliance on any non-GAAP financial information included in this Presentation.

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An investment in Spark’s stapled securities is subject to investment and other known and unknown risks, some of which are beyond the control of Spark, including possible loss of income and capital invested. Please see the “Appendix I: Key Risks” section of this Presentation for further details. Spark does not guarantee any particular rate of return or the performance of Spark, nor does it guarantee the repayment of capital from Spark or any particular tax treatment. Persons should have regard to the risks outlined in this Presentation.

# Disclaimer

## Not an offer

This Presentation is not an offer or an invitation to acquire Spark Infrastructure stapled securities or any other financial products and is not a prospectus, product disclosure statement or other offering document under Australian law or any other law.

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Spark may require an investor to complete a statutory declaration as to whether they (or any person on whose account or benefit it holds New Securities) are an Excluded U.S. Person. Spark may treat any investor who does not comply with such a request as an Excluded U.S. Person. Spark has the right to: (i) refuse to register a transfer of New Securities to any Excluded U.S. Person; or (ii) require any Excluded U.S. Person to dispose of their New Securities; or (iii) if the Excluded U.S. Person does not do so within 30 business days, require the New Securities be sold by a nominee appointed by Spark. To monitor compliance with these foreign ownership restrictions, the ASX's settlement facility operator (ASX Settlement PTY Limited) has classified the New Securities as Foreign Ownership Restricted financial products and put in place certain additional monitoring procedures. The New Securities may only be resold or transferred in regular brokered transactions on ASX in accordance with the Regulation S under the Securities Act where neither such investor nor any person acting on its behalf knows, or has reason to know, that the sale has been pre-arranged with, or that the purchaser is, in the United States or a U.S. Person or is acting for the account or benefit of a person in the United States or a U.S. Person, in each case in an "offshore transaction" (as defined in Rule 902(h) under the Securities Act) in reliance on, and in compliance with, Regulation S under the Securities Act.

The distribution of this Presentation in other jurisdictions outside Australia may also be restricted by law and any such restrictions should be observed. Any failure to comply with such restrictions may violate applicable securities laws.

# Spark has acquired a minimum interest of 14.1% in DUET Group

- ▶ DUET Group (DUE.AX) is an ASX listed vehicle with a market capitalisation of \$2.97bn (at \$2.25 per stapled security)
- ▶ DUET Group's assets include an 80% stake in the Dampier to Bunbury Pipeline (gas transmission) and a 100% interest in DBP Development Group (gas pipeline development) in Western Australia, a 100% stake in Multinet Gas Group Holdings (gas distribution) in Victoria, and a 66% stake in United Energy Distribution (electricity distribution) in Victoria

<b>Solid investment fundamentals</b>	<ul style="list-style-type: none"> <li>▶ Interest acquired at an average entry price of \$2.16 per stapled security</li> <li>▶ The average entry price represents a discount of 4.0% to last close</li> <li>▶ Investment is entitled to DUET Group's full expected June 2014 distribution to be paid in August, expected to be 8.5 cents per security (cps)<sup>1</sup>, and is expected to be accretive<sup>2</sup></li> </ul>
<b>Strategic investment</b>	<ul style="list-style-type: none"> <li>▶ Investment consistent with Spark's strategy of investing in quality regulated and long-lived infrastructure assets</li> <li>▶ The investment is expected to give Spark an opportunity to capture additional value for securityholders in the future during a time when the Australian infrastructure sector is undergoing significant consolidation and change</li> <li>▶ In the current circumstances, particularly given the relative scale of the two entities, Spark does not intend to make a takeover bid for DUET Group</li> </ul>
<b>Increased diversity</b>	<ul style="list-style-type: none"> <li>▶ Increased Regulated Asset Base (RAB) in the portfolio</li> <li>▶ Additional investment in core utility regulated and long-lived infrastructure assets, consistent with established investment mandate               <ul style="list-style-type: none"> <li>– regulated electricity and gas distribution</li> <li>– contracted gas transmission</li> </ul> </li> <li>▶ Increased diversification of asset portfolio – geographic, energy and regulatory</li> </ul>
<b>Acquisition prudently funded</b>	<ul style="list-style-type: none"> <li>▶ Investment prudently funded via mix of new equity (a fully underwritten placement of \$200m) and debt               <ul style="list-style-type: none"> <li>– debt funding is initially provided through embedded funding in the derivative contracts</li> <li>– in addition, Spark has corporate bank facilities which total \$275m and are fully available as and when required</li> </ul> </li> <li>▶ Spark does not require any additional equity to fund capital expenditure in its existing Asset Companies (SA Power Networks and Victoria Power Networks) during their current regulatory periods which end in 2015</li> </ul>

1. DUET Group interim results presentation 21 February 2014

2. Subject to the Collar. Details of the Collar are set out in the Key Risks section

Note: Refer to Appendix I: Key Risks

# Spark has acquired an interest of a minimum of 14.1% in DUET Group via derivative contracts

- ▶ The 14.1% interest<sup>1</sup> in DUET Group has been acquired through derivative contracts:
  - Cash-settled equity swaps of 4.6%; and
  - 3-year Forward contracts<sup>2</sup> which provide 9.5%, and at Deutsche Bank's election a further 2.5% of DUET Group can be delivered to Spark, at a Forward price of \$2.20 per stapled security at maturity
- ▶ Spark has also entered into a cash-settled Collar over the 14.1% interest, with a cap and floor at \$2.30 and \$2.05 respectively<sup>3</sup>
- ▶ The average entry price of the 14.1% interest under the swaps and the Forward contracts, is \$2.16 per stapled security<sup>4</sup>, representing a 4.0% discount to last close
- ▶ Under the terms of the Forward contracts, Spark has the ability to take delivery of the DUET Group stapled securities at an earlier time in certain circumstances<sup>5</sup>

#### Notes:

1. Deutsche Bank has the right to deliver up to an additional 2.5% of DUET Group under the Variable Notional Forward (VNF) contract at a price of \$2.20 in approximately 3 years time. Accordingly, Spark's interest may be as high as 16.6%
2. The Forward contracts consist of a Prepaid Forward contract together with a VNF contract, both of 3-year terms, that provide for the delivery of in aggregate 9.5%, and at Deutsche Bank's election, a further 2.5%, of DUET Group to Spark at a forward price of \$2.20 per stapled security at maturity. The total forward price payable under the Prepaid Forward contract will be paid out of the net proceeds of the equity raising
3. Details of the Collar are set out in the Key Risks section
4. If Deutsche Bank elects to deliver the maximum 12.0% under the Forward contracts, the average entry price would be \$2.17 per stapled security
5. In these circumstances, Spark must pay certain costs, including to compensate Deutsche Bank for its election right in respect of the additional 2.5% of DUET Group, unless such right is kept on foot under a separate transaction

# The investment is prudently funded

## Funding Sources

- ▶ Spark will raise \$200m of new equity via a fully underwritten placement of new stapled securities
- ▶ The derivative contracts provide embedded funding
- ▶ Spark has current corporate bank debt facilities of \$275m, all of which are undrawn at this time. There is no drawn debt on Spark's balance sheet on day one
- ▶ No additional debt facilities or additional equity funding is expected to be required to take delivery of DUET Group stapled securities under the Forward contracts and replace the Cash-settled equity swaps with DUET Group stapled securities<sup>1</sup>

## Application of Funds

- ▶ Proceeds from the equity issuance will be used to prepay a portion of the forward price payable under the Forward contracts and meet certain transaction fees and expenses

1. Subject to the Collar. Details of the Collar are set out in the Key Risks section

# Placement of New Stapled Securities

- ▶ Fully underwritten placement to raise \$200m
- ▶ Final price to be determined via an underwritten bookbuild at a floor price of \$1.75 per stapled security. The floor price represents:
  - a 6.9% discount to the last close price of \$1.88; and
  - a 5.4% discount to the 5-day volume weighted average price of \$1.85
- ▶ New Stapled Securities issued under the placement will rank equally with existing stapled securities on issue and will be entitled to the full 2014 interim distribution, payable in September, which will be 5.75 cents per security

## Timetable

Event	Date <sup>1,2</sup>
Placement bookbuild	20 May
Announcement of completion of placement	21 May
Settlement of new stapled securities issued under the placement	26 May
Allotment and trading of new stapled securities issued under the placement	27 May

### Notes:

1. Timetable is subject to change. Spark reserves the right to alter the above dates at its discretion and without notice, subject to the ASX Listing Rules and Corporations Act
2. All dates and time refer to Australian Eastern Standard Time

# Appendix I – Key Risks

This Appendix sets out key risks attached to an investment in securities in Spark, which may affect the future operating and financial performance of Spark and the value of Spark's securities. Before investing in Spark's securities, you should consider whether this investment is suitable for you, having regard to publicly available information (including this Presentation), your personal circumstances and following consultation with financial or other professional advisers. The following summary of risks is not exhaustive. Additional risks and uncertainties that Spark is unaware of, or that currently Spark considers to be immaterial, may also become important factors that adversely affect Spark's operating and financial performance.

## Risks associated with Spark and its existing investments

### Reliance on key personnel

- ▶ Spark's growth and profitability may be limited by the loss of key senior management personnel, the inability to attract new suitably qualified personnel or by increased compensation costs associated with attracting and retaining key personnel.

### Controlling interest

- ▶ Spark does not have a controlling interest in its investments which means that Spark cannot exercise full control of these investments.

### Regulatory resets

- ▶ The Asset Companies in which Spark holds a 49% interest, SA Power Networks and Victoria Power Networks, are currently in the midst of preparations for their regulatory resets for the next 5 year regulatory periods which commence on 1 July 2015 in the case of SA Power Networks and on 1 January 2016 in the case of Victoria Power Networks. The outcome of these resets will have a material impact on operating results.

### Electricity sales volumes

- ▶ Electricity sales volumes have recently been in a state of decline. This trend is expected to continue and may impact the operating results for the Asset Companies up to the end of the current regulatory periods. A significant contributor to declining sales volumes is the growth of solar photovoltaic installations in South Australia and Victoria. It is expected that the impact of electricity sales volumes will be removed from the Asset Companies operating results from the commencement of the next regulatory periods due to the expected change in the revenue recovery method from the current 'price cap' to a 'revenue cap'. This change has been initiated by the Australian Energy Regulator and is supported by the Asset Companies.

### Interest rates and Inflation

- ▶ While Spark and the Asset Companies take reasonable steps to protect themselves through the use of hedges, rising interest rates may nonetheless adversely impact Spark and the Asset Companies interest payments on its floating rate borrowings. Inflation in underlying input costs may also adversely impact the performance of Spark and the Asset Companies.

# Appendix I – Key Risks

## Risks associated with acquisition of the interest in DUET Group

### Analysis of acquisition opportunity

- ▶ Spark has undertaken financial, business and other analyses of DUET Group in order to determine the attractiveness of investing in DUET Group to Spark, and whether to pursue the acquisition of an interest in DUET Group. It is possible that such analyses, and the best estimate assumptions made by Spark, have led to conclusions and forecasts that are incorrect or which are not realised in due course. To the extent that the actual results achieved by DUET Group differ from those indicated by Spark's analysis, including payment of distributions by DUET Group, or the strategic opportunities that the investment provides are not realised, there is a risk that the profitability and future earnings of Spark may differ materially from expected profitability and earnings as reflected in this Presentation, potentially adversely.

### Regulatory and recontracting risks associated with DUET Group's business

- ▶ DUET Group carries out its business activities under various permits, licences, approvals and is subject to regulation. Regulatory bodies are responsible for setting tariffs which directly affect a significant proportion of DUET Group's revenue. DUET Group's gas transmission activities are subject to a regulatory regime to which Spark is not currently subject. DUET Group's performance and the value of Spark's investment in DUET Group may be materially adversely affected by:
  - adverse changes to regulatory tariffs;
  - decisions by regulators not to allow DUET Group to recover business expenditures;
  - revocation of permits, licences, approvals or authorities; and
  - breach by DUET Group of permitted operating conditions
- ▶ Regulatory determinations affecting DUET Group's operating businesses over the next 30 months include:
  - United Energy's 2016-2020 Electricity Distribution Price Review and Advanced Metering Infrastructure Price Review by the Australian Energy Regulator (**AER**); and
  - Dampier to Bunbury's 2016-2020 Gas Access Arrangement Review by the Economic Regulation Authority of Western Australia (ERAWA).
- ▶ In addition to the regulatory determination impacting Dampier to Bunbury in 2016, this business is also subject to customer recontracting risk in the medium term.

### Changes in credit rating associated from the acquisition of an interest in DUET Group

- ▶ Spark has obtained a credit rating from a rating agency, which could be reviewed suspended or downgraded. In reviewing Spark's rating, the rating agency could change the methodology by which it rates Spark. Spark's cost of funds, margins, access to capital markets and other aspects of its performance may be affected if it fails to maintain its current level of credit rating.

# Appendix I – Key Risks

## Risks associated with the derivative contracts

- ▶ The forward price in both the VNF and the Prepaid Forward, which is the same, was subject to market conditions at the time of entry into the contracts. The mark-to-market value of the contracts will vary with the price of DUET Group's stapled securities. If Spark chooses to cash-settle the Forward contracts at maturity, then it will have a realised gain or loss that will be determined by reference to the differential between the forward price and an average price of DUET Group securities traded on the ASX during the 60 scheduled trading days immediately prior to maturity.
- ▶ Deutsche Bank has the right to elect to deliver (sell) a further 33 million DUET Group securities (representing 2.5% of the current number of securities outstanding as at 19 May) at the scheduled settlement date in approximately 3 years' time. Therefore, the total number of DUET Group securities in which Spark would hold an interest, and the associated cost, would not be known until the time for Deutsche Bank to make its election, which is approximately 3 months prior to the scheduled settlement date.
- ▶ The cash settled collar is a derivative instrument with a term of approximately 7 months under which:
  - If the reference price of relevant securities falls below a "floor" price, Deutsche Bank will pay Spark the difference between the reference security price and the "floor" price on the settlement date;
  - If the reference price of relevant securities exceeds the "ceiling" price, Spark will pay Deutsche Bank the difference between the reference security price and the "ceiling" price on the settlement date;
  - If the reference price of the relevant securities falls between the floor and ceiling prices, no payment is made by either party at the settlement dates;
  - No party pays a fee to the other for entry into the collar; and
  - The reference price of the relevant securities is determined by reference to a volume weighted average price over a period (VWAP period) prior to the settlement date of the collar. For the purposes of determining whether the reference price of DUET Group securities is above the "ceiling price" or below the "floor price", the relevant VWAP periods will be 1 month and the full term of the collar transaction, respectively.
- ▶ Accordingly, all costs associated with Spark's 14.1% interest in DUET Group will not be known until after the relevant VWAPs have been determined over the VWAP periods in accordance with the relevant Collar terms above.
- ▶ The Collar is cash settled and any amounts that may be payable under the Collar will need to be funded.
- ▶ The derivative contracts may be varied or terminated at any stage and there may be costs associated with any such variation or termination.

## General risks

### Market risk

- ▶ The market price of Spark securities (and DUET Group securities) will fluctuate due to various factors, many of which are non-specific to Spark (or DUET Group), including recommendations by brokers and analysts, Australian and international general economic conditions, inflation rates, interest rates, changes in government, fiscal and monetary and regulatory policies, global geo-political events and hostilities and acts of terrorism, and investor perceptions. In the future, these factors may cause Spark securities (or DUET Group securities) to trade at a lower price.

### Funding requirements

- ▶ Spark is exposed to risks relating to the refinancing of existing debt instruments and facilities of Victoria Power Networks and SA Power Networks (the Asset Companies). The Asset Companies have debt facilities maturing over the coming years. The Asset Companies may experience difficulty in refinancing some or all of these debt maturities. The terms on which they are refinanced may also be less favourable than at present.

# Appendix I – Key Risks

## Debt covenants

- ▶ Spark has various covenants in relation to its debt facilities, including interest cover and gearing ratio requirements. In the event that these covenants are breached, Spark's lenders may cancel their commitments under the facilities and require all amounts payable to them under or in connection with the facilities to be repaid immediately. Such circumstances would also entitle Deutsche Bank to terminate the derivative contracts.

## Domestic and global economic conditions

- ▶ Deterioration in the domestic and global economy may have a material adverse effect on the performance of Spark's business and investments.

## Asset impairment

- ▶ Consistent with accounting standards, assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Changes to the carrying value of assets could have an adverse effect on the financial performance of Spark.

## Changes in accounting policy

- ▶ Accounting standards may change. This may affect the reported earnings of Spark and its financial position from time to time, potentially adversely.

## Taxation

- ▶ Future changes in Australian taxation law, including changes in interpretation or application of the law by the courts or taxation authorities in Australia, may affect the taxation treatment of an investment in Spark securities or the holding and disposal of those securities. Further, changes in tax law, or changes in the way tax law is expected to be interpreted, in the various jurisdictions in which Spark operates, may impact the future tax liabilities of Spark.
- ▶ Following audits, the Australian Taxation Office (ATO) has issued amended tax assessments in relation to Victoria Power Networks (for the 2007-2010 tax years) and the SA Power Networks partners (for the 2007-2011 tax years). Objections to the assessments have been lodged for all relevant years. Spark and the Asset Companies are in discussions with the ATO on various of the matters raised by the ATO in its amended assessments, and to the extent those matters are not satisfactorily resolved, they intend to vigorously defend their positions. More detailed disclosures on these matters are provided in the FY 2013 results materials released to the ASX on 24 February 2014, and the ASX release dated 14 January 2014 relating to SA Power Networks rent instalments. On 14 May 2014 Spark was informed by VPN that the ATO has advised that it will not be pursuing its position in respect of Division 974 of the Income Tax Assessment Act 1997, being a denial of deductions for interest paid by VPN on certain shareholder loans (for all years under review). For further information, refer to the ASX release dated 14 May 2014 by Spark. All other matters between the Asset Companies and the ATO remain ongoing.

## Litigation

- ▶ Spark is subject to the usual business risk that disputes or litigation may arise from time to time in the course of its business activities. Spark is not currently party to any litigation, the outcome of which is likely to have a material adverse effect on its business or financial position.

## Distributions

- ▶ The payment of distributions on Spark's securities is dependent on a range of factors including the profitability of its business and investments, the availability of cash, capital requirements of the business and obligations under debt instruments. Any future distribution levels will be determined by the Spark board, having regard to its operating results and financial position at the relevant time. That said, there is no guarantee that any distribution will be paid by Spark, or if paid, that they will be paid at previous levels.

# Appendix I – Key Risks

## Legislative and regulatory changes

- ▶ Legislative or regulatory changes, including property or environmental regulations or regulatory changes in relation to products sold by Spark, could have an adverse effect on Spark.
- ▶ The tariffs charged by SA Power Networks and Victoria Power Networks will be subject to regulatory determination over the course of 2015, with new rate determinations applying to SA Power Networks from 1 July 2015 and for Victoria Power Networks from 1 January 2016.

## Risks associated with the new placement securities

### Investment in equity capital

- ▶ There are general risks associated with investments in equity capital. The trading price of securities in Spark may fluctuate with movements in equity capital markets in Australia and internationally. This may result in the market price for the new securities issued under the Placement being less or more than the offer price. Generally applicable factors which may affect the market price of securities include:
  - General movements in Australian and international stock markets;
  - Investor sentiment;
  - Australian and international economic conditions and outlook;
  - Changes in interest rates and the rate of inflation;
  - Changes in government regulation and policies;
  - Announcement of new technologies;
  - Geo-political instability, including international hostilities and acts of terrorism; and
  - Demand and supply of listed infrastructure trust securities
- ▶ No assurances can be given that the new securities will trade at or above the offer price. None of Spark, its Board or any other person guarantees the market performance of the new securities.

# Appendix II – International Offer Restrictions

## International Offer Restrictions

This document does not constitute an offer of new stapled securities ("New Securities") of Spark Infrastructure in any jurisdiction in which it would be unlawful. New Securities may not be offered or sold in any country outside Australia except to the extent permitted below.

### Canada (British Columbia, Ontario, Quebec and Saskatchewan provinces)

This document constitutes an offering of the New Securities only in the Provinces of British Columbia, Ontario, Quebec and Saskatchewan (the "Provinces") and to those persons to whom they may be lawfully distributed in the Provinces, and only by persons permitted to sell such New Securities. This document is not, and under no circumstances is to be construed as, an advertisement or a public offering of securities in the Provinces. This document may only be distributed in the Provinces to persons that are "accredited investors" within the meaning of NI 45-106 – *Prospectus and Registration Exemptions*, of the Canadian Securities Administrators.

No securities commission or similar authority in the Provinces has reviewed or in any way passed upon this document, the merits of the New Securities or the offering of New Securities and any representation to the contrary is an offence.

No prospectus has been, or will be, filed in the Provinces with respect to the offering of New Securities or the resale of such securities. Any person in the Provinces lawfully participating in the offer will not receive the information, legal rights or protections that would be afforded had a prospectus been filed and receipted by the securities regulator in the applicable Province. Furthermore, any resale of the New Securities in the Provinces must be made in accordance with applicable Canadian securities laws which may require resales to be made in accordance with exemptions from dealer registration and prospectus requirements. These resale restrictions may in some circumstances apply to resales of the New Securities outside Canada and, as a result, Canadian purchasers should seek legal advice prior to any resale of the New Securities.

Spark Infrastructure and its directors and officers may be located outside Canada. As a result, it may not be possible for Canadian purchasers to effect service of process within Canada upon Spark Infrastructure or its directors or officers. All or a substantial portion of the assets of Spark Infrastructure and such persons may be located outside Canada, and as a result, it may not be possible to satisfy a judgment against Spark Infrastructure or such persons in Canada or to enforce a judgment obtained in Canadian courts against Spark Infrastructure or such persons outside Canada.

Any financial information contained in this document has been prepared in accordance with Australian Accounting Standards and also complies with International Financial Reporting Standards and interpretations issued by the International Accounting Standards Board.

Unless stated otherwise, all dollar amounts contained in this document are in Australian dollars.

### *STATUTORY RIGHTS OF ACTION FOR DAMAGES OR RESCISSION*

Securities legislation in certain of the Provinces may provide purchasers with, in addition to any other rights they may have at law, rights of rescission or to damages, or both, when an offering memorandum that is delivered to purchasers contains a misrepresentation. These rights and remedies must be exercised within prescribed time limits and are subject to the defenses contained in applicable securities legislation. Prospective purchasers should refer to the applicable provisions of the securities legislation of their respective Province for the particulars of these rights or consult with a legal adviser.

# Appendix II – International Offer Restrictions

The following is a summary of the statutory rights of rescission or to damages, or both, available to purchasers in Ontario.

In Ontario, every purchaser of the New Securities purchased pursuant to this document (other than (a) a "Canadian financial institution" or a "Schedule III bank" (each as defined in NI 45-106), (b) the Business Development Bank of Canada or (c) a subsidiary of any person referred to in (a) or (b) above, if the person owns all the voting securities of the subsidiary, except the voting securities required by law to be owned by the directors of that subsidiary) shall have a statutory right of action for damages and/or rescission against Spark Infrastructure if this document or any amendment thereto contains a misrepresentation. If a purchaser elects to exercise the right of action for rescission, the purchaser will have no right of action for damages against Spark Infrastructure. This right of action for rescission or damages is in addition to and without derogation from any other right the purchaser may have at law. In particular, Section 130.1 of the *Securities Act* (Ontario) provides that, if this document contains a misrepresentation, a purchaser who purchases the New Securities during the period of distribution shall be deemed to have relied on the misrepresentation if it was a misrepresentation at the time of purchase and has a right of action for damages or, alternatively, may elect to exercise a right of rescission against Spark Infrastructure, provided that:

- (a) Spark Infrastructure will not be liable if it proves that the purchaser purchased the New Securities with knowledge of the misrepresentation;
- (b) in an action for damages, Spark Infrastructure is not liable for all or any portion of the damages that Spark Infrastructure proves does not represent the depreciation in value of the New Securities as a result of the misrepresentation relied upon; and
- (c) in no case shall the amount recoverable exceed the price at which the New Securities were offered.

Section 138 of the *Securities Act* (Ontario) provides that no action shall be commenced to enforce these rights more than:

- (a) in the case of any action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or
- (b) in the case of any action, other than an action for rescission, the earlier of (i) 180 days after the purchaser first had knowledge of the fact giving rise to the cause of action or (ii) three years after the date of the transaction that gave rise to the cause of action.

The following is a summary of the statutory rights of rescission or to damages, or both, available to purchasers in Saskatchewan.

Section 138 of *The Securities Act, 1988* (Saskatchewan), as amended (the "Saskatchewan Act") provides that, where an offering memorandum, such as this or any amendment to it, is sent or delivered to a purchaser and it contains a misrepresentation (as defined in the Saskatchewan Act), a purchaser who purchases a security covered by the offering memorandum or any amendment to it has, without regard to whether the purchaser relied on the misrepresentation, a right of action for rescission against the issuer or a selling security holder on whose behalf the distribution is made or a right of action for damages against:

- (a) the issuer or a selling security holder on whose behalf the distribution is made;
- (b) every promoter and director of the issuer or the selling security holder, as the case may be, at the time the offering memorandum or any amendment to it was sent or delivered;

## Appendix II – International Offer Restrictions

(c) every person or company whose consent has been filed respecting the offering, but only with respect to reports, opinions or statements that have been made by them;

(d) every person who or company that, in addition to the persons or companies mentioned in (a) to (c) above, signed the offering memorandum or the amendment to the offering memorandum; and

(e) every person who or company that sells securities on behalf of the issuer or selling security holder under the offering memorandum or amendment to the offering memorandum.

Such rights of rescission and damages are subject to certain limitations including the following:

(a) if the purchaser elects to exercise its right of rescission against the issuer or selling security holder, it shall have no right of action for damages against that party;

(b) in an action for damages, a defendant will not be liable for all or any portion of the damages that he, she or it proves do not represent the depreciation in value of the securities resulting from the misrepresentation relied on;

(c) no person or company, other than the issuer or a selling security holder, will be liable for any part of the offering memorandum or any amendment to it not purporting to be made on the authority of an expert and not purporting to be a copy of, or an extract from, a report, opinion or statement of an expert, unless the person or company failed to conduct a reasonable investigation sufficient to provide reasonable grounds for a belief that there had been no misrepresentation or believed that there had been a misrepresentation;

(d) in no case shall the amount recoverable exceed the price at which the securities were offered; and

(e) no person or company is liable in an action for rescission or damages if that person or company proves that the purchaser purchased the securities with knowledge of the misrepresentation.

In addition, no person or company, other than the issuer or selling security holder, will be liable if the person or company proves that:

(a) the offering memorandum or any amendment to it was sent or delivered without the person's or company's knowledge or consent and that, on becoming aware of it being sent or delivered, that person or company gave reasonable general notice that it was so sent or delivered; or

(b) with respect to any part of the offering memorandum or any amendment to it purporting to be made on the authority of an expert, or purporting to be a copy of, or an extract from, a report, an opinion or a statement of an expert, that such person or company had no reasonable grounds to believe and did not believe that there had been a misrepresentation, the part of the offering memorandum or any amendment to it did not fairly represent the report, opinion or statement of the expert, or was not a fair copy of, or an extract from, the report, opinion or statement of the expert.

Similar rights of action for damages and rescission are provided in section 138.1 of the Saskatchewan Act in respect of a misrepresentation in advertising and sales literature disseminated in connection with an offering of securities.

# Appendix II – International Offer Restrictions

Section 138.2 of the Saskatchewan Act also provides that, where an individual makes a verbal statement to a prospective purchaser that contains a misrepresentation relating to the security purchased and the verbal statement is made either before or contemporaneously with the purchase of the security, the purchaser has, without regard to whether the purchaser relied on the misrepresentation, a right of action for damages against the individual who made the verbal statement.

Section 141(1) of the Saskatchewan Act provides a purchaser with the right to void the purchase agreement and to recover all money and other consideration paid by the purchaser for the securities if the securities are purchased from a vendor who is trading in contravention of the Saskatchewan Act, the regulations to the Saskatchewan Act or a decision of the Saskatchewan Financial Services Commission.

Section 141(2) of the Saskatchewan Act also provides a right of action for rescission or damages to a purchaser of securities to whom an offering memorandum or any amendment to it was not sent or delivered prior to or at the same time as the purchaser enters into an agreement to purchase the securities, as required by Section 80.1 of the Saskatchewan Act.

The rights of action for damages or rescission under the Saskatchewan Act are in addition to and do not derogate from any other right which a purchaser may have at law.

Section 147 of the Saskatchewan Act provides that no action shall be commenced to enforce any of the foregoing rights more than:

- (a) in the case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or
- (b) in the case of any other action, other than an action for rescission, the earlier of: one year after the plaintiff first had knowledge of the facts giving rise to the cause of action; or six years after the date of the transaction that gave rise to the cause of action.

The Saskatchewan Act also provides that a purchaser who has received an amended offering memorandum delivered in accordance with subsection 80.1(3) of the Saskatchewan Act has a right to withdraw from the agreement to purchase the securities by delivering a notice to the person or company that is selling the securities indicating the purchaser's intention not to be bound by the purchase agreement, provided that such notice is delivered by the purchaser within two business days of receiving the amended offering memorandum.

## *CERTAIN CANADIAN INCOME TAX CONSIDERATIONS*

Prospective purchasers of the New Securities should consult their own tax adviser with respect to any taxes payable in connection with the acquisition, holding, or disposition of the New Securities as any discussion of taxation related matters in this document is not a comprehensive description and there are a number of substantive Canadian tax compliance requirements for investors in the Provinces.

## *LANGUAGE OF DOCUMENTS IN CANADA*

Upon receipt of this document, each investor in Canada hereby confirms that it has expressly requested that all documents evidencing or relating in any way to the sale of these securities (including for greater certainty any purchase confirmation or any notice) be drawn up in the English language only. *Par la réception de ce document, chaque investisseur canadien confirme par les présentes qu'il a expressément exigé que tous les documents faisant foi ou se rapportant de quelque manière que ce soit à la vente des valeurs mobilières décrites aux présentes (incluant, pour plus de certitude, toute confirmation d'achat ou tout avis) soient rédigés en anglais seulement.*

# Appendix II – International Offer Restrictions

## Hong Kong

WARNING: This document has not been, and will not be, authorized by the Securities and Futures Commission in Hong Kong pursuant to the Securities and Futures Ordinance (Cap. 571) of the Laws of Hong Kong (the "SFO"). No action has been taken in Hong Kong to authorize this document or to permit the distribution of this document or any documents issued in connection with it. Accordingly, the New Securities have not been and will not be offered or sold in Hong Kong other than to "professional investors" (as defined in the SFO).

No advertisement, invitation or document relating to the New Securities has been or will be issued, or has been or will be in the possession of any person for the purpose of issue, in Hong Kong or elsewhere that is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to the New Securities which are or are intended to be disposed of only to persons outside Hong Kong or only to professional investors as defined in the SFO and any rules made under that ordinance.

The contents of this document have not been reviewed by any Hong Kong regulatory authority. You are advised to exercise caution in relation to the offer. If you are in doubt about any contents of this document, you should obtain independent professional advice.

## New Zealand

This document has not been registered, filed with or approved by any New Zealand regulatory authority under or in accordance with the Securities Act 1978 (New Zealand). The New Securities are not being offered or sold in New Zealand, or allotted with a view to being offered for sale in New Zealand, and no person in New Zealand may accept a placement of New Securities other than to:

- persons whose principal business is the investment of money or who, in the course of and for the purposes of their business, habitually invest money; or
- persons who are each required to (i) pay a minimum subscription price of at least NZ\$500,000 for the securities before allotment or (ii) have previously paid a minimum subscription price of at least NZ\$500,000 for securities of Spark Infrastructure ("initial securities") in a single transaction before the allotment of such initial securities and such allotment was not more than 18 months prior to the date of this document.

## Norway

This document has not been approved by, or registered with, any Norwegian securities regulator under the Norwegian Securities Trading Act of 29 June 2007. Accordingly, this document shall not be deemed to constitute an offer to the public in Norway within the meaning of the Norwegian Securities Trading Act of 2007.

The New Securities may not be offered or sold, directly or indirectly, in Norway except to "professional clients" (as defined in Norwegian Securities Regulation of 29 June 2007 no. 876 and including non-professional clients having met the criteria for being deemed to be professional and for which an investment firm has waived the protection as non-professional in accordance with the procedures in this regulation).

# Appendix II – International Offer Restrictions

## Singapore

This document has not been registered as a prospectus with the Monetary Authority of Singapore ("MAS") and, accordingly, statutory liability under the Securities and Futures Act, Chapter 289 (the "SFA") in relation to the content of prospectuses does not apply, and you should consider carefully whether the investment is suitable for you. The issuer is not authorised or recognised by the MAS and the New Securities are not allowed to be offered to the retail public. This document and any other document or material in connection with the offer or sale, or invitation for subscription or purchase of the New Securities may not be circulated or distributed, nor may the New Securities be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore except to "institutional investors" (as defined in the SFA), or otherwise pursuant to, and in accordance with the conditions of, any other applicable provisions of the SFA.

This document has been given to you on the basis that you are an "institutional investor" (as defined under the SFA). In the event that you are not an institutional investor, please return this document immediately. You may not forward or circulate this document to any other person in Singapore.

Any offer is not made to you with a view to the New Securities being subsequently offered for sale to any other party. You are advised to acquaint yourself with the SFA provisions relating to resale restrictions in Singapore and comply accordingly.

## Switzerland

The New Securities may not be distributed in Switzerland and will not be listed on the SIX Swiss Exchange ("SIX") or on any other stock exchange or regulated trading facility in Switzerland. This document has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the New Securities may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the New Securities have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of New Securities will not be supervised by, the Swiss Financial Market Supervisory Authority (FINMA), and the offer of New Securities has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes ("CISA"). The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of New Securities.

This document is personal to the recipient only and not for general circulation in Switzerland.

## United Arab Emirates

This document has not been approved, disapproved or passed on in any way by the Central Bank of the United Arab Emirates ("UAE"), the UAE Securities and Commodities Authority (the "SCA") or any other authority in the UAE. Spark Infrastructure has not received authorization or licensing from the Central Bank of the UAE, the SCA or any other authority in the UAE to market or sell New Securities within the UAE. Nothing in connection with the offer of New Securities, including the receipt of applications and/or the allotment of securities in Spark Infrastructure, have been or will be rendered within the UAE by Spark Infrastructure. Nothing contained in this document is intended to constitute UAE investment, legal, tax, accounting or other professional advice. Prospective investors should consult with an appropriate professional for specific advice rendered on the basis of their situation.

# Appendix II – International Offer Restrictions

The New Securities may only be offered and sold to UAE legal entities:

- that are federal or local governments or governmental authorities;
- whose primary purpose is to invest in securities and that are acquiring the New Securities for their own account and not on behalf of clients; or
- that are investment managers who have authority to make investment decisions on behalf of clients.

No offer or invitation to subscribe for interests or sale of securities in Spark Infrastructure has been or will be rendered in, or to any persons in, or from, the Dubai International Finance Centre.

## United Kingdom

Neither the information in this document nor any other document relating to the offer has been delivered for approval to the Financial Conduct Authority in the United Kingdom and no prospectus (within the meaning of section 85 of the Financial Services and Markets Act 2000, as amended ("FSMA")) has been published or is intended to be published in respect of the New Securities. This document is issued on a confidential basis to "qualified investors" (within the meaning of section 86(7) of FSMA) in the United Kingdom, and the New Securities may not be offered or sold in the United Kingdom by means of this document, any accompanying letter or any other document, except in circumstances which do not require the publication of a prospectus pursuant to section 86(1) FSMA. This document should not be distributed, published or reproduced, in whole or in part, nor may its contents be disclosed by recipients to any other person in the United Kingdom.

Any invitation or inducement to engage in investment activity (within the meaning of section 21 of FSMA) received in connection with the issue or sale of the New Securities has only been communicated or caused to be communicated and will only be communicated or caused to be communicated in the United Kingdom in circumstances in which section 21(1) of FSMA does not apply to Spark Infrastructure.

In the United Kingdom, this document is being distributed only to, and is directed at, persons (i) who have professional experience in matters relating to investments falling within Article 19(5) (investment professionals) of the Financial Services and Markets Act 2000 (Financial Promotions) Order 2005 ("FPO"), (ii) who fall within the categories of persons referred to in Article 49(2)(a) to (d) (high net worth companies, unincorporated associations, etc.) of the FPO or (iii) to whom it may otherwise be lawfully communicated (together "relevant persons"). The investments to which this document relates are available only to, and any invitation, offer or agreement to purchase will be engaged in only with, relevant persons. Any person who is not a relevant person should not act or rely on this document or any of its contents.

The New Securities are being marketed in the United Kingdom without written notice being given to the Financial Conduct Authority under regulation 59 of Alternative Fund Manager Regulations 2013 SI 2013/1773 (the "AIFMD Regulations") on the basis that the marketing of the New Securities benefit from the transitional provisions contained in Part 9 of the AIFMD Regulations.

# Appendix II – International Offer Restrictions

## United States

The new securities referred to herein (the “New Securities”) have not been, and will not be, registered under the Securities Act or the securities laws of any state or other jurisdiction of the United States. In addition, none of the Spark Infrastructure entities have been, or will be, registered under the U.S. Investment Company Act of 1940, as amended (the “Investment Company Act”), in reliance on the exception provided by Section 3(c)(7) thereof. Accordingly, the New Securities cannot be held at any time by, or for the account or benefit of, any U.S. Person who is not both a “qualified institutional buyer”, as defined under Rule 144A under the Securities Act (“QIB”), and a “qualified purchaser”, as defined in section 2(a)(51) of the Investment Company Act (“QP”). Any U.S. Person who is not both a QIB and a QP (or any investor who holds New Securities for the account or benefit of any U.S. Person who is not both a QIB and a QP) is an “Excluded U.S. Person”. Spark Infrastructure may require an investor to complete a statutory declaration as to whether they (or any person on whose account or benefit it holds New Securities) are an Excluded U.S. Person. Spark Infrastructure may treat any investor who does not comply with such a request as an Excluded U.S. Person. Spark Infrastructure has the right to: (i) refuse to register a transfer of New Securities to any Excluded U.S. Person; or (ii) require any Excluded U.S. Person to dispose of their New Securities; or (iii) if the Excluded U.S. Person does not do so within 30 business days, require the New Securities be sold by a nominee appointed by Spark Infrastructure. To monitor compliance with these foreign ownership restrictions, the ASX’s settlement facility operator (ASTC) has classified the New Securities as Foreign Ownership Restricted financial products and put in place certain additional monitoring procedures. The New Securities may only be resold or transferred in regular brokered transactions on ASX in accordance with Regulation S under the Securities Act where neither such investor nor any person acting on its behalf knows, or has reason to know, that the sale has been pre-arranged with, or that the purchaser is, in the United States or a U.S. Person or is acting for the account or benefit of a person in the United States or a U.S. Person, in each case in an “offshore transaction” (as defined in Rule 902(h) under the Securities Act) in reliance on, and in compliance with, Regulation S under the Securities Act.