



Friday, 29 October 2010

The Manager
Company Announcements
Australian Stock Exchange Limited
20 Bridge Street
SYDNEY NSW 2000

Dear Sir / Madam

**SPARK INFRASTRUCTURE RE LIMITED
AMENDMENT TO NOTE TRUST DEED – TERMS OF ISSUE**

Spark Infrastructure advises that it has today entered into a Supplemental Deed to amend the Terms of Issue under the Note Trust Deed.

A copy of the consolidated amended Note Trust Deed is attached.

Yours faithfully,

A handwritten signature in black ink, appearing to read "AF", with a large, sweeping flourish extending to the right.

Alexandra Finley
Company Secretary

Note Trust Deed

Dated 29 October 2010

Spark Infrastructure RE Limited ACN 114 940 984 in its capacity as responsible entity of the Spark Infrastructure Trust ("RE")
Australian Executor Trustees Limited ACN 007 869 794 ("Note Trustee")

NOTE:

This document is a consolidated copy of the document dated 9 November 2005 ("Original Note Trust Deed") as amended by the Note Trust Deed - Supplemental Deed No. 1 (Terms of Issue) dated 29 October 2010. Reference should be made to the Original Note Trust Deed and the supplemental deed for the operative provisions.

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Note Trust Deed

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Note Trust Deed

Details

Interpretation – definitions are in Schedule 4

Parties	RE and Note Trustee	
RE	Name	Spark Infrastructure RE Limited
	ACN	114 940 984
	Capacity	As responsible entity of the Spark Infrastructure Trust
	Address	Level 19, 83 Clarence Street, Sydney NSW 2000
	Fax	+61 2 8258 1101
	Attention	Company Secretary
Note Trustee	Name	Australian Executor Trustees Limited
	ABN	84 007 869 794
	Address	80 Alfred Street, Milsons Point NSW 2061
	Fax	+61 (0) 2 9741 3027
	Attention	Head of Corporate Trusts
Recitals	A	RE in its capacity as responsible entity of the Spark Infrastructure Trust proposes to create and issue Notes on and subject to the terms of this deed (including the Terms of Issue).
	B	The Notes constitute unsecured subordinated debt obligations of the Spark Infrastructure Trust.
	C	The Note Trustee has agreed to act as trustee of the trusts declared by this deed, on the terms contained in this deed.
Date of deed	See Signing page	

Note Trust Deed

General terms

1 Declaration of trust

1.1 Declaration of trust

The Note Trustee declares that it holds, and is appointed to hold, in trust for the benefit of the Noteholders:

- (a) the right to enforce RE's duty to pay or repay (as applicable) under the Notes on the terms of this deed;
- (b) the right to enforce RE's duty to pay all other amounts payable under the Notes;
- (c) any amounts it receives for the Noteholders; and
- (d) the right to enforce any other duties or obligations that RE has:
 - (i) under the Notes; or
 - (ii) under this deed; or
 - (iii) under Chapter 2L of the Corporations Act in respect of the Notes or this deed.

1.2 Trust name

The trust established under this deed is to be known by the name "Note Trust".

1.3 Note Trust duration

The Note Trust begins on the date of this deed and, unless ended earlier in accordance with the terms of this deed or by law, ends on the date which is 100 years after the date of this deed.

1.4 Perpetuity period

The perpetuity period for the purposes of section 5 of the Perpetuities and Accumulations Act 1968 (Vic) is the period of 80 years from the day prior to commencement of the Note Trust. Despite any other provision of this deed, RE may not issue or redeem any Notes on or after the 80th anniversary of the day before the Note Trust commenced, unless that issue or redemption would not offend the rule against perpetuities or any other rule of law or equity. The specification of a perpetuity period in this clause 1.4 does not require that the Note Trust terminate on expiration of that period.

1.5 Beneficiaries

The Noteholders are the persons beneficially entitled under the Note Trust on the terms of this deed. They hold their beneficial entitlement as equitable tenants in common so that the share that each of them has of the beneficial entitlements under the Note Trust is determined rateably in accordance with the value of the Noteholder's Debt due to each Noteholder in proportion to the total amount of Noteholder's Debt at that time due to all Noteholders.

1.6 Undertaking to pay Noteholder's Debt

As a separate and independent obligation, RE undertakes to pay to the Note Trustee the aggregate of all Noteholder's Debt. Payment of any part of a Noteholder's Debt to a Noteholder in accordance with this deed discharges RE from any obligation to pay that part of that Noteholder's Debt to the Note Trustee. The Note Trustee directs RE to pay such amounts directly to the Noteholders, unless:

- (a) RE is subject to Winding Up; or
- (b) RE is directed by the Note Trustee by the giving of notice to that effect not less than 1 Business Day prior to the scheduled due date for the making of the payment,

in which case the payment must be made to the Note Trustee.

2 The Notes

2.1 Creation of Notes

RE may at any time, subject to clause 1.4 ("Perpetuity period"), create and issue Notes to any person on the terms of this deed by entering or procuring the entry of the details of those Notes in the Register.

2.2 Obligations

The obligations of RE under the Notes are constituted by, and set out in, this deed.

2.3 Undertaking to comply

RE undertakes to the Note Trustee to comply with its obligations under this deed.

2.4 Application Moneys in trust account

In respect of each offer to issue Notes, until the end of the relevant offer period and the issue of the relevant Notes, RE must deposit and hold all moneys received by way of application for Notes in a trust account in accordance with the Corporations Act. Such trust account may combine moneys received by way of application for Notes with the proceeds of issue of other Stapled Securities.

2.5 RE may pay commission and brokerage

RE may pay a commission or brokerage to any person for subscribing or underwriting the subscription of or obtaining subscription for the Notes.

2.6 Redemption of Notes

The Notes may be redeemed in accordance with this deed.

3 Rights and obligations of Noteholders

3.1 Noteholders bound

The Noteholders must not do anything, nor may they instruct the Note Trustee to do anything, contrary to any obligation owed by the Note Trustee or the Noteholders.

3.2 Incorporation of Register

The Notes are issued subject to, and on the basis that, RE, the Note Trustee and the Noteholders and all persons claiming through or under them respectively are bound by this deed.

3.3 Inspection of this deed

RE must make available for inspection by the Noteholders, on reasonable notice during its normal business hours, a copy of this deed and any other document to which the Note Trustee is (or becomes) a party as trustee for the Noteholders.

4 Rights and obligations of RE

4.1 Undertakings by RE

RE undertakes to the Note Trustee:

- (a) **(further steps)** to execute all documents and do all acts and things reasonably required for the Note Trustee to have the full benefit of this deed;
- (b) **(accounting records)** to make its accounting and other records available for inspection by the Note Trustee (or any registered company auditor it appoints) and if the Note Trustee requests to supply the Note Trustee with information about matters relating to those records;
- (c) **(notices and reports)** to give to the Note Trustee and (except to the extent they otherwise receive such materials in their capacity as holders of other Stapled Securities) the Noteholders a copy of any notice, accounts or other report RE is required by the Corporations Act or the Listing Rules to give to holders of units in the Spark Infrastructure Trust, at the same time it gives them to the holders of units in the Spark Infrastructure Trust;

- (d) **(quarterly reports)** to give the Note Trustee a copy of any quarterly report prepared by RE in accordance with section 283BF of the Corporations Act, at the same time as it lodges a copy of the report with ASIC; and
- (e) **(compliance with Corporations Act)** to comply with its obligations under the Corporations Act, the Listing Rules and the ASTC Settlement Rules, and do anything reasonably requested by the Note Trustee to enable the Note Trustee to comply with the Corporations Act or any other laws binding on the Note Trustee with respect to the Note Trust or the Notes.

4.2 Payments

RE agrees to make payments to a Noteholder (including by way of reimbursement) under this deed:

- (a) on the due date (or, if that is not a Business Day, on the next Business Day, unless such next Business Day falls in a different month in which case the due date is the previous Business Day);
- (b) in Australian dollars in immediately available funds;
- (c) in full without set-off or counterclaim and, subject to clause 12 (“Non-resident Noteholders”) of the Terms of Issue, without any deduction in respect of Taxes unless prohibited by law; and
- (d) by payment into the account (if any) nominated by the Noteholder under clause 7.4 of the Terms of Issue (“Payment Method”), or otherwise in accordance with that clause.

5 Liability of RE

5.1 Capacity

RE is bound by this deed only in its capacity as responsible entity of the Spark Infrastructure Trust and in no other capacity. Subject to clause 5.3, RE shall not be personally liable, notwithstanding the issue of the Notes.

5.2 Limitation of Liability

Subject to this clause 5:

- (a) a liability arising under or in connection with this deed is limited and can be enforced against RE only to the extent to which it can be satisfied out of property of the Spark Infrastructure Trust and for which RE is actually indemnified for the liability. This limitation of RE’s liability extends to all liabilities and obligations of the RE in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed, any other document in connection with it, or the Spark Infrastructure Trust;
- (b) the parties other than RE may not sue RE in any capacity other than as responsible entity and trustee for the Spark Infrastructure Trust,

including seeking the appointment of a receiver, a liquidator, an administrator or similar person to the RE or prove in any liquidation, administration or arrangement of or affecting the RE (except in relation to property of the Spark Infrastructure Trust); and

- (c) RE is not liable in contract, tort or otherwise to Noteholders for any loss suffered in any way relating to the Spark Infrastructure Trust except to the extent that the Corporations Act imposes such liability.

5.3 Limitations do not apply

- (a) The limitation of liability provisions in this clause 5 shall not apply to any obligation or liability of RE to the extent that it is not satisfied because, under this deed or any other document in connection with it, or by operation of law, there is a reduction in the extent of RE's indemnification out of the assets of the Spark Infrastructure Trust, as a result of RE's fraud, negligence or breach of trust.
- (b) It is also acknowledged that a breach of an obligation imposed on, or a representation or warranty given by, RE under or in connection with this deed or any other document in connection with it will not be considered a breach of trust by RE unless the RE has acted with negligence, or without good faith, in relation to the breach.
- (c) No act or omission of RE (including any related failure to satisfy its obligations under this deed) will be considered fraud, negligence or breach of trust of RE for the purpose of clause 5.3(a) to the extent that the act or omission was caused or contributed to by any failure by any other person to fulfil its obligations relating to RE or by any other act or omission of any such other person.

5.4 Other acts

RE is not obliged to do or refrain from doing anything under this deed (including incur any liability) unless RE's liability is limited in the same manner as set out in clauses 5.1 ("Capacity") to 5.3 ("Limitations do not apply"). RE may do or refrain from doing anything under this deed (including incur liability) without the approval of Noteholders, unless otherwise required by the Corporations Act, the Listing Rules, other law, or this deed.

5.5 Application of clause

This clause 5 applies despite any other provisions of this deed or any principle of equity or law to the contrary.

6 Change of RE

6.1 Replacement

If RE retires as responsible entity of the Spark Infrastructure Trust, then RE must use reasonable endeavours to procure that the replacement responsible entity executes a deed by which the replacement responsible entity covenants to be bound by the Constitution as if it had originally been a party to it and

upon the execution of such deed and provided the Corporations Act requirements for change of responsible entity have been satisfied:

- (a) no further acts, deeds or documents by any of the parties or by Noteholders are required for the replacement responsible entity to also become RE for the purposes of this deed, as if it had originally been a party to it; and
- (b) each other party to this deed is bound as if the replacement responsible entity had originally been a party to this deed.

If the outgoing responsible entity of the Spark Infrastructure Trust, or the Note Trustee, so requires, any replacement responsible entity must execute a deed by which it covenants to be bound by this deed as if it had originally been a party to it.

Nothing in this clause 6.1 is intended to derogate from the provisions of the Corporations Act.

6.2 Release

When it retires or is removed, the RE is released from all obligations in relation to the Notes and this deed other than in relation to any negligence, default or breach of this deed by it while it was still the responsible entity of the Spark Infrastructure Trust.

7 Obligations in relation to the Register

7.1 Establishment and maintenance of Register

RE must, or must procure that the Registrar does, establish and maintain the Register in accordance with this deed.

7.2 Location of Register

The Register must be located in Victoria where the work involved in maintaining the Register is done, or subject to the Corporations Act at such other place in Australia agreed by RE and the Registrar and notified to the Note Trustee from time to time.

7.3 Information required in Register

RE must, or must procure that the Registrar does, enter the following information in the Register:

- (a) the name and last notified address of each person who is an initial holder of a Note and each person to whom the Note is subsequently transferred;
- (b) the payment instruction last notified by the holder of a Note (including any account details notified for the purposes of electronic funds transfer to the holder of that Note);
- (c) the Issue Date of each Note;

- (d) the principal amount of each Note;
- (e) the serial number of each Note;
- (f) the date on which a person becomes a holder of a Note;
- (g) the date on which a person ceases to be a holder of Note;
- (h) the date on which a Note is redeemed;
- (i) details of all transfers of each Note, including the date of registration of the transfer;
- (j) any tax file number or exemption details provided by a person who is a holder of a Note; and
- (k) any other information required by law or which is considered necessary or desirable.

7.4 Joint Noteholders

If more than three persons would otherwise be the holders of a Note:

- (a) the three persons whose names appear first on the relevant Application Form or Transfer under which they are to become Noteholders will be entered in the Register as holders of that Note; and
- (b) RE may assume that any one of the three persons is authorised by all of those other persons to act in respect of that Note including in respect of the transfer of the Note.

7.5 Address of Noteholders

If more than one person is the holder of a Note, the address of only one of them will be entered on the Register. If more than one address is notified to RE or the Registrar, the address recorded in the Register will be the address of the person whose name appears first in the Register as one of the holders of the Note. All notices in respect of the Note will be sent to this address.

7.6 Closing of Register

If the Notes are not Stapled Securities, then subject to the Corporations Act, the Listing Rules and the ASTC Settlement Rules, RE may from time to time close the Register for any period or periods not exceeding in total 30 days in any calendar year.

7.7 Transfer on death, bankruptcy or liquidation of Noteholder

If a person is entitled to a Note because of:

- (a) the death or bankruptcy (in the case of an individual) or the liquidation or winding up (in the case of a corporation) of a Noteholder; or

- (b) the making of any vesting orders by a court or other judicial or quasi judicial body or authority,

RE must, or must procure that the Registrar does, register the person as the holder of the Note provided that the person gives RE or the Registrar the information that it reasonably requires to establish the person's entitlement to be registered as holder of the Note.

7.8 Register is paramount

No notice of any trust (whether express, implied or constructive), equity, security or other interest (other than that of the Noteholder) in a Note may be entered in the Register. RE, the Note Trustee and the Registrar need not take notice of any other interest in, or claim to, a Note except as ordered by a court of competent jurisdiction or as required by law.

7.9 Audit of records

The records maintained by RE or by the Registrar on behalf of the RE, and the Note Trustee, in connection with the Notes and this deed may be audited by any person who RE may appoint to audit the Register (if anyone). RE must, and must procure that the Registrar does, and the Note Trustee must (as the case may be), on reasonable notice, provide all such records and such other information as is reasonably requested by RE or an auditor or firm of auditors appointed by RE, for the purposes of such audit.

7.10 Update and correction of Register

RE agrees to, or to procure that the Registrar does:

- (a) update the Register promptly on being notified by a Noteholder of any change to its name, address or payment instructions, and
- (b) correct the Register if it becomes aware that any details on the Register are incorrect or incomplete.

The Noteholder agrees to provide written evidence of any change referred to in paragraph (a) which RE or the Registrar may reasonably require.

7.11 Statements of Holding not certificates of title

A Statement of Holding is not a certificate of title as to Notes. The Register is the only conclusive evidence of title to Notes.

7.12 Property in Notes situated

The property in the Notes will for all purposes be regarded as situated at the place where the Register is for the time being situated and not elsewhere.

7.13 Validity of Notes issued

Despite any non-compliance by RE with any provision of this deed, all Notes in respect of which an entry is made on the Register (and subject to correction of the Register for fraud or error) will be taken to have been validly issued under this deed as between:

- (a) the relevant Noteholder and RE;
- (b) the relevant Noteholder and any liquidator of RE or person appointed to realise the assets of and wind up the Spark Infrastructure Trust; and
- (c) the relevant Noteholder and all other Noteholders.

7.14 Dealings by Registrar

The Noteholders acknowledge that the Registrar, its Related Bodies Corporate and each of their respective employees, officers, agents and contractors may on its own account:

- (a) acquire, hold and otherwise deal with Notes and rights and interests in Notes;
- (b) contract with any party to this deed or a Noteholder or any Related Body Corporate of any of them; and
- (c) transact any financial or agency services with any person,

without having to account to any Noteholder or RE.

If the Registrar is or becomes a Noteholder, its obligations, rights, remedies and powers as a Noteholder are or will be the same as if it were not the Registrar.

7.15 Reliance on Register by the Note Trustee

The Noteholders and RE acknowledge that the Note Trustee may accept and rely upon the Register as conclusive evidence of the identity of the Noteholders from time to time and the Note Trustee will not be bound:

- (a) to call for further evidence of the identity of the Noteholders; or
- (b) to enquire as to the accuracy of the Register,

and the Note Trustee will not be responsible for any loss, damage, Costs or liability that may be occasioned by its reliance on the Register for this purpose.

8 Form of Register

8.1 Computer Register

The Register may be maintained on computer, provided that it is capable of being promptly reproduced in writing.

8.2 Form of Register if Stapling Provisions apply

If the Stapling Provisions are in effect in accordance with clause 18, then the Register may take the form of a single composite register for the Notes and all other Stapled Securities (as defined in the Stapling Provisions) together, and the provisions of clause 7 (“Obligations in relation to the Register”) and this clause 8 shall be construed accordingly.

9 Note Trustee's powers and duties

9.1 Appointment

Each Noteholder is taken to have appointed the Note Trustee as trustee to act as note trustee in connection with this deed.

9.2 Extent of authority

Each Noteholder is taken to have irrevocably authorised the Note Trustee:

- (a) to execute and deliver this deed as trustee for the Noteholders, which execution and delivery is ratified and confirmed by the Noteholders; and
- (b) subject to clauses 9.6 ("Limits on powers") and 13 ("Change of Note Trustee"), in its capacity as trustee of the Note Trust to exercise the powers expressly vested in it under this deed or conferred on trustees at law and rights, powers and discretions reasonably incidental to them and to carry out its obligations expressly set out in this deed.

9.3 Additional powers

In addition to the powers referred to in clause 9.2 ("Extent of authority"), the Note Trustee may:

- (a) **(apply to court)** at any time apply to a court for directions in relation to any question relating to any of its rights, powers, authorities, discretions, remedies and obligations under this deed or any applicable law, and may comply with any such direction;
- (b) **(directions)** at any time convene a meeting of Noteholders for any purpose, or otherwise seek from the Noteholders a direction (in the form of an Ordinary Resolution or a Special Resolution of them) in relation to any matter it thinks appropriate;
- (c) **(other things)** do things and execute documents it considers necessary or desirable under or in connection with any Ordinary Resolution or a Special Resolution of Noteholders or the exercise of its powers or performance of its duties as Note Trustee;
- (d) **(waivers)** waive or release, or compromise or settle any claim in relation to any right, remedy or power vested in it (in its capacity as Note Trustee);
- (e) **(communications)** rely on any communication or document it reasonably believes to be genuine and correct and to have been sent by the appropriate person; and
- (f) **(opinions)** as to legal, accounting, taxation or other professional matters, rely on opinions and statements of any legal, accounting, taxation or professional advisers used by the Note Trustee;

- (g) **(delegation)** employ agents and attorneys and may delegate any of its rights or obligations as Note Trustee under this deed without notifying any person of the delegation. The Note Trustee:
 - (i) is not responsible for the acts and omissions of any delegate provided that the delegate is appropriately qualified and the Note Trustee has exercised good faith and reasonable care in selecting them and supervising their actions; and
 - (ii) is responsible for the payment of any delegate’s remuneration and Costs; and
- (h) **(Trust property)** deal with any property comprised in the Note Trust under this deed.

9.4 Delegate

Any agent, attorney or other delegate appointed by the Note Trustee under clause 9.3(g) (including, but not limited to, any Receiver appointed under the Notes) is entitled to the benefit of clause 11.3 (“Indemnity by RE”) and 12.1 (“Liability of Note Trustee”). The Note Trustee holds that benefit on their behalf.

9.5 Capacity of Noteholders

The Note Trustee’s duties and obligations to Noteholders are owed to Noteholders only in their capacity as Noteholders.

9.6 Limits on powers

Without limiting paragraph 16.1 (“Noteholders bound”) of the Meeting Provisions in Schedule 3, the Note Trustee does not have either power or authority as trustee of the Note Trust to do any of the following unless it considers that, in the interests of the Noteholders, it should do so expeditiously or as a matter of urgency:

- (a) to exercise any power, the exercise of which would be contrary to any Ordinary Resolution or any Special Resolution of Noteholders;
- (b) to exercise any power, the exercise of which is expressed to require a Special Resolution or Ordinary Resolution of Noteholders, without such a resolution having been passed; or
- (c) unless it has been directed to do so by an Ordinary Resolution or Special Resolution (as required) of Noteholders, to:
 - (i) agree any amendment to this deed that is not otherwise permitted under clause 16 (“Alteration of deed”);
 - (ii) grant any waiver in writing of any material right vested in it or the Noteholders under this deed; or
 - (iii) take proceedings to enforce any of the rights of the Noteholders under this deed.

9.7 Limits on duties

The Note Trustee has no duties or responsibilities except those expressly set out in this deed or those arising under the Corporations Act. In particular, but subject to the Corporations Act, it has no duty or responsibility to:

- (a) **(exercise powers)** exercise any power unless it is indemnified to its absolute satisfaction against all actions, proceedings, claims and demands to which it may thereby render itself liable and against all Costs which it may incur in so doing, despite any other provision of this deed which imposes a duty on it to do so;
- (b) **(provide information)** provide any Noteholder (or any other person) with any credit or other information which may come into its possession concerning the affairs, financial condition or business of any person;
- (c) **(be informed)** keep itself informed about the performance by a party to this deed of any of its obligations under this deed;
- (d) **(inspection)** exercise any right it may have to inspect property or books belonging to another person;
- (e) **(laws)** do anything which would or might, in its opinion, be contrary to any law, regulation or official directive or render it liable to any person, despite any other provision of this deed which imposes a duty on it to do so;
- (f) **(directions of Noteholders)** exercise any right, remedy or power if it has convened a meeting of Noteholders to consider whether to exercise, or otherwise sought from the Noteholders a direction as to whether it should exercise, or as to the manner of exercise of, the right, remedy or power, pending the making of an Ordinary Resolution or a Special Resolution of Noteholders, despite any other provision of this deed which imposes a duty on it to do so; or
- (g) **(limited liability)** take any action under this deed unless its liability in respect of that action is limited to amounts which it is entitled to recover under this deed.

9.8 Note Trustee not responsible for monitoring

- (a) Except where otherwise expressly provided in this deed or by law, the Note Trustee is not required to:
 - (i) provide to any person any information concerning the business, financial condition, status or affairs of RE;
 - (ii) investigate the adequacy, accuracy or completeness of any information provided by RE; or
 - (iii) assess, investigate or keep under review the business, financial condition, status or affairs of RE.
- (b) The Note Trustee is not required to investigate or consider whether any issue of a Note or payment made to a Noteholder

will be an unfair preference or other similar voidable transaction for the purposes of Chapter 5 of the Corporations Act.

9.9 Exoneration and acknowledgments

Except to the extent arising as a direct result of the Note Trustee's gross negligence, fraud or wilful default, the Note Trustee is not responsible or liable (whether in negligence or otherwise) to any Noteholder:

- (a) **(non- performance by others)** because another party to this deed or a Noteholder does not perform any of its obligations under this deed or a Note;
- (b) **(financial position of others)** for the financial position of any other party to this deed or a Noteholder;
- (c) **(incorrect statements)** because any statement, representation or warranty in this deed, a Note or any document delivered under or in connection with this deed is incorrect or misleading;
- (d) **(validity of documents)** for the effectiveness, genuineness, validity, enforceability, admissibility in evidence or sufficiency of this deed, a Note or any document signed or delivered in connection with this deed; or
- (e) **(actions of others)** for any action taken or not taken by it or another person under or in connection with this deed or a Note; or
- (f) **(liability or loss)** any liability, loss or Costs incurred by a Noteholder.

10 Acts of the Note Trustee

10.1 Observe directions

Subject to the terms of this deed, the Note Trustee agrees to use reasonable endeavours to comply with each direction (including any conditions) given to it:

- (a) by way of a Special Resolution of Noteholders; or
- (b) unless the subject matter of that direction requires a Special Resolution under this deed, by way of an Ordinary Resolution of Noteholders.

10.2 No need for enquiry

Neither RE, the Registrar (except where it is the same person as the Note Trustee) nor a Noteholder need enquire, nor may they suspend the performance of any obligation pending receipt of the results of any enquiry, as to whether any act or omission of the Note Trustee is authorised by the Noteholders. No direction, consent, approval or other action by the Note Trustee on which RE, the Registrar or a Noteholder relies will be invalid

because the Note Trustee has not been given a direction in relation to that action by an Ordinary Resolution or Special Resolution of Noteholders.

10.3 Other dealings by Note Trustee

The Note Trustee, each Related Body Corporate of the Note Trustee, and each of their respective officers, agents, employees and contractors may subject to the Corporations Act and to always acting in good faith to Noteholders:

- (a) on their own account, acquire, hold and otherwise deal with Notes and rights and interests in Notes;
- (b) on their own account:
 - (i) contract with any Noteholder;
 - (ii) contract with any Related Body Corporate of any of them;
 - (iii) contract with the Note Trustee as trustee;
 - (iv) enter into and perform any contract or transaction with any person with whom they may so contract, being a contract or transaction which could otherwise be entered into and performed (without breach of obligation or duty) were the Note Trustee not the trustee under this deed; and
- (c) act in any representative capacity (including as administrator, trustee, receiver, receiver and manager, Controller (as defined in the Corporations Act), attorney, agent or fiduciary) of any person with whom he, she or it may so contract.

However, the right of the Note Trustee to enter into and perform contracts and transactions to which paragraph (b) refers must not be construed to override any duty it may have to act in good faith in what it perceives to be the interests of the Noteholders.

10.4 No liability to account

Subject to the proviso contained in clause 10.3 (“Other dealings by Note Trustee”), an act, matter or thing done under, in consequence of or incidental to, something permitted under that clause:

- (a) is not prohibited;
- (b) does not constitute a breach of any obligation or any duty, either expressed or implied into this deed or arising under or implied into any fiduciary relationship established or arising under this deed; and
- (c) does not render any person liable to account for any profits or benefits arising as a result of or in connection with, any such act, matter or thing.

10.5 Certificates

The Note Trustee may:

- (a) accept and rely on a certificate signed by any two Directors of RE (as the case may be) as to any fact or matter as conclusive evidence thereof and a like certificate to the effect that any particular dealing or transaction or step or thing is in the opinion of the person so certifying commercially desirable and not detrimental to the interests of the Noteholders as conclusive evidence that it is so;
- (b) accept and act on any information, statement, certificate, report, balance sheet or account supplied by RE, the Registrar, or any of their duly authorised officers;
- (c) accept and act upon the statements and opinions contained in any statement, certificate, report, balance sheet or account given under this deed as conclusive evidence of the contents,

and the Note Trustee will not be bound:

- (d) to call for further evidence other than that certificate, statement, report, balance sheet or account; or
- (e) to enquire as to the accuracy of such a document; and

will not be responsible for any loss, damage, Cost or liability that may be occasioned by relying on such a document.

10.6 No action required

The Note Trustee is not bound to give notice to any person of the execution of this deed and the Note Trustee is not bound to take any steps to ascertain whether any event has happened upon the happening of which the Notes become immediately payable.

10.7 Discretion of Note Trustee

Subject to the Corporations Act, to clause 9 (“Note Trustee’s powers and duties”) and this clause 10, the Note Trustee may exercise or omit to exercise any of its rights, remedies and powers in the manner it thinks fit. This is so even though it may not have consulted the Noteholders. Anything so done or omitted in good faith binds the Noteholders.

10.8 No deemed notice of default and knowledge of Note Trustee

Without limiting the Note Trustee's obligations under Chapter 2L of the Corporations Act:

- (a) the Note Trustee is not deemed to be aware of the occurrence of any default unless it has been advised of it by advice, stating the nature of the default and describing it, from RE or a Noteholder; and
- (b) the Note Trustee will only be considered to have knowledge or awareness of, or notice of, any thing, or grounds to believe any thing, by virtue of the officers of the Note Trustee having day to day

responsibility for the administration of the Note Trust having actual knowledge, actual awareness or actual notice of that thing or grounds or reason to believe that thing (and similar references will be interpreted in this way). In addition, notice, knowledge or awareness of a default means notice, knowledge, or awareness of the occurrence of the event or circumstances constituting a default.

10.9 Compliance with Corporations Act

The Note Trustee undertakes to RE to comply with its obligations under the Corporations Act.

11 Note Trustee's fees, costs and indemnities

11.1 Note Trustee's fees

- (a) RE agrees to pay to the Note Trustee an annual fee agreed to from time to time by RE and the Note Trustee.
- (b) If the Note Trustee takes any enforcement action in relation to this deed, RE agrees to pay to the Note Trustee on demand such additional remuneration which is:
 - (i) commensurate with any additional duties and responsibilities performed or undertaken by the Note Trustee in consequence of taking such enforcement action; and
 - (ii) charged at reasonable hourly rates for time spent by the Note Trustee's officers and employees in relation to such enforcement action. Such hourly rates must:
 - (A) reflect the level of expertise required to perform the work; and
 - (B) be commensurate with and referable to the hourly rates charged at the relevant time by members of the Insolvency Practitioners Association of Australia for work of the kind being performed by the Note Trustee's officers and employees.

11.2 What RE agrees to pay

RE agrees to pay or reimburse the reasonable Costs incurred by the Note Trustee, or its agent, attorney or other delegate appointed by the Note Trustee under clause 9.3(g), and any Taxes and fees and fines and penalties in respect of fees paid, in connection with:

- (a) the preparation, execution and amendment of this deed;
- (b) the performance by it or them or the exercise of any duty, right, power or privilege conferred by this deed or by law on the Note Trustee or upon any Noteholder;

- (c) any enforcement action taken by the Note Trustee in relation to this deed which is reasonably necessary or desirable to fulfil the Note Trustee's obligations or which is taken in accordance with directions given to it by the Noteholders in accordance with this deed;
- (d) the transfer of Notes;
- (e) any non-compliance by RE with its obligations under this deed, including the exercise, preservation or enforcement of any rights in connection with such non-compliance or an Event of Default; and
- (f) the convening, holding and carrying out of any directions or resolutions of any meeting of Noteholders.

RE agrees to pay or reimburse amounts due under this clause on demand from the Note Trustee.

11.3 Indemnity by RE

Subject to the Corporations Act, RE indemnifies the Note Trustee against any liability or loss arising from, and any reasonable Costs incurred by the Note Trustee in connection with, the Note Trustee performing or exercising its powers or duties under this deed.

RE agrees to pay amounts due under this indemnity on demand from the Note Trustee.

11.4 Exclusion

Subject to clause 9.3(g), the amounts referred to in clause 11.2 ("What RE agrees to pay") and clause 11.3 ("Indemnity by RE") are not payable to the extent:

- (a) that they are due to the gross negligence, fraud or wilful default by the Note Trustee, its officers, agents, employees, contractors, attorneys or other delegates appointed by the Note Trustee under clause 9.3(g); or
- (b) that they comprise Taxes (excluding GST) imposed on the Trustee's remuneration for its services as Trustee.

11.5 Items included in loss, liability and Costs

RE agrees that the Costs referred to in clause 11.2 ("What RE agrees to pay") and clause 11.3 ("Indemnity by RE"):

- (a) do not include Costs of an overhead or administrative nature; and
- (b) include legal Costs in accordance with any written agreement as to legal costs or, if no agreement, on whichever is the higher of a full indemnity basis or solicitor and own client basis.

11.6 Priority

All remuneration and payments referred to in this clause 11 will be paid in priority to any claim by any Noteholder and will continue to be payable until the trusts of this deed are finally wound up and whether or not the trusts of this deed are in course of administration by or under the order of any Court and the Note Trustee may retain and pay to itself in priority to any claim by any Noteholder all such remuneration and payments out of any moneys for the time being in its hands on the trusts of this deed.

11.7 Right to retain funds

The Note Trustee may retain and pay out of any moneys in its hands arising under this deed (in priority to any claim by a Noteholder) all sums necessary to give effect to or satisfy the indemnity in this clause 11.

11.8 Advance payment

The Note Trustee may demand payment before a liability, loss or Cost is incurred if the Note Trustee gives RE a certificate signed by an authorised officer of the Note Trustee stating the amount of liability, loss or Cost. This certificate will in the absence of manifest error be conclusive and binding on the parties to this deed.

11.9 Ranking of amounts payable to Note Trustee

Amounts payable by RE to the Note Trustee under this clause 11 rank equally with amounts payable to Ordinary Creditors.

12 Liability of Note Trustee

12.1 Liability of Note Trustee

Subject to the Corporations Act, the Note Trustee will not be under any liability whatsoever except:

- (a) to the extent of its fraud, gross negligence or wilful default; or
- (b) for failure to appoint any agent, attorney or other delegate in accordance with clause 9.3(g)(i).

12.2 Application of moneys

Subject to the Corporations Act, the Note Trustee will not incur any responsibility in respect of moneys subscribed by applicants for Notes or be bound to see to the due application of those moneys.

12.3 Note Trustee's capacity

RE, the Note Trustee and the Noteholders acknowledge and agree that the Note Trustee undertakes its obligations under this deed only in its capacity as trustee of the Note Trust. Any liability or right of indemnity in respect of any matter, thing, act or omission arising from this deed actual, contingent, prospective or of some other kind (in this clause called the “**liability**”) on the part of the Note Trustee:

- (a) is incurred in its capacity as Note Trustee only;
- (b) is at all times limited to the property of the Note Trust under this deed; and
- (c) does not extend beyond money received by the Note Trustee for or on behalf of RE or the Noteholders subject always to such payments, deductions, withholdings by the Note Trustee as authorised by this deed,

except to the extent that such liability arises from:

- (a) the fraud, gross negligence or wilful default of the Note Trustee; or
- (b) failure to appoint any agent, attorney or other delegate in accordance with clause 9.3(g)(i).

13 Change of Note Trustee

13.1 Removal of Note Trustee

Subject to the Corporations Act and to clause 13.4 (“When retirement or Removal takes effect”), the Noteholders may end the appointment of the Note Trustee under this deed by passing a Special Resolution and giving the Note Trustee at least 20 Business Days’ notice. However, if the Note Trustee is Insolvent, the Noteholders may, subject to the Corporations Act and clause 13.4 (“When retirement or Removal takes effect”), remove the Note Trustee on less than 20 Business’ Days Notice.

13.2 Retirement of Note Trustee

Subject to the Corporations Act and clause 13.4 (“When retirement or Removal takes effect”), the Note Trustee may resign by giving RE at least 2 months’ notice of its intention to do so.

13.3 Fees and expenses of Note Trustee

RE must pay to the Note Trustee the expenses reimburseable under this deed and the Note Trustee’s fees accrued pro rata to the date of its removal or retirement (or the Note Trustee must refund to RE that part of any fees paid in advance but to accrue in respect of the period after its removal or retirement (as the case may be)).

13.4 When retirement or removal takes effect

The retirement or removal of the Note Trustee only takes effect when a successor Note Trustee who may be appointed as successor Note Trustee under the Corporations Act has been appointed and was either appointed by a court or has executed a deed whereby it agrees to perform the obligations of the Note Trustee in relation to the Notes.

13.5 RE must convene meeting to appoint successor

If notice of removal is given to the Note Trustee, or the Note Trustee gives notice of resignation, RE must:

- (a) convene a meeting of Noteholders; and
- (b) appoint a successor Note Trustee approved by a Special Resolution of Noteholders and who otherwise satisfies the Successor Requirements.

If RE does not convene a meeting within 30 days of the date of the removal notice or resignation notice, the Note Trustee may so long as an appointment has not been made by RE convene a meeting of Noteholders and must, if so directed by a Special Resolution, appoint a person to the office of Note Trustee who satisfies the Successor Requirements.

13.6 Note Trustee may appoint successor

If a successor Note Trustee who satisfies the Successor Requirements is not appointed within two months after the giving of a removal notice or resignation notice, the Note Trustee may so long as an appointment has not been made by RE appoint a person as the successor Note Trustee who satisfies the Successor Requirements, or apply to court for the appointment of a replacement Note Trustee.

13.7 Effect of appointment of successor Note Trustee

When a successor Note Trustee is appointed in accordance with clause 13.4 (“When retirement or Removal takes effect”), the retiring or removed Note Trustee is discharged from any further obligation under this deed. Any such discharge does not prejudice any accrued right or obligation. The successor Note Trustee and each other party to this deed have the same rights and obligations among themselves as they would have had if the successor Note Trustee had been a party to this deed at the date of this deed.

13.8 Co-operation of parties on replacement

RE must, and a person who has been removed or who has resigned from office as Note Trustee must:

- (a) do such things and execute such documents as may be necessary or desirable for it to do or execute in order to permit or facilitate the appointment of the successor Note Trustee who satisfies the Successor Requirements and the vesting in that person of the property of the Note Trust; and
- (b) deliver to the successor Note Trustee all documents, computer software, accounts and other records in its possession or control which relate either to the property of the Note Trust or to any of the duties, rights, powers or remedies of the Note Trustee.

14 Representations and warranties

14.1 Representations and warranties by parties

Each party represents and warrants that:

- (a) **(incorporation and existence)** it has been incorporated as a company limited by shares in accordance with the laws of the Commonwealth of Australia, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted; and
- (b) **(power)** it has power to enter into this deed and to comply with its obligations under it; and
- (c) **(no contravention or exceeding power)** this deed and the transactions under it which involve it do not contravene its constituent documents or any law or obligation by which it is bound or to which any of its assets are subject, or cause a limitation on its powers or the powers of its directors to be exceeded; and
- (d) **(authorisations)** it has in full force and effect the authorisations necessary for it to enter into this deed, to comply with its obligations and exercise its rights under it and to allow them to be enforced; and
- (e) **(validity of obligations)** its obligations under this deed are valid and binding and are enforceable against it in accordance with their terms.

14.2 Repetition of representations and warranties

The representations and warranties in this clause 14 are taken to be repeated on each Issue Date by reference to the then current circumstances.

14.3 No representation

Each Noteholder acknowledges that:

- (a) the Note Trustee has not made any representation or given any warranty on which the Noteholder has relied, except to the extent expressly set out in this deed;
- (b) it did not rely on any statement, opinion, forecast or other representation (including a representation by omission) by the Note Trustee in making its decision to acquire any Note or the terms upon which it decided to acquire any Note; and
- (c) it must decide whether or not powers, rights or remedies under this deed should be exercised or enforced, without relying on the Note Trustee.

15 Meetings of Noteholders

RE or the Note Trustee may call a meeting of Noteholders or put written resolutions to Noteholders in the manner provided in the Meetings Provisions. Such meetings must be conducted, and Noteholders will have such powers by

resolutions passed at such meetings or in writing, as are set out in the Meetings Provisions.

16 Alteration of deed

16.1 Amendment of deed without consent

Without the consent of any Noteholder, but subject to clause 16.4 (“By Special Resolution”) complying with all applicable laws, this deed may be amended or supplemented at any time by a deed supplemental to this deed and made by RE and the Note Trustee if in the opinion of the Note Trustee (or independent counsel instructed by the Note Trustee) such amendment or addition:

- (a) is of a formal, minor, administrative or technical nature;
- (b) is made to correct a manifest error or cure any ambiguity;
- (c) is expedient or necessary to enable the Notes to be listed or remain listed for quotation on the ASX or any other stock exchange or to be offered for subscription or sale under the laws of a jurisdiction and is not considered by the Note Trustee to be materially prejudicial to the interests of Noteholders as a whole; or
- (d) in the opinion of the Note Trustee is not likely (taken as a whole and in conjunction with all other modifications, if any, to be made contemporaneously) to be materially prejudicial to the interests of the Noteholders, and two Directors of RE on behalf of the board of Directors of RE have so certified to the Note Trustee. The Note Trustee in determining whether or not such amendment or addition is materially prejudicial to the interests of the Noteholders may act upon the advice or opinion of or any information obtained from an expert (at the expense of RE), and will not be responsible for any loss occasioned by its acting or declining to act on such advice, opinion or information;
- (e) is necessary or advisable to ensure that RE is, and will continue to be, allowed a tax deduction for any interest paid or due and payable by RE under the Notes and two Directors of RE on behalf of the board of Directors of RE have so certified to the Note Trustee. The Note Trustee in determining whether or not such amendment or addition is so necessary or desirable may act upon the advice or opinion of or any information obtained from an expert (at the expense of RE), and will not be responsible for any loss occasioned by its acting or declining to act on such advice, opinion or information;
- (f) is:
 - (i) required by;
 - (ii) a consequence of;
 - (iii) consistent with; or

- (iv) appropriate, expedient or desirable for any reason as a consequence of,

the introduction of, or any amendment to, any statute, regulation or requirement of any governmental agency or any decision by a court;
or

- (g) is made to evidence the succession of another person as responsible entity of the Spark Infrastructure Trust and the assumption by any such successor of the covenants and obligations of RE in this deed; or
- (h) will enable the provisions of this deed to be more conveniently, advantageously, profitably or economically administered; or
- (i) is for the purposes of consolidating, dividing or converting the Loan Notes consistently with facilitating any Reorganisation taking place.

16.2 Amendment of Terms of Issue without consent

- (a) Subject to clause 16.4 (“By Special Resolution”), complying with all applicable laws, providing the Note Trustee with a copy of the alteration and the alteration not altering any of the rights and obligations of the Note Trustee, RE may, by an instrument in writing, amend or supplement the Terms of Issue without the consent of the Note Trustee or Noteholders, if the amendment or supplement, in the opinion of a independent counsel appointed by RE:
 - (i) is of a formal, minor, administrative or technical nature;
 - (ii) is made to correct a manifest error or cure any ambiguity;
 - (iii) is for the purposes of consolidating, dividing or converting the Loan Notes consistently with facilitating any Reorganisation taking place and is not prejudicial to the interests of the Noteholders, provided alterations of an inconsequential or minor nature are deemed not to be prejudicial; or
 - (iv) is not likely (taken as a whole and in conjunction with all other modifications, if any, to be made contemporaneously) to be materially prejudicial to the interests of the Noteholders.
- (b) Without limiting clause 16.2(a), RE may by an instrument in writing amend or supplement the Terms of Issue if the amendment or supplement has been approved by Noteholders by a Special Resolution and provided the amendment or supplement does not alter any of the rights and obligations of the Note Trustee.

16.3 With consent, other matters

This deed contains provisions for convening meetings of the Noteholders to consider any matters affecting their interest, including giving waivers or the modification of this deed other than under this clause 16. Certain modifications may be effected only by a Special Resolution in accordance with clause 16.4.

16.4 By Special Resolution

Unless clause 16.1 (“Amendment of deed without consent”) or clause 16.2 (“Amendment of Terms of Issue without consent”) applies, this deed may only be amended by a deed supplemental to this deed and made by RE and the Note Trustee if authorised by a Special Resolution of the Noteholders.

16.5 Tax

No change may be made to the terms of any Notes on issue, under this clause 16, unless RE first considers whether the proposed amendment to the terms will cause a change in the characterisation of the Notes for tax purposes or cause interest on the Notes to be non-deductible for any reason.

16.6 Reorganisation

- (a) Each Noteholder by applying for or taking a transfer of, or otherwise acquiring a Note is taken to have consented to Reorganisations under clauses 16.1(i) or 16.2(a)(iii).
- (b) To effect any Reorganisation under clauses 16.1(i) or 16.2(a)(iii), the Noteholder appoints RE as the Noteholder’s attorney in the Noteholder’s name, and on the Noteholder’s behalf to do all acts and things which RE considers necessary or appropriate to effect the Reorganisation under clauses 16.1(i) or 16.2(a)(ii).

17 Small Holdings

17.1 Application of this clause

This clause 17 applies while the Notes are Officially Quoted.

17.2 RE’s right to sell Small Holdings

Subject to the provisions of this clause 17, RE may in its discretion from time to time sell or redeem any Notes held by a Noteholder that is a Small Holder without request by the Small Holder.

17.3 Divestment Notice

If RE determines that a Noteholder is a Small Holder RE may give the Noteholder a Divestment Notice to notify the Noteholder:

- (a) that the Noteholder is a Small Holder, the number of Notes making up and the Market Value of the Small Holding and the date on which the Market Value was determined;
- (b) that, unless the Small Holder tells RE that the Small Holder wishes to retain the Notes making up the Small Holding before the Small Holding Relevant Period lapses, RE intends to sell the Small Holding Relevant Notes in accordance with this clause after the end of the Small Holding Relevant Period specified in the Divestment Notice;

- (c) after the end of the Small Holding Relevant Period, if the Small Holder has not informed RE that it wishes to retain the Notes making up the Small Holding, RE may for the purpose of selling the Small Holding Relevant Notes that are in a CS Facility holding initiate a holding adjustment to move those Notes from that CS Facility holding to an Issuer Sponsored Holding or Certificated Holding.

If the Operating Rules of a CS Facility apply to the Small Holding Relevant Notes, the Divestment Notice must comply with those Operating Rules.

17.4 Small Holding Relevant Period

The Small Holding Relevant Period must be at least six weeks from the date the Divestment Notice was given.

17.5 Limitation on RE's right to sell

RE will not sell or redeem the Small Holding Relevant Notes:

- (a) before the expiry of 6 weeks from the date of the notice given under clause 17.3 (“Divestment Notice”); or
- (b) if, within the 6 weeks allowed by clause 17.4 (“Small Holding Relevant Period”):
 - (i) the Small Holder advises RE that the Small Holder wishes to retain the Notes making up the Small Holding; or
 - (ii) the market value of the Small Holding held by the Small Holder increases to at least a marketable parcel as provided in the Listing Rules.

17.6 RE can sell Small Holding Relevant Notes

At the end of the Small Holding Relevant Period, if the Small Holder has not advised RE that the Small Holder wishes to retain the Notes making up the Small Holding, RE is entitled to sell on-market or in any other way determined by RE the Small Holding Relevant Notes of a Noteholder who is a Small Holder.

17.7 No obligation to sell

RE is not bound to sell any Small Holding Relevant Notes which it is entitled to sell under this clause 17, but unless the Small Holding Relevant Notes are sold within 10 weeks after the end of the Small Holding Relevant Period, RE's right to sell the Small Holding Relevant Notes under the Divestment Notice relating to those Notes lapses and RE must notify the Noteholder to whom the Divestment Notice was given accordingly.

17.8 RE as Noteholder's attorney

To effect the sale and transfer by RE of Small Holding Relevant Notes of a Noteholder, the Noteholder appoints RE and each Director and secretary of RE jointly and severally as the Noteholder's attorney in the Noteholder's name and on the Noteholder's behalf to do all acts and things which RE

considers necessary, desirable, reasonably incidental or appropriate to effect the sale or transfer of the Small Holding Relevant Notes and, in particular:

- (a) to initiate a holding adjustment to move the Small Holding Relevant Notes from a CS Facility holding to an Issuer Sponsored Holding or a Certificated Holding; and
- (b) to execute on behalf of the Noteholder all deeds, instruments or other documents necessary to transfer the Small Holding Relevant Notes and to deliver any such deeds, instruments or other documents to the purchaser of those Notes.

17.9 Conclusive evidence

A statement in writing by or on behalf of RE under this clause 17 is binding on and conclusive against (in the absence of manifest error) a Noteholder. In particular, a statement that the Small Holding Relevant Notes specified in the statement have been sold in accordance with this clause 17 is conclusive against all persons claiming to be entitled to the Small Holding Relevant Notes and discharges the purchaser of those Notes from all liability in respect of the Small Holding Relevant Notes.

17.10 Registering the purchaser

RE must register the purchaser of Small Holding Relevant Notes as the holder of the Small Holding Relevant Notes transferred to the purchaser under this clause. The purchaser is not bound to see to the application of any money paid as consideration. The title of the purchaser to the Small Holding Relevant Notes transferred to the purchaser is not affected by any irregularity or invalidity in connection with the actions of the RE under this clause 17.

17.11 Payment of proceeds

Subject to clause 17.12 (“Costs”), where:

- (a) Small Holding Relevant Notes of a Noteholder are sold by RE on behalf of the Noteholder under this clause; and
- (b) the certificate for the Small Holding Relevant Notes (unless RE is satisfied that the certificate has been lost or destroyed or the Small Holding Relevant Notes are uncertificated securities) has been received by RE,

RE must, within 60 days of the completion of the sale, send the proceeds of sale to the Noteholder entitled to those proceeds by:

- (i) sending a cheque payable to the Noteholder through the post to the address of the Noteholder shown in the Register or in the case of joint holders, to the address shown in the Register as the address of the Noteholder whose name first appears in the Register; or
- (ii) electronic funds transfer to any account notified to RE from time to time for a Noteholder.

Payment of any money under this clause is at the risk of the Noteholder to whom it is sent.

17.12 Costs

RE or the purchaser of the Notes making up the Small Holding must pay the costs of the sale or redemption as the RE decides.

17.13 Remedy limited to damages

The remedy of a Noteholder to whom this clause applies, in respect of the sale of the Small Holding Relevant Notes of that Noteholder is expressly limited to a right of action in damages against RE to the exclusion of any other right, remedy or relief against any other person.

17.14 Distributions and voting suspended

Unless RE determines otherwise, the rights to receive payment of distributions and to vote attached to the Small Holding Relevant Notes of that Noteholder are suspended until the Small Holding Relevant Notes are transferred to a new holder or that Noteholder ceases to be a Small Holder. Any distributions that would, but for this clause 17.14, have been paid to that Noteholder must be held by RE and paid to that Noteholder within 60 days after the earlier of the date the Small Holding Relevant Notes of that Noteholder are transferred and the date that the Small Holding Relevant Notes of that Noteholder cease to be subject to a Divestment Notice.

17.15 12 month limit

If it is a requirement of the Listing Rules (for any Stapled Security), RE must not give a Small Holder more than one Divestment Notice in any 12 month period (except as contemplated by clause 17.16).

17.16 Effect of takeover bid

From the date of the announcement of a takeover bid for the units in the Spark Infrastructure Trust until the close of the offers made under the takeover bid, RE's powers under this clause 17 to sell Small Holding Relevant Notes of a Noteholder cease. After the close of the offers under the takeover bid, RE may give a Divestment Notice to a Noteholder who is a Small Holder, despite clause 17.15 ("12 month limit") and the fact that it may be less than 12 months since the RE gave a Divestment Notice to that Noteholder.

18 Stapling

- (a) The Stapling Provisions take effect if determined by RE and, if so determined, apply on and from the Stapling Commencement Date unless and until they cease to apply in accordance with this deed or those Stapling Provisions.

- (b) On and from the Stapling Commencement Date:
 - (i) the Stapling Provisions apply and this deed is to be read subject to the Stapling Provisions;
 - (ii) subject to clause 19 (“Statutory Provisions”), the Stapling Provisions prevail over all other provisions of this deed including any that are expressed to prevail over others, except where this would result in a breach of the Corporations Act, the Listing Rules or any other law; and
 - (iii) without limiting (ii) above, those provisions of this deed, which by their meaning and context apply only while Notes are not Stapled, do not apply while Notes are Officially Quoted as part of a Stapled Security.
- (c) The Note Trustee acknowledges that, if and for so long as the Stapling Provisions apply in accordance with this clause:
 - (i) the Note Trustee will not; and
 - (ii) notwithstanding any other provisions of this deed, the Noteholders may not direct the Note Trustee to,

act, or refrain from acting, or otherwise do anything which is inconsistent with the Stapling Provisions.

19 Statutory provisions

19.1 Official Quotation

While the Notes are Officially Quoted, RE, the Note Trustee and each Noteholder must comply with the provisions of the Listing Rules, if applicable to them.

19.2 Statutory requirements

- (a) If the Corporations Act requires that this deed contain certain provisions, then those provisions:
 - (i) are deemed to be incorporated into this deed at all times at which, and to the extent to which, they are required to be included; and
 - (ii) prevail over any other provisions of this deed to the extent of any inconsistency.
- (b) For the avoidance of any doubt, where clause 19.2(a)(i) operates to deem a provision to be incorporated into this deed, it is deemed to be incorporated as a separate and distinct provision.

19.3 Listing Rules

- (a) While the Notes are Officially Quoted:

- (i) notwithstanding anything contained in this deed, if the Listing Rules prohibit an act being done, the act shall not be done;
- (ii) nothing contained in this deed prevents an act being done that the Listing Rules require to be done;
- (iii) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (iv) if the Listing Rules require this deed to contain a provision and it does not contain such a provision, this deed is deemed to contain that provision;
- (v) if the Listing Rules require this deed not to contain a provision and it contains such a provision, this deed is deemed not to contain that provision; and
- (vi) if any provision of this deed is or becomes inconsistent with the Listing Rules, this deed is deemed not to contain that provision to the extent of the inconsistency.

20 Discharge and release

RE is immediately discharged and released from its obligations and liabilities under this deed in respect of any Note on the date certified by two Directors of RE to the Note Trustee to be the date on which the last of the following occurs:

- (a) the outstanding principal amount of that Note and accrued interest on that Note is redeemed, paid or repaid or otherwise satisfied in full; and
- (b) all fees and Costs of the Note Trustee payable or reimbursable by RE under this deed have been paid, and the Note Trustee must at RE's request promptly notify RE of the amount of such fees and Costs.

21 No recourse against others

Subject to the Corporations Act, no recourse may be had for the payment of the principal of or interest on any of the Notes or for any claim based on such payment or otherwise in respect of such payment, and no recourse may be had under or upon any obligation, covenant or agreement of RE in this deed or in any of the Notes, or because of the creation of any indebtedness represented by the Notes, against any shareholder, partner, officer, Director, employee, contractor or controlling person of RE. Each Noteholder by accepting a Note waives and releases all such liability, and such waiver and release is part of the consideration for the issue of the Notes.

22 Notices and other communications

22.1 Form of notices

Subject to the Corporations Act, a notice or other communication required to be given under this deed must be given in writing (which includes a fax) or in such other manner as RE determines or as otherwise permitted by the Corporations Act, and be delivered or sent to the recipient at:

- (a) in the case of RE or the Note Trustee, as set out in the Details, or as notified otherwise; and
- (b) in the case of a Noteholder, at the physical or electronic address last advised to RE for delivery of notices.

22.2 Cheques payable to Noteholders

A cheque payable to a Noteholder may be posted to the Noteholder's physical address or handed to the Noteholder or a person authorised in writing by the Noteholder.

22.3 Joint Noteholders

In the case of joint Noteholders, the physical or electronic address of the Noteholder means the physical or electronic address of the Noteholder first named in the Register.

22.4 Receipt of communications

A notice, cheque or other communication sent by post is taken to be received on the Business Day after it is posted and a document (other than a notice of meeting of Noteholders) sent by fax or electronic transmission is taken to be received 1 hour after receipt by the transmitter of confirmation of transmission from the receiving fax machine or computer to which the message was transmitted. Proof of actual receipt is not required. Subject to the Corporations Act, RE may determine the time at which other forms of communication will be taken to be received.

22.5 Notices to RE

- (a) A notice by a Noteholder to RE is effective only at the time of receipt.
- (b) A notice by a Noteholder to RE must bear the actual, facsimile or electronic signature of the Noteholder or a duly authorised officer or representative of the Noteholder unless RE dispenses with this requirement.

22.6 Communications via website

- (a) Despite any other provision of this deed, a notice of Meeting given by the Note Trustee in accordance with paragraph 4 ("Notice of Meeting") of the Meeting Provisions following the occurrence of an Event of Default may specify that the Note Trustee intends to make

further communications to the Noteholders in relation to the Meeting via the Note Trustee's website.

- (b) If clause 22.6(a) applies, then subject to the Corporations Act, communications posted to the Note Trustee's website:
 - (i) will satisfy the requirements of this clause 22; and
 - (ii) will take effect from the time at which the communications are posted to the Note Trustee's website.

22.7 Notice to transferor binds transferee

Every person who, by operation of law, transfer or any other means, becomes entitled to be registered as the holder of any Notes is bound by every notice which, prior to the person's name and address being entered in the Register, was properly given to the person from whom the person derived title to those Notes.

22.8 Service on deceased Noteholders

A notice served in accordance with this clause 22 is (despite the fact that the Noteholder is then dead and whether or not RE has notice of the Noteholder's death) considered to have been properly served in respect of any Notes, whether held solely or jointly with other persons by the Noteholder, until some other person is registered in the Noteholder's place as the Noteholder or joint Noteholder. The service is sufficient service of the notice or document on the Noteholder's personal representative and any person jointly interested with the Noteholder in the Notes.

23 Restricted dealings

The Note Trustee may not create or allow to exist a Security Interest in respect of its rights under this deed or otherwise dispose of or deal with its rights under this deed which would in any way adversely affect the performance of its obligations under this deed or the interests of any Noteholder.

24 General

24.1 Prompt performance

If this deed specifies when a party agrees to perform an obligation, the party agrees to perform it by the time specified. The party agrees to perform all other obligations promptly.

24.2 Certificates

The Note Trustee, the Registrar or their solicitors may give RE a certificate about an amount payable or other matter in connection with this deed. The certificate is sufficient evidence of the amount or matter, unless it is proved to be incorrect.

24.3 Calculations binding

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained by the Registrar or the Note Trustee, are (in the absence of wilful default, bad faith or manifest error) binding on RE, the Registrar, the Note Trustee and all Noteholders and, subject to clause 9.9 (“Exoneration and acknowledgments”), no liability to the Noteholders attaches to the Note Trustee in connection with the exercise or non-exercise by it of its powers, duties and discretions in this regard.

24.4 Set-off

At any time after an Event of Default, the Note Trustee may set off any amount due for payment by the Note Trustee to RE against any amount due for payment by RE to the Note Trustee under this deed.

24.5 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its consent under this deed in any way it considers appropriate (including by imposing conditions).

24.6 Partial exercising of rights

If a party does not exercise a right or remedy under this deed fully or at a given time, the party may still exercise it later.

24.7 No liability for loss

The Note Trustee is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy under this deed.

24.8 Conflict of interest

Rights and remedies of the Note Trustee or RE under this deed may be exercised even if this involves a conflict of duty or the Note Trustee or RE has a personal interest in their exercise.

24.9 Remedies cumulative

The rights and remedies of each party under this deed are in addition to other rights and remedies given by law independently of this deed.

24.10 Indemnities

Any indemnity in this deed is a continuing obligation, independent of the party’s other obligations under this deed and continues after this deed ends. It is not necessary for the party indemnified to incur expense or make payment before enforcing a right of indemnity under this deed.

24.11 Rights and obligations are unaffected

Rights given to the Note Trustee under this deed and RE’s liabilities under it are not affected by anything which might otherwise affect them at law.

24.12 Inconsistent law

To the extent permitted by law, this deed prevails to the extent it is inconsistent with any law.

24.13 Supervening legislation

Any present or future legislation which operates to vary the obligations of RE or the Note Trustee in connection with this deed with the result that RE's or the Note Trustee's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

24.14 Consistency with section 283DB(1) of the Corporations Act

The provisions of this deed (including clauses 11.2 ("What RE agrees to pay"), 11.3 ("Indemnity by RE") and 11.5 ("Items included in loss, liability and Costs")) are (despite their terms) to be interpreted in their application to the Note Trustee so as to not give rise to the operation of section 283DB(1) of the Corporations Act.

24.15 Time of the essence

Time is of the essence in this deed in respect of an obligation of RE to pay money.

24.16 Counterparts

This deed may consist of a number of copies, each signed by one or more parties to the agreement. If so, the signed copies are treated as making up the one document.

24.17 Governing law

This deed is governed by the law in force in Victoria.

24.18 Jurisdiction

RE submits to the non-exclusive jurisdiction of the courts of Victoria and courts of appeal from them. RE waives any right it has to object to an action being brought in those courts including by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

25 Interpretation

25.1 Definitions

The meanings given to terms or expressions in Schedule 4 apply in this deed (including the Terms of Issue) unless the contrary intention appears.

25.2 References to certain general terms

Unless the contrary intention appears, a reference in this deed to:

- (a) a group of persons is a reference to any two or more of them jointly and to each of them individually;
- (b) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (c) anything (including an amount) is a reference to the whole and each part of it;
- (d) a document (including this deed) includes any variation or replacement of it;
- (e) law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (f) an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (g) Australian dollars, dollars, \$ or A\$ is a reference to the lawful currency of Australia;
- (h) a time of day is a reference to Melbourne time;
- (i) the word “person” includes an individual, a firm, a body corporate, an unincorporated association and an authority;
- (j) a particular person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (k) the words “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (l) registration or recording includes inscription, and register and record have a corresponding meaning;
- (m) transfer includes transmission; and
- (n) this deed includes the Terms of Issue.

25.3 Number

In this deed, the singular includes the plural and vice versa.

25.4 Headings

In this deed, headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this deed.

25.5 References to Note Trustee

In this deed, except where expressly provided to the contrary:

- (a) a reference to the Note Trustee is a reference to the Note Trustee in its capacity as trustee of the Note Trust only, and in no other capacity;
- (b) a reference to the undertaking, assets, business, money or any other thing of or in relation to the Note Trustee is a reference to such undertaking, assets, business, money or other thing of or in relation to the Note Trustee only in its capacity as trustee of the Note Trust, and in no other capacity; and
- (c) in the definition of “Insolvent”, to the extent that the definition applies to the Note Trustee, references are to the Note Trustee in its capacity as trustee of the Note Trust or personally, but not the Note Trustee in its capacity as trustee of any other trust.

25.6 References to RE

In this deed, except where expressly provided to the contrary:

- (a) a reference to RE is a reference to RE in its capacity as responsible entity of the Spark Infrastructure Trust only, and in no other capacity;
- (b) a reference to the undertaking, assets, business, money or any other thing of or in relation to RE is a reference to such undertaking, assets, business, money or other thing of or in relation to RE only in its capacity as responsible entity of the Spark Infrastructure Trust, and in no other capacity;
- (c) in the definition of “Insolvent”, to the extent that the definition applies to RE, references are to RE in its capacity as responsible entity of the Spark Infrastructure Trust, but not RE in its capacity as trustee or responsible entity of any other trust; and
- (d) a reference to RE includes:
 - (i) until the Spark Infrastructure Trust is registered with ASIC as a managed investment scheme, Spark Infrastructure RE Limited (ACN 114 940 984) or any replacement trustee appointed by it; and
 - (ii) from the time the Spark Infrastructure Trust is registered with ASIC as a managed investment scheme, the company which is registered with ASIC as the responsible entity for the Spark Infrastructure Trust under the Corporations Act.

25.7 References to outstanding Notes

A Note is to be regarded as remaining outstanding unless:

- (a) it has been redeemed in accordance with this deed; or
- (b) the date for its redemption in accordance with this deed has occurred and the principal amount and accrued interest in respect of the Note have been duly paid by RE and have not been repaid to RE.

EXECUTED as a deed

Note Trust Deed

Schedule 1 - Terms of Issue (clause 25.2(n) of Note Trust Deed)

The Notes are constituted by a note trust deed (“**Note Trust Deed**”) dated on or around 9 November 2005 between Spark Infrastructure RE Limited (ACN 114 940 984) in its capacity as responsible entity of the Spark Infrastructure Trust (“**RE**”) and Australian Executor Trustees Limited (ABN 84 007 869 794) (“**Note Trustee**”).

The following are the terms and conditions of the Notes which apply to each Note.

Statements in these Terms of Issue are subject to the detailed provisions of the Note Trust Deed and, except where this would result in a breach of the Corporations Act, the Listing Rules or any other law, subject to the terms of the Stapling Provisions if those provisions have taken effect in accordance with clause 18 (“Stapling”) of the Note Trust Deed. They are also subject to any other document to which the Note Trustee is (or becomes) a party as trustee for the Noteholders (as defined below). Meanings given to terms or expressions in Schedule 4 to the Note Trust Deed apply in this Schedule, unless the contrary intention appears.

The registered owners of the Notes (“**Noteholders**”) are entitled to the benefit of, are bound by and are deemed to have notice of, all the provisions contained in the Note Trust Deed and these Terms of Issue, and any other document to which the Note Trustee is or becomes a party as trustee for the Noteholders.

Copies of the Note Trust Deed and any other document to which the Note Trustee is (or becomes) a party as trustee for the Noteholders are (or will be) available for inspection on reasonable notice during normal business hours at RE’s principal office.

1 General

1.1 Form

The Notes are unsecured subordinated resettable notes issued under the Note Trust Deed. Noteholders are entitled to the benefit of and are bound by the provisions of the Note Trust Deed.

1.2 Issue Price and Face Value

Each of the Notes to be issued by RE:

- (a) will have a principal amount of \$1.25; and
- (b) must be paid for to the full extent of the Issue Price on or before issue.

1.3 Ranking and Subordination

- (a) Notes are unsecured obligations of RE, and rank equally without any preference among themselves.

- (b) Despite anything else in these Terms of Issue or any other document, as from the Winding Up of RE, the rights of the Noteholders are subordinated in right of payment to the claims of Other Creditors and accordingly as from the Winding Up of RE:
 - (i) no part of any debt payable by, nor any claim against, RE in respect of the Notes will be paid, discharged or satisfied until the claims of Other Creditors have been paid, discharged or satisfied in full;
 - (ii) the Note Trustee and the Noteholders may only lodge in connection with any Note a proof of debt which is consistent with this clause; and
 - (iii) the liquidator or provisional liquidator of RE and any person appointed to realise the assets of and wind-up the Spark Infrastructure Trust must distribute the assets of RE and Spark Infrastructure Trust accordingly.
- (c) RE is at liberty from time to time without the consent of the Noteholders to create and issue any class of share capital or other securities or rights or interests in securities and to create, issue, secure or guarantee any indebtedness upon such terms, including as to return of capital or repayment in a Winding Up, as RE may think fit.
- (d) For the purposes of clause 1.3(b) above, a reference to claims of Other Creditors is a reference to all or any debts payable to any other creditor of RE, and all or any claims of any other creditor of RE, against RE (present or future, certain or contingent, ascertained or sounding only in damages), being debts or claims which by law are admissible to proof in a Winding Up of RE, other than:
 - (i) the Noteholders (in their capacity as such); and
 - (ii) creditors whose claims against RE are expressed by their terms to or as a matter of law rank equally with or after the claims of the Noteholders (if any).
- (e) For the purposes of these Terms of Issue a Redemption Notice will be ineffective if it is provided in breach of an undertaking given to or for the benefit of a Senior Creditor to which any moneys are owing actually or contingently by a Stapled Entity. For the avoidance of doubt, this clause 1.3(e) has no effect in respect of redemption on the Final Redemption Date.
- (f) Prior to the Final Redemption Date, the Note Trustee may not institute any proceedings, or take any action, under clause 6.3 of these Terms of Issue while any moneys are owing actually or contingently by a Stapled Entity to a Senior Creditor.

1.4 Repayment

Subject to clause 1.3(b) of these Terms of Issue, Notes will be repayable only upon:

- (a) the redemption of the Notes in accordance with these Terms of Issue;
or
- (b) Winding Up of RE.

1.5 Repayment in part

Notwithstanding any other provision of these Terms of Issue, RE has the right to repay in part some of the principal amount of all (but not some only) of the Notes. If a Note is repaid in part, the Face Value of that Note will be reduced by an amount equal to the amount of principal repaid.

1.6 RE may issue further Notes

Whilst there are Notes outstanding, RE may issue other Notes (“**New Notes**”) in accordance with the Note Trust Deed without the consent of any Noteholder or the Note Trustee, which will be issued on the same terms and conditions as any outstanding Notes, except that if the RE so elects:

- (a) the holders of New Notes may be entitled to participate fully for payment of interest in respect of the Interest Period in which the New Notes are issued notwithstanding any other provision of the Note Trust Deed, as if the holders of the New Notes had held the New Notes issued to them from the first day of that Interest Period;
- (b) in respect of the Interest Period in which the New Notes are issued, notwithstanding any other provisions of the Note Trust Deed or clause 2 of these Terms of Issue in particular, RE may determine that no interest shall be paid in respect of that Interest Period to either existing Noteholders or holders of New Notes, or both. If RE makes a determination under this clause 1.6(b), the interest which would otherwise have been payable or accrued in respect of that Interest Period shall be disregarded for the purposes of clause 2 of these Terms of Issue.

RE must notify the Note Trustee of any proposed issue of New Notes.

2 Interest

2.1 Interest

Subject to these Terms of Issue, interest will accrue on each Note on a daily basis in accordance with the following formula:

$$\text{Interest} = \frac{\text{Interest Rate} \times \text{Face Value} \times N}{365}$$

where:

Interest Rate is:

- (i) for the period from (and including) the First Issue Date to (but excluding) the first Reset Date, the Initial Rate;

- (ii) for the period between succeeding Reset Dates (including the Reset Date at the beginning of that period but excluding the Reset Date at the end of that period), the interest rate determined in accordance with clause 3.1 of these Terms of Issue.

N is the number of days from (and including) the Issue Date or the preceding Interest Payment Date (whichever is the later) to (but not including) the relevant Interest Payment Date.

2.2 Payment of Interest

Subject to clause 2.3 of these Terms of Issue, RE must pay the interest accrued on each Note in arrears on each Interest Payment Date.

2.3 Deferral of Interest

- (a) Subject to clause 2.5 of these Terms of Issue, any interest (excluding Reset Interest) on a Note which is otherwise due and payable on any Interest Payment Date (including any interest deferred by any prior operation of this clause 2.3(a)) that is not paid by RE on that date is automatically deferred and will fall due for payment on the next Interest Payment Date.
- (b) RE will give notice to the Note Trustee and the Noteholders that payment of interest will be deferred under clause 2.3(a) above as soon as practicable after it makes such determination.
- (c) The deferral of any interest payment under clause 2.3(a) above will not constitute a default by RE for any purpose.

2.4 Cumulative Interest

Interest accrues on any Outstanding Interest on a daily basis and compounds on a monthly basis from and including the relevant Interest Payment Date up to, but excluding, the date of actual payment at a rate equal to the then applying Interest Rate.

2.5 Payment of Outstanding Interest

On a Reset Date, all Outstanding Interest on each Note is due and payable by RE.

2.6 Enforcement Restriction

In the event that:

- (a) RE does not pay on a Reset Date all Outstanding Interest due and payable on a Note in accordance with clause 2.5 of these Terms of Issue; and
- (b) as at the Reset Date any monies are owing (actually or contingently) by any Stapled Entity to any Senior Creditor,

then, except in the case of failure to pay the Outstanding Interest under clause 5.3 of these Terms of Issue, for so long as any monies are owing (actually or contingently) by any Stapled Entity to any Senior Creditor:

- (c) neither the Note Trustee nor the Noteholder will be entitled to demand payment of that Outstanding Interest or any payment of interest accruing thereon under clause 2.4 of these Terms of Issue; and
- (d) the non-payment of the Outstanding Interest, or any interest accruing thereon under clause 2.4 of these Terms of Issue, will not constitute a default by RE for any purpose.

2.7 Restrictions on RE where Outstanding Interest is deferred

For so long as any Outstanding Interest remains unpaid, save to the extent that declaration or payment of a distribution is required to prevent the RE being liable to tax on the Income of the Trust for the Financial Year, RE must not:

- (a) declare or pay any dividend or make any return of capital or other payment to its unitholders in respect of the issued units of Spark Infrastructure Trust; or
- (b) set aside any sum or any assets for anything referred to in clause 2.7(a) above.

Nothing in this clause prohibits any member of the Stapled Group (other than RE) from either (a) or (b) above.

2.8 Payment of Outstanding Interest

RE may pay all or any Outstanding Interest on all but not some of the Notes to the Noteholders at any time, subject to it notifying the Noteholders at least 15 Business Days prior to any such payment of the date of payment and the amount of Outstanding Interest to be paid in respect of each Note.

2.9 Priority of Interest Payments

Subject to clause 11.7 of the Note Trust Deed, any payment of interest must be applied:

- (a) firstly, in payment of any interest accrued on any Reset Interest under clause 2.4 of these Terms of Issue which has not been paid or otherwise satisfied in full at that time;
- (b) secondly, in payment of any Reset Interest which has not been paid or otherwise satisfied in full at that time;
- (c) thirdly, in payment of any interest accrued on any Deferred Interest under clause 2.4 of these Terms of Issue (not already paid under (a) above) which has not been paid or otherwise satisfied in full at that time;

- (d) fourthly, in payment of any Deferred Interest which has not been paid or otherwise satisfied in full at that time; and
- (e) lastly, in payment of any other unpaid interest which is due and payable.

All interest payable on the Notes when paid must be paid on all Notes.

2.10 Calculation of Interest

All calculations of interest will be rounded to four decimal places. Any fraction of a cent in the payment of any interest in respect of a Noteholder's aggregate holding of Notes will be disregarded.

3 Reset of Terms

3.1 Reset

Not less than 45 Business Days before any Reset Date (**Relevant Reset Date**), RE may by notice given to the Noteholders and the Note Trustee specify or (as applicable) make changes to any or all of the following:

- (a) the next Reset Date after the Relevant Reset Date (which must be at least 12 months but not more than five years from the day after the Relevant Reset Date and which must also be an Interest Payment Date);
- (b) subject to clause 3.2 of these Terms of Issue, the rate at which interest is to accrue on Notes or the method of calculating that rate, in each case during the period from (and including) the Relevant Reset Date to (but excluding) the next Reset Date (**Relevant Period**), except that clause 2.4 of these Terms of Issue may not be changed on a Reset Date under this clause 3.1; and
- (c) the Interest Payment Dates falling after the Relevant Reset Date.

If RE does not give notice to the Noteholders and the Note Trustee under this clause 3 specifying or (as applicable) changing any item set out in paragraphs (a) to (c) above before that date which is 45 Business Days before the Relevant Reset Date:

- (i) the terms applying as at the Relevant Reset Date, as amended by any notice given under this clause 3 before that date which is 45 Business Days before the Relevant Reset Date, will continue until the next Reset Date; and
- (ii) that next Reset Date will be such that it is an Interest Payment Date and the length of the period to the next Reset Date is the same (so far as practicable) as the length of the period that has passed from the immediately preceding Reset Date (or in the case of the first operation of this clause 3.1, the First Issue Date) until the Relevant Reset Date.

3.2 Base Rate

Each interest rate reset under clause 3.1(b) of these Terms of Issue for a Relevant Period shall not be less than the Base Rate for that period. Any determination by RE of the Base Rate, or for the purposes of calculating the Base Rate, shall be conclusive and binding on the Noteholders and the Note Trustee in the absence of manifest error.

4 RE's Rights

4.1 First Right of Redemption

RE has the right exercisable by notice to the Noteholders, given no later than 40 Business Days prior to the Reset Date, to redeem all (but not some only) of the Notes in accordance with clause 5 of these Terms of Issue.

4.2 Options on occurrence of a Tax Event or Regulatory Event

- (a) RE must give notice to the Noteholders that a Tax Event or Regulatory Event has occurred as soon as reasonably practicable after it becomes aware of such occurrence.
- (b) Within 20 Business Days of notice being provided under clause 4.2(a) above, RE has the right exercisable by notice to the Noteholders to redeem all (but not some only) of the Notes in accordance with clause 4.3 of these Terms of Issue.

4.3 Power of compulsory redemption

Subject to the Listing Rules and the Corporations Act, RE may redeem the Notes of any Noteholder if the Noteholder holds less than the Minimum Holding.

5 Redemption of Notes

5.1 Redemption

RE must, where it has provided a Redemption Notice, redeem the relevant Notes on the relevant Redemption Date.

5.2 Final Redemption

RE must on the Final Redemption Date redeem all Notes outstanding at that date.

5.3 Payment

On the redemption of any Notes under this clause 5, RE must pay on the Redemption Date an amount equal to the Redemption Amount for each Note being redeemed and any Outstanding Interest as at the Redemption Date in respect of those Notes.

5.4 Automatic application of Redemption Amount

If a Note is redeemed in accordance with clause 4.2, RE may determine that the Redemption Amount for each Note will be applied as consideration (whether in whole or in part) for the allotment of a New Attached Security to the relevant Noteholder, provided such reinvestment will not cause a Tax Event. That application of the Redemption Amount will be taken to satisfy the obligation of RE to pay the Redemption Amount for each Note under clause 5.3. The Stapling Provisions, and in particular clause 1.3(d) of the Stapling Provisions, will apply to effecting such application of the Redemption Amount and allocation of the New Attached Security.

5.5 Application of other amounts

Subject to the Listing Rules, RE may permit or require Noteholders to reinvest some or all of any interest payment or payments to acquire Notes, provided such reinvestment will not cause a Tax Event. Reinvestment may be by issue or transfer of Notes or other Stapled Securities.

6 Enforcement

6.1 Events of Default

Each of the following is, subject to clause 6.2 of these Terms of Issue, an Event of Default:

- (a) RE fails to pay any interest or principal on any of the Notes within 10 Business Days of it becoming due and payable; or
- (b) RE fails to comply with any of its other material obligations under the Note Trust Deed or these Terms of Issue and, if in the opinion of the Note Trustee that failure can be remedied, is not remedied to the reasonable satisfaction of the Note Trustee within 20 Business Days (or such longer period as the Note Trustee may permit) after notice of the failure has been given to RE by the Note Trustee.

6.2 Exceptions

Each of the following do not constitute an Event of Default falling within clause 6.1(a) of these Terms of Issue:

- (a) the non-payment by RE of any interest or principal due and payable in respect of any of the Notes:
 - (i) in order to comply with any fiscal or other law or regulation or with the order of any court of competent jurisdiction, in each case applicable to such payment; or
 - (ii) in cases of doubt as to the validity or applicability of any such law, regulation or order as referred to in (i) above, in accordance with advice given by independent counsel acceptable to the Note Trustee as to such validity or applicability;

- (b) the deferral of any interest payment under clause 2.3(a) of these Terms of Issue; or
- (c) the non-payment by RE of any Outstanding Interest in the circumstances mentioned in clause 2.6(a) and (b) of these Terms of Issue, except where the non-payment of the Outstanding Interest arises as a result of a failure to comply with clause 5.3 of these Terms of Issue.

6.3 Consequences

If an Event of Default occurs and continues, the Note Trustee may institute such proceedings against RE as it may think fit on account of that Event of Default except that upon the occurrence of an Event of Default falling within clause 6.1(a) of these Terms of Issue the remedies available to the Note Trustee shall be limited to taking action to implement or to prove in a Winding Up of RE.

6.4 Note Trustee not bound to enforce

The Note Trustee shall not in any event be bound to take any action referred to in clause 6.3 of these Terms of Issue unless:

- (a) it shall have been so requested by Noteholders holding between them at least 25% of the Notes for the time being on issue or it shall have been so directed by a Special Resolution; and
- (b) it shall have been indemnified to its satisfaction by the Noteholders against all costs, charges, liabilities and expenses which may be incurred by it in connection with that action.

6.5 No remedy against RE

Except as specifically provided by this clause 6, no remedy against RE shall be available to the Note Trustee or the Noteholders whether for the recovery of amounts owing in respect of any breach by RE of any of its obligations under the Note Trust Deed (including these Terms of Issue) or otherwise (other than the payment of the Costs, liabilities, or fees of the Note Trustee).

6.6 Noteholders' right to enforce

(a) No Noteholder shall be entitled to proceed directly against RE to enforce any right or remedy under or in respect of any Note unless the Note Trustee, having become bound to proceed, fails to do so within 20 Business Days and such failure shall be continuing, in which case any such Noteholder may, upon giving an indemnity satisfactory to the Note Trustee, in the name of the Note Trustee (but not otherwise), itself institute proceedings against RE for the relevant remedy to the same extent (but not further or otherwise) that the Note Trustee would have been entitled to do so.

(b) Notwithstanding this clause 6.6 of these Terms of Issue and without prejudice to the rights and obligations of the Note Trustee, a Noteholder shall be entitled to proceed directly against RE for a remedy to the same extent (but not further or otherwise) that the Note

Trustee would have been entitled to do so, in respect of an amount payable directly to the Noteholder under clause 1.6 of the Note Trust Deed if the RE has failed to pay that amount for a period of 12 months or more after that amount was due and payable to the Noteholder and the Note Trustee has taken no step to require payment of that amount. The rights in favour of Noteholders not party to the Note Trust Deed which arise under clause 1.6 of the Note Trust Deed against RE are intended to be, and are, directly enforceable in accordance with this clause 6.6 by each of those persons, and the Note Trust Deed operates as a deed poll by RE in favour of those persons.

(c) Any such action by a Noteholder under clause 6.6(b) must be suspended if and to the extent that the Note Trustee subsequently takes steps to require payment of that amount.

7 Payments

7.1 Record Dates

For the purposes of determining a Noteholder's entitlement to payments of interest on the Notes, only those persons who are registered as Noteholders on the Record Date for a payment shall be entitled to receive the payment.

7.2 Deductions

- (a) RE may deduct from any interest or other amount payable to a Noteholder the amount of any withholding or other tax, duty or levy required by law to be deducted in respect of such amount. If any such deduction has been made and the amount of the deduction accounted for by RE to the relevant revenue authority and the balance of the amount payable has been paid to the Noteholder concerned, then the full amount payable to such Noteholder shall be deemed to have been duly paid and satisfied by RE.
- (b) RE shall pay the full amount required to be deducted to the relevant revenue authority within the time allowed for such payment without incurring penalty under the applicable law and shall, if required by any Noteholder, deliver to that Noteholder the relevant receipt issued by the revenue authority without unreasonable delay after it is received by RE.

7.3 No Set Off

A Noteholder has no right to set off any amounts owing by it to RE against claims owing by RE to the Noteholder.

7.4 Payment Method

Any amount which is payable to Noteholders in respect of the Notes in accordance with these Terms of Issue will, unless RE and the Noteholder otherwise agree, be paid by direct credit to a nominated account at an Australian financial institution or by cheque drawn in favour of such Noteholder and sent by prepaid post to the address of the Noteholder in the

Register or otherwise in accordance with clause 22.2 of the Note Trust Deed. Cheques sent in accordance with this provision will be deemed to have been received by the Noteholder on the relevant due date and no further amount will be payable by RE in respect of the relevant Note as a result of payment not being received by the Noteholder on the due date.

7.5 Proportionate payments

Payments must be made to the Noteholders in the proportion that the respective amount owed to a Noteholder bears to the total amount owed to all Noteholders.

7.6 Unpresented cheques

Cheques issued by RE that are not presented within 6 months may be cancelled. Where a cheque which is cancelled was drawn in favour of a Noteholder, the money is to be held by RE for the Noteholder or otherwise dealt with in accordance with applicable laws relating to unclaimed moneys.

7.7 Unsuccessful transfers

Where RE attempts to make a payment to a Noteholder by electronic transfer of funds or any other means and the transfer is unsuccessful, the money may be held for the Noteholder as a non-interest bearing deposit until it is claimed or required to be dealt with in accordance with applicable laws relating to unclaimed moneys.

7.8 Receipts

If payment of any amount due to a Noteholder is made in accordance with these Terms of Issue, that payment is a good discharge to RE despite any notice RE or the Registrar may have (whether express or otherwise) of the right, title, interest or claim of any other person to or in that money or the Note under which the payment is made.

8 General

8.1 Quotation

RE must use all reasonable endeavours and furnish all such documents, information and undertakings as may be reasonably necessary in order to procure official quotation of the Notes on a stock market conducted by ASX and to procure such quotation is maintained.

8.2 Voting

Noteholders may attend meetings of holders of units in the Spark Infrastructure Trust but Notes do not carry a separate right to vote at meetings of holders of units in the Spark Infrastructure Trust, unless provided for by the Listing Rules or the Corporations Act.

8.3 Reporting Requirements

RE will observe the reporting requirements set out in the Corporations Act, which include requirements to furnish reports on the financial performance of Spark Infrastructure Trust.

8.4 Notes redeemed or bought back

All Notes redeemed by RE in accordance with these Terms of Issue will thereupon be cancelled and may not be reissued.

9 Holding statements and certificates

9.1 No certificates

Except to the extent required by law, the Listing Rules or the ASTC Settlement Rules or otherwise determined by the Directors, no certificates (as distinct from Statements of Holding) in respect of the Notes will be issued by RE or the Note Trustee.

9.2 Uncertificated holdings and holding statements

Each Noteholder will be issued with such Statement of Holdings of Notes as RE is required to give pursuant to the Corporations Act, the Listing Rules and the ASTC Settlement Rules, or otherwise as determined by the Directors.

10 Transfer of Notes

10.1 Forms of transfer

A Noteholder may transfer any Notes the Noteholder holds by:

- (a) a Proper ASTC Transfer or any other method of transferring or dealing in Notes introduced by ASX or operated in accordance with the ASTC Settlement Rules or the Listing Rules, including any other method of transfer or dealing which the Constitution permits in relation to units in the Spark Infrastructure Trust which are Officially Quoted and, in any such case, recognised under the Corporations Act; or
- (b) a written instrument of transfer in any usual form or in any other form approved by either the Directors or ASX, that is otherwise permitted by law.

10.2 Registration of transfer

A transferor of Notes remains the owner of the Notes transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the Notes, and the transferee of Notes on being entered on the Register shall have all the rights and obligations which the transferor had and all the rights and obligations of a Noteholder under the Note Trust Deed.

10.3 Transfers which are not Proper ASTC Transfers

The following provisions apply to instruments of transfer referred to in clause 10.1(b) of these Terms of Issue:

- (a) unless the instrument of transfer is otherwise a sufficient transfer under the Corporations Act, the instrument must be signed by, or executed by or on behalf of:
 - (i) the transferor; and
 - (ii) if required by RE, the transferee;
- (b) the instrument of transfer, duly stamped if required, will be left at the place where the Register is kept, accompanied by the Note Certificate (if any) in respect of the Notes to be transferred and such other evidence as the Directors require to prove the transferor's title to, or right to transfer, the Notes;
- (c) the instrument of transfer must be endorsed or accompanied by an instrument executed by the transferee to the effect that the transferee agrees to accept the Notes subject to the terms and conditions on which the transferor held them, to become a Noteholder and to be bound by the Note Trust Deed and these Terms of Issue; and
- (d) on registration of a transfer of Notes, RE will cancel the old Note Certificate (if any).

10.4 Directors to register transfers

Subject to clauses 10.3 and 10.5 of these Terms of Issue, the Directors will not refuse to register or fail to register or give effect to a transfer of Notes, unless the Stapling Provisions apply under clause 18 of the Note Trust Deed and the Directors are otherwise entitled to refuse to register the other Stapled Securities to which the relevant Notes are attached.

10.5 Refusal to register transfers other than Proper ASTC Transfer

- (a) The Directors may refuse to register any transfer of Notes (other than a Proper ASTC Transfer) where the Listing Rules permit RE to do so or such transfer is prohibited under the Stapling Provisions.
- (b) The Directors will refuse to register any transfer of Notes (other than a Proper ASTC Transfer) where the Corporations Act or the Listing Rules require RE to do so, the transfer is in breach of the Listing Rules, or the Stapling Provisions otherwise require them to do so.

10.6 Notice of refusal to register

- (a) Where the Directors refuse to register a transfer of Notes under clause 10.5 of these Terms of Issue, RE will give written notice of the refusal and the reasons for the refusal to the transferee and the person who lodged the transfer, if not the transferee, within five Business Days after the date on which the transfer was lodged with RE or subject to the Listing Rules such longer period as is permitted in the

Constitution in relation to a refusal to register units in the Spark Infrastructure Trust.

- (b) Failure by RE to give notice under clause 10.6(a) above will not invalidate the refusal to register the transfer in any way.

10.7 Holding lock or refusal to register transfer

- (a) If the Notes are Officially Quoted, subject to the Corporations Act and if permitted to do so by the Listing Rules, RE may:
 - (i) request any applicable CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Notes from being registered on the CS Facility's sub register or registered on an issuer-sponsored sub register, as the case may be; or
 - (ii) refuse to register a transfer of other Notes to which paragraph (a) does not apply,

if the Stapling Provisions apply under clause 18 of the Note Trust Deed and RE at the same time so requests or refuses in relation to the other Stapled Securities to which the relevant Notes are attached for so long as this applies to such Stapled Securities.

- (b) RE must make such request or refuse to register a transfer, as set out in (a) above, if the Corporations Act or Listing Rules require RE to do so or RE is required to do so in relation to a transfer of units in Spark Infrastructure Trust.

10.8 Restricted Securities

Subject to the Corporations Act, a Note may not be transferred if it is a Restricted Security.

10.9 Mandatory disposal of Notes

While the Stapling Provisions are in effect in accordance with clause 18 of the Note Trust Deed:

- (a) if a Defaulted Stapled Security (as defined in the Stapling Provisions) exists, RE may offer for sale and implement the sale of Notes in accordance with clause 4 of the Stapling Provisions;
- (b) Notes held by, or sought to be registered in the name of, a Designated Foreign Investor or Excluded US Person (each as defined in the Stapling Provisions) may be sold and otherwise dealt with by RE in accordance with clauses 8 and 9 respectively of the Stapling Provisions.

11 Joint Noteholders

11.1 Payment to one Noteholder effective discharge

If several persons are entered in the Register as joint Noteholders in respect of a Note, the payment to any one of such persons of any monies from time to time payable to the joint Noteholders will be an effective discharge to RE for the monies so paid.

11.2 More than three joint Noteholders

Subject to the ASTC Settlement Rules, RE will not be bound to register more than three persons as the joint holders of any Notes. A Note registered in the name of more than one person is held by those persons as joint tenants.

11.3 Actions of joint Noteholders

All of the joint Noteholders in respect of any Note must join in any transfer of the relevant Note.

12 Non-resident Noteholders

- (a) Where Notes are held by, or on behalf of, a person resident outside the Commonwealth of Australia, then, despite anything to the contrary contained in or implied by these Terms of Issue, it is a condition precedent to any right of the Noteholder to receive payment of any monies in respect of those Notes, that all necessary authorisations (if any) and any other statutory requirements which may then be in existence are obtained at the cost of the Noteholder and satisfied.
- (b) For the purposes of clause 12(a) above, authorisation includes any consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisisation, certificate, permission, licence, approval, direction, declaration, authority or exemption from, by or with any government or any Governmental Agency.

13 Indemnity to RE

- (a) Whenever in consequence of:
 - (i) the death of a Noteholder;
 - (ii) the non-payment of any Income Tax or other Tax payable by a Noteholder;
 - (iii) the non-payment of any stamp or other duty by the Noteholder, the legal personal representatives of a Noteholder or his estate;
 - (iv) any assessment of Income Tax against RE in respect of interest paid or payable to the Noteholder; or

(v) any other act or thing in relation to a Note or a Noteholder,

any law for the time being of any country or place, in respect of a Note, imposes or purports to impose any liability of any nature whatever on RE to make any payments to any Governmental Agency, RE will in respect of that liability be indemnified by that Noteholder and his legal personal representatives and any monies paid by RE in respect of that liability may be recovered from that Noteholder and/or the Noteholder's legal personal representative as a debt due to RE and RE shall have a lien in respect of those monies upon the Notes held by that Noteholder or his legal personal representatives and shall be entitled to set off those monies against any monies payable by it in respect of those Notes.

(b) Nothing in this clause 13 will prejudice or affect any right or remedy which any such law as referred to in (a) above may confer or purport to confer on RE.

14 Death or legal disability

14.1 Death or legal disability

If a Noteholder dies, becomes subject to a legal disability, becomes bankrupt or is liquidated, the survivor (in the case of joint Noteholders), the legal personal representative or the person entitled to Notes as a result of the death, disability, bankruptcy or liquidation of the Noteholder will be recognised, on providing such evidence of that person's title as RE thinks sufficient, as having an enforceable claim to Notes registered in the Noteholder's name.

14.2 Transfer, transmission under clause 14.1

Subject to the Listing Rules, RE need not register any transfer or transmission under clause 14.1 of these Terms of Issue unless the transferee provides an indemnity in favour of RE in a form determined by or satisfactory to RE in respect of any consequence arising from the transfer or transmission.

14.3 Two or more persons jointly entitled

Where two or more persons are jointly entitled to any Note in consequence of the death of the registered holder of that Note, for the purpose of these Terms of Issue they will be deemed to be joint holders of that Note.

14.4 Monies payable in respect of Notes

The Directors will be at liberty to retain any monies payable in respect of any Notes which any person under this clause 14 is entitled to or to transfer until such person is registered or has duly transferred the Notes in accordance with these Terms of Issue.

15 Interpretation and definitions

15.1 Interpretation

The meanings given to terms or expressions in Schedule 4 to the Note Trust Deed, and the interpretation provisions in clause 25 (“Interpretation”) of the Note Trust Deed, apply as if set out in these Terms of Issue as well unless the contrary intention appears.

Note Trust Deed

Schedule 2 - Stapling Provisions (clause 18 of Note Trust Deed)

Spark Infrastructure Group Constituent Documents

Stapling provisions

The following provisions take effect on and from the Stapling Commencement Date if determined by the Issuer and, if so determined, apply unless and until they cease to apply in accordance with the relevant Constituent Document.

On and from the Stapling Commencement Date:

- (a) the Stapling Provisions apply and the relevant Constituent Document is to be read subject to the Stapling Provisions; and
- (b) subject to the clause titled “Statutory Provisions” in the relevant Constituent Document, the Stapling Provisions prevail over all other provisions of the relevant Constituent Document including any that are expressed to prevail over others, except where this would result in a breach of the Corporations Act, the Listing Rules or any other law (or a breach of the IBC Act in the case of HoldCo 3).

The Stapling Provisions apply to the Issuer in respect of their respective Stapled Entity and its Attached Securities. Unless the contrary intention appears, in this schedule a reference to a clause is a reference to a clause of this schedule.

1 Stapling - general intention

1.1 Stapled Securities - general intention

The Attached Securities are intended to be Stapled to form a Stapled Security from the Stapling Commencement Date. Subject to clause 7 it is intended that:

- (a) the holders of one Attached Security will be identical to the holders of each Other Attached Security;
- (b) as far as the law permits, the Attached Securities shall be treated as one security;
- (c) the number of each Attached Security on issue at any time must equal the number of each Other Attached Security on issue;
- (d) no transfer of an Attached Security is to occur without each Other Attached Security being transferred at the same time from the same transferor to the same transferee; and
- (e) no Attached Security is to be issued unless each Other Attached Security is issued at the same time to the same person.

1.2 Transaction Documents

Without limiting the Constituent Documents, the Issuer is authorised to enter into the Transaction Documents and to perform its obligations under the Transaction Documents.

1.3 Stapling matters

- (a) The rights and obligations attaching to each Attached Security are set out in the relevant Constituent Document.
- (b) Without limiting the Constituent Documents or the Corporations Act, each Investor by subscribing for, taking a transfer of, or otherwise acquiring a Stapled Security will be taken to have consented to each provision in the Constituent Documents, including without limitation:
 - (i) the Stapling of the Attached Securities;
 - (ii) any Reorganisation of the Attached Securities;
 - (iii) the disposal of any Defaulted Stapled Securities;
 - (iv) the disposal of any Small Holding of Stapled Securities ;
 - (v) the restrictions on Stapled Securities that are Restricted Securities;
 - (vi) the Stapling of New Attached Securities to the Stapled Securities;
 - (vii) the Investor becoming a member of any new Stapled Entity and being bound by the Constituent Documents for any New Attached Security;
 - (viii) the Unstapling of one or more Attached Securities;
 - (ix) the Restapling of an Unstapled Security;
 - (x) the Unstapling of the Stapled Securities,
 - (xi) the disposal of Stapled Securities of a Designated Foreign Investor in accordance with clause 8; and
 - (xii) the disposal of Stapled Securities of a Excluded US Person in accordance with clause 9,(each a “**Stapling Matter**”).
- (c) To effect any Stapling Matter, each Investor irrevocably appoints the Issuer as the Investor’s:
 - (i) agent and attorney in the Investor’s name and on the Investor’s behalf to do all acts and things and execute all documents which the Issuer, in consultation with each Other Issuer, considers necessary, desirable or reasonably incidental to effect any Stapling Matter; and

- (ii) proxy to vote at any meeting in favour of any resolution to effect a Stapling Matter.
- (d) Without limiting clause 1.3(c), to effect the Stapling of a New Attached Security to the Stapled Securities under clause 6, each Investor irrevocably appoints the Issuer as the Investor's agent and attorney in the Investor's name and on the Investor's behalf to:
- (i) agree to obtain any New Attached Security;
 - (ii) apply any distributions, redemption proceeds or other payments to obtain a New Attached Security;
 - (iii) where a New Attached Security comprises shares or an interest in shares or interests in a company or managed investment scheme, to agree to become a member of that company or managed investment scheme;
 - (iv) to do all acts and things and execute all applications, transfers, withdrawals and any other documents which the Issuer, in consultation with each Other Issuer, considers necessary, desirable or reasonably incidental to effect the Transfer of the New Attached Security to the Investor under clause 6.
- (e) Without limiting clause 1.3(c), to effect the disposal of Stapled Securities held by or on behalf of a Designated Foreign Investor under clause 8, each Designated Foreign Investor irrevocably appoints the Issuer as that Investor's agent and attorney in the Investor's name and on the Investor's behalf to:
- (i) receive and apply the Amounts referred to in clause 8(c)(i) in the manner contemplated in clause 8;
 - (ii) execute applications or transfers in relation to the Transfer of any New Attached Security;
 - (iii) execute transfers of any Stapled Securities which are to be the subject of the Sale Facility; and
 - (iv) do all acts and things and execute any other documents which the Issuer, in consultation with each Other Issuer, considers necessary, desirable or reasonably incidental to effect the disposal of the Stapled Securities of the Designated Foreign Investor under clause 8.
- (f) Without limiting clause 1.3(c), to effect the disposal of Excluded Stapled Securities held by an Excluded US Person under clause 9, each Excluded US Person irrevocably appoints the Issuer as the Investor's agent and attorney in the Investor's name and on the Investor's behalf to:
- (i) execute transfers of any Excluded Stapled Securities which are to be the subject of the US Sale Facility; and

- (ii) do all acts and things and execute any other documents which the Issuer, in consultation with each Other Issuer, considers necessary, desirable or reasonably incidental to effect the disposal of the Excluded Stapled Securities of the Excluded US Person under clause 9.
- (g) The Issuer may:
 - (i) appoint (and revoke the appointment of) one or more substitute attorneys to exercise one or more of the powers given to the Issuer in relation to any Stapling Matter; and
 - (ii) do all acts and things and execute all documents under this clause 1.3 without needing further authority or approval from an Investor and may do so even if it has an interest in the outcome of such exercise.
- (h) Each Investor acknowledges and recognises that the exercise of the powers given to the Issuer under clauses 1.3(e), 1.3(f), 8 and 9 may cause individual Investors considerable disadvantage (including possible adverse financial and taxation consequences) but each Investor acknowledges that such a result is necessary to enable the requirements of clause 8 (Designated Foreign Investor) and clause 9 (Excluded US Persons) to be met.
- (i) To the fullest extent permitted by law the Issuer shall be under no liability to any Investor or any Stapled Entity and a Stapled Entity shall be under no liability to any Investor for any loss or disadvantage incurred by an Investor as a result, whether directly or indirectly, of the Issuer exercising its powers in relation to any Stapling Matter.

1.4 Instalment Receipts and CDIs

- (a) Without limiting the Constituent Documents, the Issuer is authorised to enter into the Instalment Receipt Documents and to perform its obligations under the Instalment Receipt Documents.
- (b) While Stapling applies, if a CDI is not on issue in respect of a Foreign Share, the provisions of this schedule apply to the Foreign Share as if each reference to a CDI was a reference to that Foreign Share.
- (c) The restrictions in clause 2 do not apply to:
 - (i) a transfer of a Foreign Share from the Depository to an Investor as a result of a conversion, in accordance with the ASTC Settlement Rules, of a CDI into a Foreign Share by that Investor; or
 - (ii) a transfer of a Foreign Share from an Investor to the Depository as a result of a conversion, in accordance with the ASTC Settlement Rules, of a Foreign Share into a CDI by that Investor.

1.5 Stapled Securities issued to the Security Trustee

- (a) Notwithstanding any other provision of the Constituent Documents, in the case of Stapled Securities to be issued to the Security Trustee, the Issuer may determine that the application money for those Stapled Securities is to be satisfied by Instalment Co providing an unconditional and irrevocable undertaking to pay to the Issuer prior to the issue of the Stapled Securities.
- (b) If the Issuer does so, the Issuer is taken to receive the application money when it receives the undertaking.
- (c) Any Stapled Securities issued to the Security Trustee are void if Instalment Co has not paid in accordance with the undertaking the amounts referred to in the undertaking in cleared funds within a period determined by the Issuer.

2 Dealings in Stapled Securities

2.1 Stapling

- (a) Subject to clause 7, on and from the Stapling Commencement Date:
 - (i) each Attached Security must be Stapled to each Other Attached Security to form a Stapled Security;
 - (ii) the Issuer must not:
 - (A) offer an Attached Security for subscription or sale unless an offer is made at the same time and to the same person for each Other Attached Security for issue or sale;
 - (B) offer an Attached Security for subscription or sale unless the terms of that offer require each offeree to subscribe for or buy each Other Attached Security;
 - (C) accept an application for an Attached Security if the applicant does not at the same time apply for the Other Attached Securities or if the Other Attached Securities will not be issued to the applicant at the same time as the issue of the Attached Securities to the applicant;
 - (D) issue or sell an Attached Security to any person unless each Other Attached Security is also issued or sold to the same person at the same time;
 - (E) issue any rights or options to acquire an Attached Security unless corresponding rights or options to acquire each Other Attached Security are issued at the same time and to the same person;

- (F) without the prior written consent of each Other Issuer, issue any Security or class of Security other than an Attached Security or any right or option to acquire any such Attached Security; and
 - (G) permit a reinvestment by Investors in an Attached Security unless at the same time the Investor acquires each Other Attached Security which when issued or acquired are Stapled to the Attached Security. The Issuer may make provisions governing the amount of the reinvested dividends/distributions to be used to subscribe for or acquire the Attached Security and the amount to be used to subscribe for or acquire the Other Attached Securities having regard to the application price of the Attached Securities.
- (b) Each Attached Security issued after the Stapling Commencement Date must be Stapled to each Other Attached Security immediately upon the date of issue of each Attached Security.

2.2 Dealings in Attached Securities

- (a) **(No Unstapling):** On and from the Stapling Commencement Date, the Issuer must not:
- (i) do any act, matter or thing (including registering any transfer of any Attached Security); or
 - (ii) refrain from doing any act, matter or thing,
- if to do so or refrain from doing so (as the case may be) would result directly or indirectly in any Attached Security no longer being Stapled to form a Stapled Security, other than in accordance with clause 7.
- (b) **(Attached Securities):** Subject to clause 7, on and from the Stapling Commencement Date, the Issuer must not:
- (i) except in relation to a redemption in full of all the Notes on issue in accordance with the Note Trust Deed, cancel, buy-back or redeem an Attached Security unless at the same time there is a corresponding cancellation, buy-back or redemption of each Other Attached Security;
 - (ii) Reorganise an Attached Security unless at the same time there is a corresponding Reorganisation of each Other Attached Security;
 - (iii) register any transfer of an Attached Security to any person unless each Other Attached Security is also transferred to the same person at the same time in a single instrument of transfer of Stapled Securities.

For the avoidance of doubt, clause 2.2(b)(i) does not prevent the RE from repaying all or part of the principal amount outstanding on

Notes in accordance with the Note Trust Deed provided there is no redemption of Notes involved.

- (c) **(Exercise options)** The Issuer must not permit an Investor to exercise any rights or options to acquire an Attached Security unless the Investor exercises the corresponding rights or options to acquire each Other Attached Security at the same time.
- (d) **(Request for holding lock)** The Issuer must not request any applicable CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of an Attached Security from being registered on the CS Facility's sub register or registered on an issuer-sponsored sub register, as the case may be, unless a corresponding request is made in respect of each Other Attached Security.
- (e) **(Disposal)** The Issuer must not dispose of a Defaulted Attached Security unless at the same time each Other Attached Security is also disposed of in the same manner and to the same person.
- (f) **(Small Holdings)** The Issuer must not dispose of a Small Holding of an Attached Security unless at the same time the Small Holding of each Other Attached Security is also disposed of in the same manner and to the same person. A Small Holding must be disposed of in accordance with the Listing Rules and the Constituent Documents.
- (g) **(Designated Foreign Investors)** The Issuer must not dispose of, or cause the disposal of, an Attached Security of a Designated Foreign Investor unless at the same time each Other Attached Security of that Designated Foreign Investor is also disposed of in the same manner and to the same person.
- (h) **(Excluded US Persons)** The Issuer must not dispose of, or cause the disposal of, an Attached Security, which forms part of an Excluded Stapled Security of an Excluded US Person unless at the same time each Other Attached Security, which forms part of that Excluded Stapled Security of that Excluded US Person is also disposed of in the same manner and to the same person.
- (i) **(Compliance with law):** The Issuer is not obliged to effect a buy-back, cancellation, redemption, transfer or issue or other Corporate Action in a manner inconsistent with any constitutional, contractual or fiduciary obligation or law by which it is bound, or if it does not have any necessary consent or approval.

2.3 Consistency with the Constituent Documents

The Issuer must use every reasonable endeavour to procure that each Attached Security is dealt with under the Constituent Document of their respective Stapled Entity in a manner consistent with the provisions relating to Stapled Securities in the Constituent Documents of each other Stapled Entity.

2.4 Joint quotation as Stapled Securities

Unless and until all Attached Securities are Unstapled in accordance with this schedule, the Issuer must use reasonable endeavours to ensure that each Stapled Security which is listed for quotation on ASX continues to be so listed for quotation and jointly quoted as a Stapled Security.

2.5 Joint certificates or joint holding statements

Subject to the Corporations Act, the Issuer may procure that joint certificates or joint holding statements are issued to evidence the holding of Stapled Securities comprising Attached Securities and Other Attached Securities.

2.6 Stapling and separate entities

Notwithstanding any other provision of this schedule each Stapled Entity will remain as separate legal entities and will be separately admitted to the official list of ASX notwithstanding that the Attached Securities are jointly quoted on ASX as Stapled Securities.

3 Allocation of Application Price

3.1 Application Price

- (a) Subject to article 6.1 of the Trust Constitution, all Units to be issued on or before the First Closing Date will be issued at the Application Price of \$0.23 (being the Application Price for a Stapled Security less the Application Price of the Other Attached Securities).
- (b) Subject to clause 3.1(c), while Units are Officially Quoted as part of a Stapled Security, the Application Price payable for any Unit will be the Market Price of Stapled Securities minus the Application Price of the Other Attached Securities, or the amount determined by the RE in accordance with clause 3.2.
- (c) The RE may determine a different Application Price in relation to the issue of any Units (or in relation to clause 3.3, the transfer of any Units) consistently with the Corporations Act, as modified by any applicable ASIC relief, and the Listing Rules, in the case of:
 - (i) offers made at substantially the same time to those persons who were Investors on a date determined by the RE not being more than 20 Business Days immediately prior to the offer, where:
 - (A) all Investors are offered Units at the same Application Price on a pro rata basis (whether or not the right to acquire those Units is renounceable); and
 - (B) the Application Price is not less than 50% of the Market Price for the Stapled Securities minus the Application Price of the Other Attached Securities, as at the date not more than 5 Business Days prior to the

date of the offer document under which the offer is made,

but subject to the Corporations Act, as modified by any applicable ASIC relief, and the Listing Rules, the RE is not required to offer Units under this clause 3.1(c) to Foreign Investors;

- (ii) a distribution reinvestment, where the Application Price is determined in accordance with clause 3.3;
- (iii) Units issued upon exercise of an Option, where the Application Price is determined in accordance with article 3.6(b) of the Trust Constitution;
- (iv) a placement of Units;
- (v) a security purchase plan; and
- (vi) any of the other circumstances set out in the Corporations Act, as modified by any applicable ASIC relief.

3.2 Apportionment of Application Price

- (a) If a Unit is to be issued (or in relation to clause 3.3, transferred) as part of a Stapled Security and the Trust Constitution contains a provision for the calculation or determination of the Application Price for a Stapled Security but not for the Unit, the RE must determine what part of the Application Price of a Stapled Security is to represent the Application Price of a Unit for the purposes of the Trust Constitution.
- (b) Unless otherwise agreed between the RE and the Other Issuers, the Application Price for a Stapled Security (“**Stapled Security Price**”) will be allocated between the Application Price of the Unit and the Application Price of the Other Attached Securities as follows:
 - (i) First, to the Application Price of any Note (or any Other Attached Security that is a debenture), being the lesser of:
 - (A) the Stapled Security Price; or
 - (B) the principal amount then outstanding on the Note (or any Other Attached Security that is a debenture) adjusted to reflect the value of any Note interest coupon for the interest period in which the Stapled Security is issued;
 - (ii) Second, to the Application Price of any Unit (or any Other Attached Security that is an interest in a trust), being the lesser of:
 - (A) any balance remaining after the allocation in paragraph (i); or

- (B) an amount which reflects the net assets (adjusted for the net market value of its investments) of the Trust (or any other Stapled Entity which is a trust) at the end of the relevant period immediately prior to the issue of the Stapled Security,

if there is more than one Stapled Entity which is a trust, then such amounts to be allocated between those trusts in the ratio that the net assets (adjusted for the net market value of its investments) of each relevant trust at the end of the relevant period immediately prior to the issue or acquisition of the Stapled Security bears to the amount of the aggregate net assets (adjusted for the net market value of their investments) of those trusts at the end of the relevant period immediately prior to the issue of the Stapled Security;

- (iii) Third, to the Application Price of any Other Attached Security, being the lesser of:

- (A) any balance remaining after the allocation in paragraphs (i) and (ii); or
- (B) an amount which reflects the net assets (adjusted for the net market value of their investments) of the relevant Stapled Entities at the end of the relevant period immediately prior to the issue of the Stapled Security;

such amounts to be allocated between the relevant Stapled Entities in the ratio that the net assets (adjusted for the net market value of its investments) of each relevant Stapled Entity at the end of the relevant period immediately prior to the issue of the Stapled Security bears to the amount of the aggregate net assets (adjusted for the net market value of their investments) of those Stapled Entities at the end of the relevant period immediately prior to the issue of the Stapled Security.

- (c) Where an option to acquire a Stapled Security is issued after the Stapling Commencement Date, the allocation of the issue price of the option must be determined in the same manner as under clause 3.2(b).
- (d) The allocation of the Application Price for a Stapled Security under this clause 3.2 must be consistent for each Stapled Security issued or transferred to each Investor at the same time.

3.3 Application Price if reinvestment applies

- (a) If reinvestment applies, the aggregate of the Application Price for each additional Unit issued or transferred and the Application Price for the Other Attached Securities upon reinvestment is the average of the VWAP for Stapled Securities for each of the ten Trading Days from and including the third Trading Day after the Record Date for the Distribution Period (“**DRP VWAP Price**”) less such discount, if

any, not exceeding 10% as the RE may determine. However, if the RE believes that the DRP VWAP Price does not provide a fair reflection of the market price of the Stapled Securities during the relevant period, an expert (independent of the RE whose identity and instructions will be determined by the RE) will determine the market price to be used in the calculation of the Application Price of each additional Stapled Security.

- (b) If the amount to be reinvested in additional Stapled Securities results in a fraction of a Stapled Security, the money representing the fraction will be held for future reinvestment in the Stapled Entities at the next time that reinvestment is to occur, in such proportions as the RE and the Other Issuers may determine on behalf of the relevant Investor.
- (c) Whenever money is held on behalf of an Investor for future reinvestment the money so held may in the discretion of the Issuer be aggregated and on each occasion on which the aggregated amount reaches the Application Price of a Stapled Security be applied in the subscription or transfer of a Stapled Security for the Investor.

4 Calls and disposal

4.1 Notice of instalments

- (a) Subject to the Listing Rules, Investors holding partly paid Attached Securities must be given at least 30 Business Days' notice (but not more than 40 Business Days' notice) of the time and date each instalment is due to be paid ("**the First Notice**").
- (b) The First Notice must contain such other information as is required by the Listing Rules and at least 4 Business Days before the date each instalment is due to be paid, a second notice must be sent to all new Investors and those Investors whose holding has changed since the First Notice which must include any changes that have occurred in the information given in the First Notice because of a change in the holding.

4.2 Payment of instalments

- (a) The payment of an instalment in respect of an Attached Security may be revoked or postponed by the Issuer.
- (b) Subject to the Listing Rules an instalment shall be deemed to be due on the date determined by the Issuer.
- (c) Subject to the Listing Rules the non-receipt of a notice that an instalment is due by, or the accidental omission to give a notice that an instalment is due to an Investor, shall not invalidate the instalment being due.
- (d) Subject to the Corporations Act, the Listing Rules and clause 4.1 any liability of an Investor in respect of any moneys unpaid on an

Investors' partly paid Attached Securities may be extinguished in full or in part by the Issuer.

- (e) Subject to the Listing Rules any instalment which, by the terms of issue of the Attached Security, becomes payable on issue of the partly paid Attached Security or at any date fixed by or in accordance with such terms of issue shall be deemed to be an instalment of which the Investors have received notice in accordance with clause 4.1. In the case of non-payment, all the provisions of this schedule as to payment of interest, disposal or otherwise shall apply as if such notice had been given.

4.3 Failure to pay instalments

- (a) If a Investor does not pay an instalment on a partly paid Attached Security by its due time for payment then interest is payable by the Investor on the unpaid amount from (and including) the date payment was due to (but excluding) the time of payment at a rate per annum equal to BBSW plus 3%. Interest is calculated daily. Accrued interest is payable monthly. Accrued unpaid interest will be added to the amount owing and will itself bear interest at a rate per annum equal to BBSW plus 3% until paid in full. Subject to clause 4.1, payment of that interest may be waived in whole or part.
- (b) If a Investor fails to pay in full any instalment due on any partly paid Attached Security on or by the day specified for payment, subject to clause 4.1 and during such time as the instalment or any part of the instalment remains unpaid, a notice may be given to that Investor requiring payment of so much of the instalment as is unpaid, any interest owing under clause 4.3(a) and all reasonable expenses incurred by the Issuer as a result of the non-payment.
- (c) The notice must specify a further time and day (not earlier than 10 days from the date of the notice) on or by which the payment as required by the notice is to be made.
- (d) The notice must also state that in the event of non payment on or by that specified time and day, the Defaulted Stapled Securities will be liable to be sold.

4.4 If requirements of any notice not complied with

If the requirements of any notice issued under clause 4.3 are not complied with:

- (a) any partly paid Attached Security in respect of which the notice has been given (together with the Other Attached Securities) may at any time after the date specified in the notice for payment of the amount required by the notice (and before payment of the instalment and any interest and expenses owing), be disposed of by the Issuer so determining;
- (b) subject to the Listing Rules, the Corporations Act and this schedule, all voting rights, entitlements to the distribution of income and other rights in connection with any partly paid Attached Security and the

Other Attached Securities in respect of which the notice has been given are suspended until reinstated by the Issuer.

4.5 Disposal of Defaulted Attached Securities

- (a) If any Defaulted Attached Security is offered for sale pursuant to this clause 4.5 then the Issuer must procure that each Other Attached Security is also offered for sale with the result that the whole Stapled Security is offered for sale.
- (b) For the avoidance of doubt Attached Securities may be sold pursuant to this clause 4 even if they are fully paid in circumstances where there is default in payment of a call on a Defaulted Attached Security.
- (c) A Defaulted Attached Security (together with the Other Attached Securities) may be disposed of by the Issuer or their agent, at a price determined by the Issuer and in accordance with any applicable ASIC relief¹.
- (d) Any offer of Defaulted Attached Securities which are to be sold pursuant to clause 4.5(c) must be accompanied by a contemporaneous and corresponding offer of the Other Attached Securities, which offer is capable of acceptance only if the recipient acquires an identical number of Defaulted Attached Securities and the Other Attached Securities.
- (e) Subject to the Listing Rules and any applicable ASIC relief², the Issuer or their agent may sell Defaulted Stapled Securities in the ordinary course on ASX.
- (f) The sale of Defaulted Stapled Securities will be on the basis that the person to whom the Defaulted Stapled Securities are sold (“**Transferee**”) is not liable to pay the call (but may be liable for all future calls). The Issuer may assign its rights under this clause 4 to a person who underwrites the payment of the call.
- (g) At any time before a sale or disposition of Defaulted Stapled Securities the Issuer may cancel the sale or disposition upon such terms as the Issuer thinks fit.
- (h) Without limiting clause 4.5(c) the Issuer may set a reserve price for a Defaulted Stapled Security at any auction subject to and in accordance with any applicable ASIC Relief (“**Reserve Price**”).
- (i) If the Issuer or their agent are unable to sell the Defaulted Stapled Securities for a price not less than the Reserve Price then the Issuer may sell or otherwise dispose of the Defaulted Stapled Securities. The Issuer is not obliged to offer the Defaulted Stapled Securities that have not been sold at auction to Investors before disposing of the Defaulted Stapled Securities.

¹ - ASIC Instrument of Relief 05/26.

² ASIC Instrument of Relief 05/26.

4.6 Evidence of Enforcement

A statement signed by a duly authorised officer of the Issuer that a Defaulted Stapled Security has been duly disposed of on a date stated therein is conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the Defaulted Stapled Security.

4.7 Consideration for sold Defaulted Stapled Securities

- (a) Where a Defaulted Stapled Security is sold, the Issuer may:
 - (i) receive the consideration, if any, given for a Defaulted Stapled Security; and
 - (ii) execute a transfer of such Defaulted Stapled Security in favour of the Transferee.
- (b) Unless otherwise agreed between the RE and the Other Issuers, the amount received for a Unit upon sale of a Defaulted Stapled Security is the amount received on the sale of the Defaulted Stapled Security less the fair value for the Other Attached Securities, as determined by the RE.
- (c) Where a Defaulted Stapled Security is offered for sale under this clause 4, the obligations of the Issuer are subject to the requirements of any applicable law, the Listing Rules, any consent or other approval from any necessary authority and any other terms of the relevant Constituent Document.
- (d) The Issuer must then Register the Transferee as holder of that Stapled Security. On registration the Transferee is not obliged to ensure that any part of the money which the person has paid for the Stapled Security is paid to the former holder of the Stapled Security nor shall the person's title to that Stapled Security be affected by any irregularity or invalidity in the proceedings in relation to the enforcement of lien or sale of that Stapled Security.

4.8 Deductions from consideration for Defaulted Attached Securities

- (a) The proceeds of the sale of a Defaulted Stapled Security must be applied to pay:
 - (i) first, the expenses incurred by the relevant Issuer, its agents and assignees in respect of the sale;
 - (ii) then, any expenses necessarily incurred in respect of the enforcement of the Issuer's rights;
 - (iii) then, the calls on the Attached Securities that are due and unpaid; and
 - (iv) then, any unpaid interest on the call and any other amounts payable.

- (b) The Issuer may retain the amounts so deducted, but the balance remaining (if any) must be paid to the Investor whose Stapled Securities were sold. If there is a certificate that relates to the Attached Security or the Other Attached Security, the balance does not have to be paid until the Investor delivers the certificate to the relevant Stapled Entity.

4.9 Holder of Defaulted Stapled Securities

- (a) The holder of a Defaulted Stapled Security which has been sold under this clause 4 ceases to be an Investor and ceases to hold a right or interest in the Stapled Entities and in particular ceases:
 - (i) be a member of each Stapled Entity that is a company or a managed investment scheme; and
 - (ii) to be a Note holder.
- (b) The former Investor has no claims or demands against the Issuer in respect of a Defaulted Stapled Security that has been sold but remains liable to pay to the Issuer or any assignee of the Issuer all moneys which at the date of sale were payable by the former Investor to the Issuer in respect of the sold Defaulted Stapled Security (including interest owing under clause 4.3 and expenses).
- (c) The former Investor's liability ceases if and when the Issuer or their assignee (if any) receive payment in full of all such money and, if applicable, interest in respect of the sold Defaulted Stapled Security.

4.10 Liability of holder of Defaulted Stapled Securities to Underwriter

Where:

- (a) the Issuer has appointed an underwriter to underwrite the payment of a call in respect of any Stapled Securities;
- (b) in discharging its obligations, the underwriter has purchased Stapled Securities at a public auction or otherwise as contemplated by the relevant underwriting agreement at a price which is more than the Market Price of a Stapled Security (in respect of which the relevant call has been paid); and
- (c) the Issuer is liable or required to pay the underwriter in respect of each Stapled Security purchased in accordance with paragraph (b) of this clause an amount equal to the difference between the Market Price of a Stapled Security (in respect of which the relevant call has been paid) and the price paid by the underwriter for the Stapled Security,

then the former holder of the Stapled Securities that were disposed of to the underwriter is liable to the Issuer in respect of the relevant Defaulted Stapled Securities and may be sued for:

- (b) all monies payable by the Issuer to the underwriter as contemplated by paragraph (c) of this clause;

- (c) interest (as provided under this schedule); and
- (d) all costs incurred by the Issuer in procuring payment from the former Investor.

For the purposes of this clause, the **Market Price** of a Stapled Security (in respect of which the relevant call has been paid) is the weighted average price at which such Stapled Securities traded on the ASX over the five Business Days immediately preceding the day of public auction, or, if there is no such price, then the last sale price of the Stapled Security on the ASX prior to that date.

4.11 Assignment of right of action

The Issuer must ensure that where the Issuer is liable to the underwriter as contemplated by clause 4.10, the Issuer's liability to the underwriter may be satisfied by the assignment of the Issuer's right of action against the former Investor in full satisfaction of such liability of the Issuer to the underwriter.

5 Single register

Subject to the Corporations Act, a single register may be kept in which details of the holders of the Attached Securities and the Other Attached Securities are recorded.

6 Power to add New Attached Securities

- (a) Subject to clause 6(b), the Corporations Act and the Listing Rules, the Issuer may at any time determine that a Security is an Attached Security ("**New Attached Security**") and cause it to be Stapled to the Stapled Securities. A determination under this clause may be made on such terms and conditions as the Issuer considers appropriate.
- (b) A determination that a Security is a New Attached Security may only be made if:
 - (i) the New Attached Security is Officially Quoted or the ASX has indicated in writing that it will grant permission for the New Attached Security to be Officially Quoted; and
 - (ii) ASX has indicated in writing that it will approve the addition of the New Attached Security to the Stapled Securities;
 - (iii) each Other Issuer (excluding the issuer of the New Attached Security) has agreed:
 - (A) to the Stapling of the New Attached Security to the Stapled Security; and
 - (B) that the Stapling of the New Attached Security is in the best interest of Investors as a whole and is consistent with the then investment objectives of the Spark Infrastructure Group; and

- (iv) the Constituent Documents of the New Attached Security will have provisions giving effect to the Stapling (including provisions in substantially the form of this schedule);
 - (v) the issuer of the New Attached Security has agreed to enter into the Accession Deed;
 - (vi) where the New Attached Security is partly-paid, or approval from Investors is required to the transaction, approval of the members of each Stapled Entity has been obtained; and
 - (vii) the number of New Attached Securities to be allocated is identical to the number of Stapled Securities on issue.
- (c) The Issuer has power to do all things which it considers are necessary, desirable or reasonably incidental to give effect to the Stapling of the New Attached Securities to the Stapled Security under this clause 6.
- (d) A New Attached Security may be transferred to an Investor by any means and in any manner, including but not limited to any combination of issue, sale, reduction of capital, distribution in kind or transfer (“**Transfer**”)
- (e) A transfer of a New Attached Security made under this clause 6 shall be Registered in the Register as of the date title is transferred.
- (f) It is not necessary for the Issuer to receive a transfer, instrument or certificate (if any) for a New Attached Security in order for that Issuer to Register the transfer of that New Attached Security. Such transfer shall be evidenced by, and shall have full effect from, its Registration by the relevant Issuer in the Register.

7 Unstapling

7.1 Procedure for Unstapling

Subject to this clause 7, from the Stapling Commencement Date each Attached Security will remain Stapled to each other Attached Security for so long as the Stapled Securities remain on issue.

7.2 Unstapling an Attached Security

- (a) Subject to this clause, the Corporations Act, the Listing Rules and the relevant Constituent Documents, the Issuer may determine that its Attached Securities are to be Unstapled from the Stapled Security (“**Unstapled Security**”).
- (b) A determination under clause 7.2(a) may only be made if:
 - (i) ASX has indicated in writing that it will grant permission for the Unstapling of the Unstapled Security from the Stapled Security and the remaining Attached Securities will remain Officially Quoted as a Stapled Security; and

- (ii) each Other Issuer has agreed:
 - (A) to the Unstapling of the Unstapled Security from the Stapled Security; and
 - (B) that the Unstapling of the Unstapled Security from the Stapled Security is not contrary to the interests of Investors as a whole and is consistent with the then investment objectives of the Spark Infrastructure Group; and
- (iii) the Stapling Provisions will terminate and cease to be of any force or effect in respect of the Unstapled Security.
- (c) After the Unstapling, the references to the Unstapled Security will be removed from the Register.
- (d) If an Issuer determines that its Attached Securities are to be Unstapled under clause 7.2(a), this does not prevent the Issuer of the Unstapled Security subsequently determining that the Stapling Provisions should recommence in respect of that Unstapled Security (“**Restapling**”).

7.3 Unstapling the Stapled Securities

- (a) Subject to clause 7.3(b), the Corporations Act, the Listing Rules and the relevant Constituent Document, the Issuer must determine that the Attached Securities will be Unstapled on the occurrence of an Unstapling Event.
- (b) A determination under clause 7.3(a) may only be made if:
 - (i) ASX has indicated in writing that it will grant permission for the Unstapling of the Attached Securities; and
 - (ii) each Other Issuer has agreed:
 - (A) to the Unstapling of the Attached Securities;
 - (B) that the Unstapling of the Attached Securities is not contrary to the interest of Investors as a whole.
- (c) On and from such date as may be determined under clause 7.3(a) the Issuer must procure that the Attached Securities are Unstapled and thereupon the Stapling Provisions will terminate and cease to be of any force or effect.

7.4 Unstapling Notes

Notes cease to be Stapled automatically upon a redemption in full of all Notes on issue in accordance with Note Trust Deed.

8 Designated Foreign Investors

- (a) Without limiting clause 6(c), to enable the Issuer to give effect to the Stapling of New Attached Securities to the Stapled Securities under clause 6, the provisions of this clause 8 apply.
- (b) Subject to the Corporations Act as modified by any applicable ASIC relief, the Issuer may determine that a Foreign Investor is a Designated Foreign Investor for the purposes of the Transfer of a New Attached Security where the Issuer reasonably considers that it would be unreasonable to Transfer a New Attached Security to a Foreign Investor, having regard to each of the following:
 - (i) the number of Foreign Investors in the foreign place;
 - (ii) the number and the value of New Attached Securities that may be Transferred to Foreign Investors in the foreign place;
 - (iii) the cost of complying with legal requirements and the requirements of any relevant regulatory authority applicable to the Transfer of the New Attached Securities in the foreign place.
- (c) Despite anything to the contrary contained in the Constituent Documents, each Foreign Investor who is or becomes a Designated Foreign Investor consents and directs:
 - (i) the Issuer to pay any distributions, redemption proceeds or other payments in respect of its Attached Security which forms part of each Stapled Security the Designated Foreign Investor holds, which are to be used to obtain a New Attached Security (“**Amounts**”), to the Sale Nominee;
 - (ii) the Sale Nominee to apply the Amounts to obtain a New Attached Security;
 - (iii) Subject to clause 8(d) below, the Sale Nominee to then sell any Stapled Security to which the New Attached Security is Stapled;
 - (iv) the Sale Nominee to pay the Sale Consideration to the relevant Designated Foreign Investor as soon as practicable after the sale of the relevant Stapled Security.
- (d) If a New Attached Security is to be Stapled to an existing Stapled Security, the Designated Foreign Investor agrees to transfer each existing Stapled Security they hold free of any Encumbrance to the Sale Nominee on or prior to the Sale Record Date so that the Sale Nominee:
 - (i) is entered in the Register in respect of that Stapled Security as of the date title is transferred on the Sale Record Date; and

- (ii) will receive the New Attached Security pursuant to the Stapling of the New Attached Security; and
 - (iii) will sell the resultant Stapled Security for cash to pay the Sale Consideration to the Designated Foreign Investor.
- (e) The Issuer (in respect of its Attached Securities):
- (i) must procure that each Designated Foreign Investor is paid the Sale Consideration to which that Designated Foreign Investor is entitled as soon as practicable after the sale of the relevant Stapled Security; and
 - (ii) may take all steps to ensure that the Stapled Security held by the Designated Foreign Investor and to which a New Attached Security is to be Stapled, is transferred to the Sale Nominee prior to the Sale Record Date.
 - (iii) need not receive a transfer, instrument or certificate (if any) for existing Stapled Securities in order for the Issuer to Register the transfer of the existing Stapled Securities to the Sale Nominee. Such transfer shall be evidenced by, and shall have full effect from, its Registration by the relevant Issuer in the Register.
- (f) Unless otherwise agreed between the RE and the Other Issuers, the amount received for a Unit upon sale of a Stapled Security under clause 8(d)(iii) is the amount received on the sale of the Stapled Security less the fair value for the Other Attached Securities, as determined by the RE.

9 Excluded US Persons

9.1 General

- (a) Each Investor acknowledges that Stapled Securities are not permitted to be held by or for the account or benefit of any US Person who is not a QIB-QP.
- (b) Subject to the Corporations Act as modified by any applicable ASIC relief, the Issuer may at any time determine that an Investor (or a person who seeks to be entered on the Register as an Investor) is an Excluded US Person, if it considers the Investor (or a person who seeks to be entered on the Register as an Investor) is a US Person that is not a QIB-QP or holds or will hold Stapled Securities for the account or benefit of any US Person who is not a QIB-QP. A determination may be made in relation to all or only some of the Stapled Securities held or to be held by the Excluded US Person (“**Excluded Stapled Securities**”).
- (c) The Issuer may:
 - (i) at any time require an Investor to complete a statutory declaration in relation to whether it (or any person on whose

account or benefit it holds Stapled Securities) is a US Person who is not a QIB-QP, and the number of Stapled Securities affected; and

- (ii) treat any Investor who does not comply with a request for information under clause 9.1(c)(i) as an Excluded US Person in respect of all Stapled Securities held by that Investor or such lesser number of Stapled Securities as the Issuer determines.

9.2 Power of Issuers

Where the Issuer has made a determination under clause 9.1(b), the Issuer may at any time (in respect of its Attached Securities):

- (a) refuse to register a transfer of Excluded Stapled Securities to the Excluded US Person; or
- (b) cause a notice (the “**Notice**”) to be given to the Excluded US Person requiring the disposal of their holding of Excluded Stapled Securities to any Permitted Person within a period of not less than 30 Business Days specified in the Notice (“**Transfer Period**”) after which period the Excluded Stapled Securities must be transferred to and sold by the US Sale Nominee; or
- (c) if not transferred within the Transfer Period, cause the US Sale Nominee to sell the Excluded Stapled Securities registered in the name of the Excluded US Person under clause 9.3.

9.3 Disposal of US Stapled Securities

- (a) Each Investor who is or becomes an Excluded US Person agrees:
 - (i) upon receiving a Notice, to transfer each of their Excluded Stapled Securities free of any Encumbrances to a Permitted Person within the Transfer Period; or
 - (ii) if not transferred within the Transfer Period, to transfer each of their Excluded Stapled Securities free of any Encumbrances to the US Sale Nominee within 3 Business Days after the end of the Transfer Period.
- (b) Where the Excluded Stapled Securities are transferred to the US Sale Nominee in accordance with clause 9.3(a)(ii), the US Sale Nominee will:
 - (i) be entered in the Register in respect of those Excluded Stapled Securities on the date title is transferred; and
 - (ii) sell those Excluded Stapled Securities for cash and pay the US Sale Consideration to the Excluded US Person.
- (c) Each Investor who is or becomes an Excluded US Person consents and directs the US Sale Nominee to sell any Excluded Stapled Security transferred to the US Sale Nominee and to pay the US Sale

Consideration to the Investor as soon as practicable after the sale of the relevant Excluded Stapled Security.

- (d) Where the US Sale Nominee sells the Excluded Stapled Securities in accordance with clause 9.3(b)(ii), the Issuer (in respect of its Attached Securities):
 - (i) must procure that each Excluded US Person is paid the US Sale Consideration to which that Excluded US Person is entitled as soon as practicable after the sale of the relevant Excluded Stapled Securities; and
 - (ii) may take all steps to ensure that the Excluded Stapled Securities held by the Excluded US Person are transferred to the US Sale Nominee within 3 Business Days of the end of the Transfer Period.
- (e) The Issuer need not receive a transfer, instrument or certificate (if any) for Excluded Stapled Securities in order for the Issuer to Register the transfer of the Excluded Stapled Securities to the Sale Nominee or the person to whom it sells the Excluded Stapled Securities. Such transfers shall be evidenced by, and shall have full effect from, its Registration by the Issuer in the Register.
- (f) Unless otherwise agreed between the RE and the Other Issuers, the amount received for a Unit upon sale of a Stapled Security under clause 9.2(c) is the amount received on the sale of the Stapled Security less the fair value for the Other Attached Securities, as determined by the RE.

10 Duties and obligations of Parties

10.1 Duties in relation to Stapling

While Stapling applies, notwithstanding any other provision of the Constituent Documents, or any rule of law or equity to the contrary, in exercising any power or discretion, the Issuer may, subject to the Corporations Act and any relief granted thereunder, have regard to the interests of Investors as a whole and not only to the interests of the holders of the relevant Attached Securities considered separately.

10.2 Reference to power or discretion

References in the Constituent Documents to the exercise of any powers or discretion includes the carrying out of the Issuer's functions and duties and identifying the Investor's rights and interests.

11 Meetings of Investors

11.1 Meetings

While Stapling applies, meetings of holders of Attached Securities may be held in conjunction with meetings of holders of the Other Attached Securities

and, subject to the Corporations Act, the Issuer may make such rules for the conduct of such meetings as the Issuer determines.

11.2 Representatives form while Stapling applies

Subject to the Corporations Act the form of proxy used to appoint a proxy to vote on behalf of an Investor in respect of an Attached Security may be the same form as they use to appoint a proxy in respect of the Other Attached Securities which they hold.

11.3 Other attendees

- (a) The auditor of each Stapled Entity and the representatives of the Issuer may attend and speak at any meeting of Investors, or invite any other person to attend and speak at the meeting.
- (b) While the Instalment Receipts are on issue, holders of Instalment Receipts may attend and speak but not vote at any meeting of Investors.

11.4 Resolutions

For such time as Instalment Receipts or CDIs are on issue, all resolutions put at a meeting of Investors will be conducted on a poll and not on a show of hands.

12 General

12.1 Interests

- (a) A reference to the “Company” in article 10.13 (“Directors’ Interests”) of the HoldCo 1 Constitution is also a reference to each Stapled Entity.
- (b) A reference to the “Company” in article 10.13 (“Directors’ Interests”) of the HoldCo 2 Constitution is also a reference to each Stapled Entity.
- (c) A reference to the “Company” in article 10.13 (“Directors’ Interests”) of the HoldCo 3 Constitution is also a reference to each Stapled Entity.
- (d) Subject to the Corporations Act³, nothing in the Trust Constitution restricts the RE (or its associates) from:
 - (i) dealing with itself (as trustee of the Trust or in another capacity) and any Stapled Entity (or their associates); and
 - (ii) being interested in any contract or transaction with itself (as trustee of the Trust or in another capacity) or any Stapled Entity (or their associates) or retaining for its own benefit any

³ Refer Part 5C.7

profits or benefits derived from any such contract or transaction.

12.2 Expenses in relation to Trust

- (a) A reference to “Unit” in article 20.3 of the Trust Constitution is a reference to the Unit as part of a Stapled Security, and a reference to “Trust” is a reference to the Trust as part of the Spark Infrastructure Group.
- (b) Article 20.3 of the Trust Constitution is taken to also include expenses connected with:
 - (i) the establishment, administration and management of Stapling, including without limitation the costs incurred in Stapling enforcement, the Stapling of New Attached Securities, the Unstapling of an Attached Security, the restapling of Unstapled Attached Securities and the Unstapling of the Stapled Securities; and
 - (ii) the organisation of, convening and holding meetings of Investors, the implementation of any Resolutions and communications with Investors; and
 - (iii) the Management Agreement, the Co-operation Deed, the Note Trust Deed and all other Transaction Documents; and
 - (iv) the Securities Administration Deed and all other Instalment Receipt Documents.

12.3 Small Holdings

A reference to a “Small Holding” in each Constituent Document is taken to be a reference a small holding of Stapled Securities.

12.4 Inter-Group Loans

Without limiting the Constituent Documents, the RE may, in its capacity as trustee of the Trust , and each Other Issuer may, enter into Inter-Group Loans.

12.5 Notice to other Stapled Entities

On or before commencement of a winding up of a Stapled Entity, the Issuer must give each Other Stapled Entity written notice that the Stapled Entity is to be wound up.

12.6 Other Attached Security

If a New Attached Security, which is an interest in a trust is to be Stapled to the Stapled Securities, then clauses 3.1(b), 3.1(c), 3.2(a), 3.3, 12.1(d) and 12.2 apply in relation to that New Attached Security with the necessary changes.

13 Definitions and Interpretation

13.1 Definitions

In this schedule, unless the context otherwise requires:

A Share means an ordinary share in the capital of HoldCo 1.

Accession Deed means the deed of that name between each Issuer and:

- (a) any new RE; or
- (b) any issuer of a New Attached Security,

by which that person accedes to the Co-operation Deed.

Amounts has the meaning given in clause 8(c)(1).

Application Price means:

- (a) in respect of a Unit, the application price for the Unit calculated in accordance with the Trust Constitution, including this schedule;
- (b) in respect of any Other Attached Security, the application price for the Other Attached Security; and
- (c) in respect of a Stapled Security, the application price for a Stapled Security calculated in accordance with this schedule.

Approved Valuer: any person, independent of the Issuer, who is duly qualified to conduct a valuation.

ASIC means the Australian Securities and Investments Commission or any replacement or successor authority.

ASTC Settlement Rules means the operating rules of the settlement facility provided by ASX Settlement and Transfer Corporation Pty Ltd (ABN 49 008 504 532).

ASX means Australian Stock Exchange Limited or the market operated by it as the context requires.

Attached Security in the context of:

- (d) the Trust Constitution, means a Unit;
- (e) the HoldCo 1 Constitution, means an A Share;
- (f) the HoldCo 2 Constitution, means a B Share;
- (g) the HoldCo 3 Constitution, means a Foreign Share trading as a CDI;
- (h) the Note Trust Deed, means a Note;
- (i) the Constituent Document for any New Attached Security, means a New Attached Security.

Attached Securities means any Securities an identical number of which are from time to time Stapled together to form a Stapled Security but does not include any Unstapled Security and at the Stapling Commencement Date means one Unit, one Note, one A Share, one B Share and one Foreign Share, trading as a CDI.

B Share means an ordinary share in the capital of HoldCo 2.

Business Day has the meaning given to that term in the Listing Rules.

CDI has the meaning given in the ASTC Settlement Rules, where the Principal Financial Product (within the meaning of those Rules) is a Foreign Share.

Constituent Documents means the constituent documents of a Stapled Entity and at the Stapling Commencement Date means the Trust Constitution, the Note Trust Deed, the HoldCo 1 Constitution, the HoldCo 2 Constitution and the HoldCo 3 Constitution.

Co-operation Deed means the deed of that name between the Issuer and the Other Issuers dated prior to the Stapling Commencement Date, and as amended from time to time.

Corporate Action means any issues, bonus and rights issues, placements and redemptions and buy-backs of an Attached Security.

Corporations Act means the Corporations Act 2001 (Cwlth).

CS Facility has the same meaning as prescribed CS facility in the Corporations Act.⁴

CS Facility Operator means the operator of a of the CS Facility.

Defaulted Attached Security means a partly paid Attached Security on which an instalment is due and payable but unpaid or in respect of which, a valid call has been made but has not paid in the time specified in the call.

Defaulted Stapled Security means a Stapled Security where one or more Attached Securities is a Defaulted Attached Security.

Depository means CHESS Depository Nominees Pty Limited (ABN 75 071 346 506) and includes any substitute or successor depository under the ASTC Settlement Rules.

Designated Foreign Investor means a Foreign Investor in respect of whom the Issuer has made a determination in accordance with clause 8(b).

Encumbrance means any:

- (a) security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement; or

⁴ See CA 1074A and reg 7.1.03. As at March 2004, ASTC is the only prescribed CS facility.

- (b) right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or
- (c) third party right or interest or any right arising as a consequence of the enforcement of a judgment,

or any agreement to create any of them or allow them to exist.

Excluded Stapled Security has the meaning given in clause 9.1(b).

Excluded US Person means any Investor in respect of whom the Issuer has made a determination under clause 9.1(b).

First Closing Date means the date on which the issue of Stapled Securities pursuant to the First Offer Document is completed or such other date as is determined by the Issuer.

First Offer Document means the first combined product disclosure statement and prospectus issued in relation to the Instalment Receipts.

Foreign Investor means an Investor whose address on the Register is in a place other than Australia, and such other jurisdictions (if any) as the Issuer may determine.

Foreign Share means an ordinary share in the capital of the HoldCo 3.

HoldCo 1 means Spark Infrastructure Holdings No. 1 Limited (ACN 116 940 786).

HoldCo 2 means Spark Infrastructure Holdings No. 2 Limited (ACN 116 940 795).

HoldCo 3 means Spark Infrastructure Holdings International Limited, a company incorporated in the Commonwealth of The Bahamas.

HoldCo 1 Constitution means the constitution of HoldCo 1 and includes any amendment or replacement of it.

HoldCo 2 Constitution means the constitution of HoldCo 2 and includes any amendment or replacement of it.

HoldCo 3 Constitution means the articles of association and memorandum of association of HoldCo 3 and includes any amendment or replacement of those documents.

Instalment Co means Spark Infrastructure Instalment Limited (ABN 72 115 680 601).

Instalment Receipt means an instalment receipt over Stapled Securities issued from time to time and in respect of the instalment receipts issued by Instalment Co, issued on the terms and conditions set out in the Securities Administration Deed.

Instalment Receipt Documents mean all agreements, trust deeds and ancillary documents required to effect the offer and Official Quotation of the Instalment Receipts and any amending or supplemental documents and any other document that the Issuer and the Other Issuers consider necessary or desirable for or in connection with the Official Quotation of the Instalment Receipts and includes without limitation the Securities Administration Deed.

Inter-Group Loan means a loan or financial assistance provided by a Stapled Entity to any entity in the Spark Infrastructure Group including but not limited to guaranteeing or indemnifying or granting security in favour of that entity.

Investor means a person entered in the Register as a holder of a Stapled Security.

Issuer in the context of:

- (j) the Trust Constitution, means the RE;
- (k) the HoldCo 1 Constitution, means HoldCo 1 or the board of directors of HoldCo 1 (as the case requires);
- (l) the HoldCo 2 Constitution, means HoldCo 2 or the board of directors of HoldCo 2 (as the case requires);
- (m) the HoldCo 3 Constitution, means HoldCo 3 or the board of directors of HoldCo 3 (as the case requires); and
- (n) the Note Trust Deed, means the RE; and
- (o) the Constituent Document for of any New Attached Security, means the issuer of the New Attached Security or (if it is a company) its board of directors (as the case requires).

Listed means:

- (a) in the case of a Stapled Entity, that Stapled Entity being listed on the ASX; and
- (b) in the case of an Attached Security, that Attached Security being Officially Quoted.

Listing has a corresponding meaning.

Listing Rules means the listing rules of ASX and any other rules of ASX which are applicable while the Stapled Entity is admitted to the official list of the ASX, each as amended or replaced from time to time.

Manager means Spark Infrastructure Management Limited (ACN 114 940 304), appointed as manager of the Trust, HoldCo 1, HoldCo 2 and HoldCo 3 under the Management Agreement.

Management Agreement means the agreement of that name between the Manager and the RE, HoldCo 1, HoldCo 2 and HoldCo 3 dated prior to the

Stapling Commencement Date and including any amendment to the agreement.

Market Price: of a Stapled Security on a particular day is:

- (a) the weighted average price per Stapled Security for sales on the ASX (excluding any special crossings) for the period of 15 Trading Days immediately prior to the relevant day (whether or not a sale was recorded on any particular day); or
- (b) while the Instalment Receipts are on issue and any Stapled Securities are held by the Security Trustee, the amount of the second instalment payment of the Instalment Receipt (excluding interest) **plus** the weighted average price per Instalment Receipt for sales on the ASX (excluding any special crossings) for the period of 15 Trading Days immediately prior to the relevant day (whether or not a sale was recorded on any particular day);
- (c) if Stapled Securities or Instalment Receipts (as the case may be):
 - (i) have not been Officially Quoted for at least 15 consecutive Trading Days before the relevant day; or
 - (ii) in the RE's opinion a determination under paragraph (a) or (b) of this definition would not provide a fair reflection of the market value of the Stapled Security having regard to the nature of the proposed offer of Stapled Securities and the circumstances in which the proposed offer is made,

the price per Stapled Security that an Approved Valuer determines to be the market price of the Stapled Security on the relevant day.

New Attached Security has the meaning given in clause 6(a).

Note means the notes issued by the RE, in its capacity as responsible entity of the Trust under the Note Trust Deed.

Note Trust Deed means the trust deed between the RE as issuer of the Notes and Note Trustee dated prior to the Stapling Commencement Date and includes any amendment or replacement of it.

Note Trustee means Australian Executor Trustees Limited (ACN 007 869 794).

Officially Quoted means quotation on the official list of the ASX, including when quotation is suspended for a continuous period of not more than 60 days, all times during that period of suspension.

Other Attached Security means in respect of:

- (p) a Unit, an identical number of each Attached Security other than a Unit;
- (q) an A Share, an identical number of each Attached Security other than an A Share;

- (r) a B Share, an identical number of each Attached Security other than a B Share;
- (s) a Foreign Share, an identical number of each Attached Security other than a Foreign Share;
- (t) a Note, an identical number of each Attached Security other than a Note;
- (u) any New Attached Security, an identical number of each Attached Security other than a New Attached Security.

Other Issuer means in respect of:

- (v) the RE, each Issuer other than the RE;
- (w) HoldCo 1, each Issuer other than HoldCo 1;
- (x) HoldCo 2, each Issuer other than HoldCo 2;
- (y) HoldCo 3, each Issuer other than HoldCo 3;
- (z) the issuer of any New Attached Security, each Issuer other than the issuer of the New Attached Security.

Permitted Person means any person other than someone who is, or will hold the Stapled Securities for the account or benefit of, a US Person who is not a QIB-QP.

QIB-QP means any US Person that is both a Qualified Institutional Buyer and a Qualified Purchaser.

Qualified Institutional Buyer has the meaning given in Rule 144A under the U.S. Securities Act of 1933, as amended.

Qualified Purchaser has the meaning given in Section 2(a)(51) of the U.S. Investment Company Act of 1940, as amended and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

RE means Spark Infrastructure RE Limited (ACN 114 940 984).

Register means the register of Investors kept by the Stapled Entities under clause 5 and the Corporations Act.

Registered means to be recorded in the Register.

Registrar means the person appointed to maintain the Register from time to time.

Reorganisation means the consolidation, division or conversion of the Attached Securities in the ratio determined by the Issuer from time to time and Reorganise is to be construed accordingly.

Restapling has the meaning given in clause 7.2(d).

Restricted Securities has the meaning given in the Listing Rules.

Sale Consideration means the average price (net of transaction costs including without limitation any applicable brokerage, stamp duty and other taxes or charges) at which those Stapled Securities held by the Sale Nominee are sold under the Sale Facility, multiplied by the number of Stapled Securities held by and sold by the Sale Nominee for, the relevant Designated Foreign Investor.

Sale Facility means the facility under which Designated Foreign Investors are required to transfer their existing Stapled Securities to the Sale Nominee on the basis that the Sale Nominee is entered in the Register in respect of those Stapled Securities, and will receive the New Attached Securities pursuant to the Stapling and sell the resultant Stapled Securities for cash to pay the Sale Consideration to the relevant Designated Foreign Investor.

Sale Nominee means a financial services licensee appointed by the Issuer to carry out the role described in clauses 8(c) and (d).

Sale Record Date means the date determined by the Issuers as being the record date for the transaction as part of which the New Attached Securities are to be Stapled.

Securities Administration Deed means the deed of that name between the Issuer and the Other Issuers and other parties dated prior to the Stapling Commencement Date and as amended from time to time.

Security means any right or interest in a managed investment scheme, unit, share, note, debenture or any right or interest or option to acquire a share, note or debenture.

Security Trustee means Australian Executor Trustees Limited (ACN 007 869 794).

Spark Infrastructure Group means the Stapled Entities and any Subsidiary of a Stapled Entity.

Stapled means the linking together of Securities so that one Attached Security may not be transferred or otherwise dealt with without the Other Attached Securities and which Attached Securities are quoted on ASX jointly as a “Stapled Security” or such other term as the ASX permits. “**Stapling**” is to be construed accordingly.

Stapled Entity means at any time any Australian or overseas established company, trust, corporation or managed investment scheme whose Securities are then Attached Securities and who has executed the Accession Deed and at the Stapling Commencement Date means the Trust, HoldCo 1, HoldCo 2 and HoldCo 3.

Stapled Security means the stapled security created by the Stapling together of the Attached Securities.

Stapling Commencement Date means the date or dates upon which Stapling of the Attached Securities is to commence as determined by the Issuer.

Subsidiary of an entity means a company which is a subsidiary of the first entity within the meaning of part 1.2 division 6 of the Corporations Act or another entity which is controlled by the first entity within the meaning of control under section 50AA of the Corporations Act.

Trading Day means those Business Days on which buying and selling occurs through the Stock Exchange Automated Trading System.

Transaction Documents means all regulatory, structuring, operational, finance and ancillary documents required to effect the Listing of the Stapled Entities and the Official Quotation of the Stapled Securities and to achieve the investment objectives of the Spark Infrastructure Group from time to time, and any amending or supplemental agreements to those documents and any other document that the Issuer and the Other Issuers consider necessary or desirable for or in connection with the Listing of the Stapled Entities and the Official Quotation of the Stapled Securities and the achievement of the investment objectives of the Spark Infrastructure Group from time to time and includes without limitation the Co-operation Deed, the Note Trust Deed and the Management Agreement.

Transfer has the meaning given in clause 6(d).

Transfer Period means the period described in clause 9.2(b).

Trust means Spark Infrastructure Trust (ARSN 116 870 725).

Trust Constitution means the constitution establishing the Trust dated on or about 25 October 2005, and includes any amendment or replacement of it.

Unit means a unit in the Trust.

Unstapled means not being Stapled.

Unstapling means the process that results in the Attached Securities no longer being Stapled to each other.

Unstapling Event means one or more of the following events:

- (aa) a Special Resolution of the members of each Stapled Entity has been passed to Unstaple the Stapled Securities;
- (bb) Stapling becomes unlawful or prohibited under the Listing Rules; or
- (cc) a winding-up is commenced in respect of a Stapled Entity.

US Person has the meaning given in Rule 902 of Regulation S under the U.S. Securities Act of 1933, as amended.

US Sale Facility means the facility under which Excluded US Persons are required to transfer their Excluded Stapled Securities to the US Sale Nominee within 3 Business Days of the Transfer Date on the basis that the US Sale Nominee is entered in the Register in respect of those Excluded Stapled Securities, and will sell the Excluded Stapled Securities for cash to pay the US Sale Consideration to the relevant Excluded US Persons.

US Sale Consideration means the average price (net of transaction costs including without limitation any applicable brokerage, stamp duty and other taxes or charges) at which the Excluded Stapled Securities held by the US Sale Nominee are sold under the US Sale Facility, multiplied by the number of Excluded Stapled Securities held by, and sold by the US Sale Nominee for, the relevant Excluded US Person.

US Sale Nominee means a financial services licensee appointed by the Issuer to carry out the role described in clause 9.3.

VWAP in respect of a Stapled Security for a Trading Day means the volume weighted average of the Stapled Security prices for that Trading Day for all sales of Stapled Securities recorded on ASX for the day, but excluding sales that occur otherwise than in the ordinary course of trading on ASX, such as special crossings, crossings prior to the commencement of normal trading, crossings during the closing phase and the after hours adjust phase, and any overseas sales or sales pursuant to the exercise of options over Stapled Securities, any overnight crossings and any other sales which the RE reasonably considers may not be fairly reflective of natural supply and demand.

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Note Trust Deed

Schedule 3 - Meetings Provisions (clause 15 of Note Trust Deed)

1 Application of Meetings Provisions

1.1 Joint Meeting with other security holders

Subject to the Corporations Act, if the Stapling Provisions are in effect in accordance with clause 18 of the Note Trust Deed, then except:

- (dd) to the extent required by law; or
- (ee) to the extent these Meetings Provisions are not inconsistent with the applicable meetings provisions of the Stapled Entities; or
- (ff) where the relevant meeting is a meeting of Noteholders only and there is no corresponding meeting of holders of units in the Spark Infrastructure Trust,

then meetings or written resolutions of Noteholders shall be called and put, and conducted and implemented, in the manner provided in the Constitution as if for this purpose alone each Note were a unit of the Spark Infrastructure Trust.

1.2 Meeting of Noteholders only

If or to the extent that paragraph 1.1 (“Joint Meeting with other security holders”) of these Meetings Provisions does not apply, paragraphs 2 (“Proxies”) to 19 (“Interpretation”) of these Meetings Provisions apply.

2 Proxies

2.1 Appointment

A Noteholder entitled to attend and vote at a Meeting may appoint a Proxy to attend and act on that Noteholder’s behalf in connection with any Meeting, including to vote for the Noteholder at that Meeting, by a Form of Proxy signed by the Noteholder or, in the case of a corporation, executed in accordance with the Corporations Act.

2.2 Validity

Forms of Proxy are valid for so long as the Notes to which they relate are registered in the name of the appointor but not otherwise. While the Form of Proxy is valid the Proxy is, for all purposes in connection with any Meeting of Noteholders, deemed to be the Noteholder of the Notes to which that Form of Proxy relates.

2.3 Who may be a Proxy

A Proxy:

- (a) need not be a Noteholder; and
- (b) may be an officer, employee, representative of or otherwise connected with RE.

2.4 Lodgment with RE

A Form of Proxy may not be treated as valid unless it is, together with any power of attorney or other authority under which it is signed, or a copy of power or authority certified in such manner as the Registrar may require, received by RE at the office of RE specified in the Form of Proxy not less than 48 hours before the time appointed for holding the Meeting to which the Form of Proxy relates. If the Form of Proxy specifies a fax number to which these documents may be sent, the documents are taken to be received at the time shown in the fax transmission report as the time the whole fax was sent.

2.5 Revocation or amendment

Any vote given in accordance with the terms of a Form of Proxy is valid despite the previous revocation or amendment of the Form of Proxy or of any instructions of the Noteholder under which it was executed, unless notice in writing of that revocation or amendment is received from the Noteholder who has executed such Form of Proxy before the commencement of the Meeting at which the Form of Proxy is used, by RE or by the chairman of the meeting before the vote is cast.

3 Convening Meetings

A Meeting:

- (a) may be convened at any time by RE or the Note Trustee at the place and time appointed by the convenor; and
- (b) must be convened by RE at a place and time appointed by it if it is requested to do so by Noteholders of Notes representing in the aggregate at least 10% of the aggregate principal amount of the outstanding Notes.

4 Notice of Meeting

Unless otherwise agreed in writing by each Noteholder, at least 28 days' notice specifying the day, time and place of the Meeting must be:

- (a) given to the Noteholders;
- (b) given to the auditor of the Spark Infrastructure Trust; and,
- (c) if not given by the Note Trustee, copied to the Note Trustee; or,
- (d) if not given by RE, copied to RE.

The notice must state generally the nature of the business to be transacted at the Meeting but (except for a Special Resolution) need not specify the terms of the resolutions to be proposed. The notice must include statements to the effect that Proxies may be appointed before the time fixed for the Meeting but not after that time. The accidental omission to give notice to, or the non-receipt of notice by, any Noteholder does not invalidate the proceedings at any Meeting.

5 Chairman

RE must nominate in writing a person (who may, but need not, be a Noteholder) as the chairman at every Meeting. If a Meeting is held and:

- (a) a chairman has not been nominated by RE; or
- (b) the person nominated is not present within 15 minutes after the time appointed for the holding of the Meeting, or is unable or unwilling to chair the Meeting,

the Noteholders and Proxies present must choose one of their number to be chairman. The chairman of an adjourned Meeting need not be the same person as was the chairman of the Meeting from which the adjournment took place.

6 Quorum

6.1 Number for a quorum

The quorum for any meeting is at least two Noteholders present in person or by attorney, representative or proxy.

6.2 Requirement for a quorum

An item of business may not be transacted at any Meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the beginning of a Meeting it is taken to be present throughout the Meeting unless the chairman of the Meeting (on the chairman's own motion or at the instance of a Noteholder, proxy, attorney or representative who is present) declares otherwise.

7 Adjournment where no quorum

7.1 Quorum and time

If a quorum is not present within 15 minutes after the scheduled time for the Meeting, the Meeting is:

- (a) if convened on the requisition of Noteholders, dissolved; or
- (b) otherwise, adjourned to the same day in the next week and same time and place, or to such other day, time and place as RE decides by notice to the Noteholders and others entitled to notice of the meeting.

7.2 Adjourned meeting

At any adjourned Meeting, those Noteholders present in person or by attorney, representative or proxy constitute a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned Meeting, the Meeting is dissolved.

7.3 Adjournment of Meeting

The chairman may at any time during the Meeting adjourn the Meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the Meeting either to a later time at the same Meeting or to an adjourned Meeting at any time and place. In exercising this discretion the chairman may, but need not, seek the consent of the Noteholders present. Only business which might validly have been transacted at the original Meeting may be transacted at the adjourned Meeting.

7.4 Notice of adjourned Meeting

It is not necessary to give any notice of any Meeting adjourned unless a Meeting is adjourned for one month or more.

8 Attendees

RE, the auditor of the Spark Infrastructure Trust, each Stapled Entity, the Note Trustee and the Noteholders (through their respective attorneys, representatives or Proxies) and their respective financial and legal advisers are entitled to attend and speak at any Meeting. Otherwise, no person may, except for the chairman, attend or speak at any Meeting.

9 Voting at Meetings

9.1 Questions decided by Majority

Every resolution put to a vote at a Meeting must be decided by a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:

- (a) the chairman;
- (b) RE;
- (c) the Note Trustee; or
- (d) at least 5 Noteholders entitled to vote on the resolution; or
- (e) Noteholders with at least 5% of the votes that may be cast on the resolution.

9.2 Declaration of results

Unless a poll is properly demanded and the poll is not withdrawn, a declaration by the chairman that a resolution has been carried or carried by a particular majority or lost or not carried by any particular majority is

conclusive evidence of the fact. The chairman and the minutes do not need to state, and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

10 Poll

10.1 Procedure

If a poll is properly demanded, it must be taken in the manner and at the date and time directed by the chairman. The result of the poll is taken to be the resolution of the Meeting at which the poll was demanded as at the date of the taking of the poll. The demand for a poll does not prevent the continuance of the Meeting for the transaction of any business other than the resolution on which the poll has been demanded.

10.2 Where required immediately

A poll demanded on the election of a chairman or on a question of adjournment must be taken immediately.

10.3 Withdrawal of demand

A demand for a poll may be withdrawn.

11 No casting vote

If there is an equality of votes, either on a show of hands or on a poll, the chairman of the Meeting is not entitled to a casting vote in addition to any votes to which the chairman is entitled as a Noteholder or Proxy.

12 Voting entitlements

12.1 How Noteholder may vote

A Noteholder (or, in the case of a Note registered as being owned jointly, the person whose name appears first on the Register as one of the owners of the Note) may be present and vote in person at any Meeting in respect of the Note or be represented by Proxy.

12.2 Number of votes

Subject to paragraphs 9 (“Voting at Meetings”) and 12.1 (“How Noteholder may vote”), at any Meeting:

- (a) on a show of hands, each Noteholder or Proxy present has one vote; and
- (b) on a poll, each Noteholder or Proxy present has one vote in respect of each dollar (cents being ignored) of the Face Value of Notes which are registered in that person’s name or in respect of which that person is a Proxy.

12.3 Exercise of votes

Without affecting the obligations of a Proxy named in any Form of Proxy, any person entitled to more than one vote need not use all votes (or cast all the votes) to which that person is entitled in the same way.

13 Circular Resolutions

13.1 How to pass Circular Resolutions

The Noteholders may without a Meeting being held, pass:

- (a) an Ordinary Resolution, if within one month after the Notification Date, Noteholders representing more than 50% of the aggregate principal amount of outstanding Notes as at the Notification Date sign a document containing a statement that they are in favour of the resolution set out in the document; or
- (b) a Special Resolution, if within one month after the Notification Date stated in the copies of the resolution sent for that purpose to Noteholders, Noteholders representing at least 75% of the aggregate principal amount of outstanding Notes as at the Notification Date sign a document containing a statement that they are in favour of the resolution set out in the document.

The resolution is passed when the last Noteholder signs it.

13.2 Non-receipt of copy

The accidental omission to give a copy of the Circular Resolution to, or the non-receipt of a copy by, any Noteholder does not invalidate the Circular Resolution under paragraph 13.1 (“How to pass Circular Resolutions”).

13.3 May consist of several documents

A Circular Resolution may be contained in one or more documents in like form each signed by one or more Noteholders.

14 Use of Special Resolution

Subject to clause 18(c) of the Note Trust Deed, the Noteholders have, in addition to the powers set out above but without affecting any powers of any other person, the following powers exercisable only by Special Resolution subject to the provisions relating to quorum in paragraph 6 (“Quorum”):

- (a) to sanction any proposal by RE for any modification, abrogation, variation or compromise of, or arrangement in respect of, the rights of the Noteholders against RE whether those rights arise under the Notes or otherwise;
- (b) to sanction the exchange or substitution for the Notes of, or the conversion of the Notes into, other obligations or securities of RE or any other body corporate formed or to be formed;

- (c) to assent to any modification of the provisions of the Note Trust Deed or the Notes proposed by RE, the Note Trustee or any Noteholder which is required to be approved by Noteholders;
- (d) to waive, authorise, ratify or confirm any breach or proposed breach by RE or the Note Trustee of any of its obligations under the Note Trust Deed or the Notes, and approve the release of RE or the Note Trustee (as applicable) from liability;
- (e) to authorise any person to concur in and do anything necessary to carry out and give effect to a Special Resolution;
- (f) to give any authority, direction or sanction which is required to be given by Special Resolution, or to otherwise give directions to the Note Trustee;
- (g) to appoint any persons (whether Noteholders or not) as a committee or committees to represent the interests of the Noteholders and to confer on the committee or committees any powers or discretions which the Noteholders could themselves exercise by Special Resolution;
- (h) to approve the substitution of any entity for RE (or any previous substitute) as principal debtor under the Notes;
- (i) to approve any amendment of the dates of maturity or redemption of the Notes or of any date on which a payment of principal or interest is due on the Notes, except where the amendment is provided for or permitted in the Terms of Issue;
- (j) to approve any reduction or cancellation of an amount payable or, where applicable, modification of the method of calculating the amount payable or modification of the date of payment in respect of the Notes, except where the reduction, cancellation or modification is provided for or permitted in the Terms of Issue or where the modification is bound to result in an increase in the amount payable;
- (k) to approve the alteration of the currency in which payments in respect of the Notes are made; and
- (l) only if the Notes are not Stapled Securities, to approve the alteration of the majority required to pass a Special Resolution.

15 Use of Ordinary Resolution

The Noteholders have the power exercisable by Ordinary Resolution to do anything for which a Special Resolution is not required.

16 Effect and notice of resolution

16.1 Noteholders bound

A resolution passed at a Meeting duly convened and held (or made by Circular Resolution under paragraph 13 (“Circular Resolutions”)) in accordance with these provisions is binding on all Noteholders, whether present or not present and whether or not voting at the Meeting (or signing or not signing the written resolution), and each Noteholder is bound to give effect to it accordingly. The passing of the resolution is conclusive evidence that the circumstances of the resolution justify its passing.

16.2 Notification of voting results

Subject to shorter periods required by the Listing Rules, RE must notify to the Noteholders of the result of the voting on a resolution within 14 days of the result being known but failure to do so does not invalidate the resolution.

17 Minutes

17.1 Minute books must be kept

RE must keep minute books in which it records, within one month:

- (a) proceedings and resolutions of Meetings; and
- (b) Circular Resolutions.

17.2 Signature requirements

RE must ensure that:

- (a) minutes of a Meeting are signed by the chairman of the Meeting or by the chairman of the next Meeting; and
- (b) Circular Resolutions are signed by a Director or secretary of RE (as the case may be).

17.3 Evidentiary matters

Where a minute or Circular Resolution is recorded and signed it is, absent manifest error or mistake, conclusive evidence:

- (a) of the matters contained in it;
- (b) that the Meeting has been duly convened and held or that copies of the proposed Circular Resolution have been duly sent; and
- (c) that all resolutions passed or proceedings transacted have been duly passed and transacted.

18 Further procedures

RE may prescribe further regulations for the holding of, attendance and voting at Meetings as are necessary or desirable and do not adversely affect the interests of the Noteholders.

19 Interpretation

19.1 Definitions

The meanings given to terms or expressions in Schedule 4 to the Note Trust Deed, and the interpretation provisions in clause 25 (“Interpretation”) of the Note Trust Deed, apply as if set out in these Meetings Provisions as well, unless the contrary intention appears.

19.2 Sole Noteholder

If there is only one Noteholder, that person must be treated as two persons for the purposes of any quorum requirements of a Meeting.

19.3 Notification Date

The time and date for determining the identity of a Noteholder who may be counted for the purposes of determining a quorum or entitlement to attend, speak or vote at a Meeting or sign a Circular Resolution may be determined by RE (acting reasonably).

19.4 Notices

Any notice required to be given under these provisions must be given in the manner set out in the Note Trust Deed.

19.5 Calculation of time

If a notice of Meeting must be given within a certain period of days, the day on which the notice is given or taken to be given, and the day on which the Meeting is to be held, are to be disregarded in calculating that period.

Note Trust Deed

Schedule 4 - Definitions (clause 25.2 of Note Trust Deed)

Application Form means an application form for Notes.

ASIC means the Australian Securities and Investment Commission or any regulatory body which replaces it or performs its functions.

ASTC Settlement Rules means the operating rules of the settlement facility provided by ASX Settlement and Transfer Corporation Pty Ltd (ABN 49 008 504 532) as amended or replaced from time to time.

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

Attached Security has the meaning given to it in the Stapling Provisions.

Base Rate means the rate equal to the lower of:

- (a) the lower of:
 - (i) the rate determined by RE in good faith as the average of the mid points of the average swap reference rates for a term determined in good faith by RE to be reasonably equivalent to the Relevant Period quoted on Reuters page CMBE (or any page that replaces that page) at three times (selected by RE) before 10.00am on the first day of the Relevant Period; and
 - (ii) the rate determined by RE in good faith as the average swap reference rate for a term determined in good faith by RE to be reasonably equivalent to the Relevant Period quoted on Reuters page IRSW (or any page that replaces that page) as near as practical to 10.00am on the first day of the Relevant Period; and
- (b) the rate determined by RE in good faith as the average bid rate for Australian bank bills of exchange for a term determined in good faith by RE to be reasonably equivalent to the Interest Period commencing on the first day of the Relevant Period quoted on Reuters page BBSW (or any page that replaces that page) as near as practical to 10.00am on the first day of the Relevant Period,

plus in each case 4% per annum, provided that if for any reason any of the abovementioned rates in (a) or (b) above is not capable of being determined by RE, that rate will be the rate determined by RE in good faith having regard to comparable rates available as near as practical to 10.00am on the first day of the Relevant Period. Each rate so determined by RE will be expressed as a percentage per annum and will be rounded up to 4 decimal places.

Business Day has the same meaning as in the Listing Rules.

Circular Resolution means a written resolution of Noteholders made in accordance with paragraph 13 (“Circular Resolutions”) of the Meetings Provisions.

Constituent Documents has the meaning given to it in the Stapling Provisions.

Constitution means the constitution establishing the Spark Infrastructure Trust dated 25 October 2005, as amended from time to time.

Corporations Act means the *Corporations Act 2001* (Cth) and any regulations made under it.

Costs includes costs, charges and expenses, including those incurred in connection with advisers but excludes Taxes.

CS Facility has the meaning given to it in the Stapling Provisions.

CS Facility Operator has the meaning given to it in the Stapling Provisions.

Defaulted Attached Security has the meaning given to it in the Stapling Provisions.

Deferred Interest means any interest deferred under clause 2.3(a) of the Terms of Issue.

Details means the section of this deed headed “Details”.

Directors means all or some of the directors of RE acting as a board.

Divestment Notice means a Notice in accordance with article 27.3 of the Constitution.

Event of Default has the meaning given to it by clause 6.1 of the Terms of Issue.

Face Value means, in relation to a Note, the principal amount specified in clause 1.2(a) of the Terms of Issue, which amount may be reduced if that Note is repaid in part in accordance with clause 1.5 of these Terms of Issue.

Final Redemption Date means that date which is 100 years after the date of the Note Trust Deed.

Financial Year has the meaning given to it in the Constitution.

First Issue Date means the Issue Date of the first Notes issued under the Note Trust Deed.

Form of Proxy means a notice in writing in the form available from the Registrar or RE.

Governmental Agency means a government or a governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Income has the meaning given to it in the Constitution.

Income Tax means any tax which is assessed, levied, imposed or collected on income or capital gains by or on behalf of any Governmental Agency and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed in respect of the above.

Initial Rate means 10.85% per annum.

Interest Payment Date means in relation to a Note each of the following dates:

- (a) for the period up to and including the first Reset Date, 15 March and thereafter each 15 September and 15 March (or, if any such day is not a Business Day, the next following Business Day);
- (b) for the period between succeeding Reset Dates, each date determined under clause 3.1 of the Terms of Issue; and
- (c) except in clauses 2.2 and 2.3 of the Terms of Issue, its Redemption Date.

Interest Period means in respect of a Note:

- (a) the period from (and including) the First Issue Date until (and including) 31 December 2005;
- (b) thereafter, for any period of six months starting on 1 January or 1 July, the period (as applicable) from (and including) 1 January until (and including) the following 30 June in the same calendar year or from and including 1 July until (and including) the following 31 December in the same calendar year; and
- (c) for any remaining period of less than six months, the period from (and including) the day after the end of the previous Interest Period until the Redemption Date in respect of the Note.

Interest Rate has the meaning given to it in clause 2.1 of the Terms of Issue.

Insolvent means, in respect of a person, that:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it has a Controller (as defined in the Corporations Act) appointed, or is in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration or would up or has had a Receiver appointed to any part of its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolve; or
- (d) it is taken (under section 459(F)(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (e) it is the subject of an event described in section 459(C)(2)(b) or section 585 of the Corporations Act (or, in the case of RE, it makes a statement from which the Note Trustee reasonably deduces it is so subject).

Issue Date means in relation to a Note, the date on which it is issued by RE.

Issue Price means the amount payable as consideration for the issue of the Notes, which for the avoidance of doubt:

- (a) if the terms on which the Notes are issued includes an instalment element or deferred purchase price arrangement, is limited to the amount required to be paid prior to the issue of the Notes; and
- (b) may be a different amount to the principal amount of the Notes.

Issuer Sponsored Holding has the same meaning as in the ASTC Settlement Rules.

Listing Rules means the listing rules of ASX as amended or replaced from time to time.

Market Value has the meaning given to it in the Constitution.

Meeting is taken to include:

- (a) if there is only one Noteholder, the attendance of that person or its Proxy on the day and at the place and time specified in accordance with these provisions;
- (b) the presence of persons physically, by conference telephone call or by video conference; and
- (c) (other than in paragraphs 3, 4, 7.1 and 7.3 of the Meetings Provisions) any adjourned meeting.

Meetings Provisions means the provisions set out in Schedule 3 of the Note Trust Deed.

Minimum Holding means the minimum application amount and minimum holding set by RE from time to time, which RE may alter or waive at any time.

New Attached Security has the meaning given to it in the Stapling Provisions.

Note Certificate means a certificate in respect of Notes.

Notes means the unsecured subordinated resettable notes issued or to be issued by RE under the Note Trust Deed on the Terms of Issue.

Note Trust Deed means the deed dated on or around 9 November 2005 between RE and the Note Trustee.

Note Trustee means Australian Executor Trustees Limited in its capacity as trustee of the Note Trust or any successor Note Trustee appointed under clause 13 ("Change of Note Trustee").

Noteholder means in relation to any Notes a person whose name is for the time being registered in the Register as the holder of those Notes.

Noteholder's Debt means, at any time, in relation to a Note, all moneys which RE is liable to pay or repay (whether that liability is present or future, actual or contingent) to the Noteholder under or in respect of that Note.

Note Trust means the trusts established by the Note Trust Deed.

Notification Date means the date stated in the copies of a resolution to be made in writing sent for that purpose to Noteholders, which must be no later than the date on which that resolution is first notified to Noteholders in the manner provided in the Note Trust Deed.

Officially Quoted has the meaning given to it in the Stapling Provisions.

Operating Rules has the meaning given to it in the Constitution.

Ordinary Creditors means all the present and future creditors (excluding Noteholders and the Note Trustee in respect of the Notes) of RE in its capacity as responsible entity of the Spark Infrastructure Trust whose claims:

- (a) would be entitled to be admitted on it becoming Insolvent; and
- (b) are not (other than by law), or are not by their terms expressed to be, subordinated to the claims of all its other unsubordinated creditors.

Ordinary Resolution means a resolution:

- (a) passed at a Meeting by at least 50% of the votes cast in respect of that resolution; or
- (b) made in writing by Noteholders in accordance with paragraph 13.1(a) ("How to pass Circular Resolutions") of the Meetings Provisions.

Outstanding Interest means in relation to a Note the aggregate of:

- (a) any unpaid Reset Interest in respect of that Note;
- (b) any unpaid Deferred Interest (to the extent not already captured in (a) above) in respect of that Note; and
- (c) any other unpaid interest which is due and payable in respect of that Note (including any interest accrued or compounded under clause 2.4 of the Terms of Issue).

Proper ASTC Transfer has the meaning given in regulation 1.0.02 of the Corporations Regulations 2001.

Proxy means a person so appointed under a Form of Proxy.

Receiver includes a receiver or receiver and manager.

Record Date means, in relation to an Interest Period, the date that is 4 Business Days, or such other period and time as determined by the Directors from time to time in accordance with the Listing Rules, before the Interest Payment Date for that Interest Period.

Redemption Amount means the Face Value.

Redemption Date means in relation to any Notes each of the following dates:

- (a) where the Notes are being redeemed in accordance with clause 4.1 of the Terms of Issue, the Reset Date;
- (b) where the Notes are being redeemed in accordance with clause 4.2 of the Terms of Issue, 25 Business Days after RE has provided notice under clause 4.2 of the Terms of Issue; and
- (c) where the Notes are being redeemed in accordance with clause 5.2 of the Terms of Issue, the Final Redemption Date.

Redemption Notice means a notice of intention to redeem Notes provided by RE to a Noteholder under clause 4.1, 4.2 or 4.3 of the Terms of Issue.

Register means a register of Noteholders maintained by RE, or on its behalf by the Registrar, under clause 7 (“Obligations in relation to the Register”) and, where appropriate, includes:

- (a) a sub-register conducted by or for RE pursuant to the Corporations Act, the Listing Rules or ASTC Settlement Rules; and
- (b) any branch register.

Registrar means ASX Perpetual Registrars Limited (ABN 54 083 214 537), or such other registrar as RE appoints from time to time.

Regulatory Event means in the opinion of the Directors (having obtained an opinion from reputable legal counsel) there is more than an insubstantial risk that RE will be exposed to additional costs or the imposition of additional requirements which the Directors determine at their sole discretion to be unacceptable, as a result of the occurrence of one or more of the following on or after the First Issue Date:

- (a) the introduction, enactment, amendment, change, repeal, replacement or revocation of any law or regulation affecting securities or any amendment or change to the Listing Rules, or the announcement (including on a prospective basis) of any of the foregoing by a Governmental Agency or ASX; or
- (b) any pronouncement, action or decision of a Governmental Agency or ASX interpreting or applying any such law or regulation or the Listing Rules .

Related Bodies Corporate has the meaning given in section 9 of the Corporations Act.

Relevant Period means the period mentioned in clause 3.1(b) of the Terms of Issue.

Relevant Reset Date means at any given time the next Reset Date.

Reorganisation has the meaning given to it in the Constitution.

Reset Date means 30 November 2010 or, if that day is not a Business Day, the next following Business Day and, thereafter, the date as determined under clause 3.1 of the Terms of Issue

Reset Interest means any interest that is not paid by RE on a Reset Date in the circumstances mentioned in clause 2.6 of the Terms of Issue.

Restricted Securities has the meaning given to it in the Stapling Provisions.

Senior Creditor means any bank, financial institution, or other entity providing any financial accommodation (whether secured or unsecured) for an amount exceeding A\$5,000,000 or its equivalent and for the purposes of this definition the provision of financial accommodation includes the provision of any bank guarantee, performance bond or equipment lease facility.

Security Interest means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power, or title retention arrangement.

Small Holder means a Noteholder who is a holder or a joint holder of a Small Holding.

Small Holding Relevant Notes means the Notes specified in a Divestment Notice.

Small Holding Relevant Period means the period specified in a Divestment Notice.

Small Holding means a holding of Notes created by the transfer of a parcel of Notes the aggregate Market Value of which at the time a proper transfer was initiated or a paper based transfer was lodged, was less than a marketable parcel of Notes as provided under the Listing Rules.

Spark Infrastructure Trust means the trust of that name as constituted by the Constitution (ARSN 116 870 725).

Special Resolution means a resolution:

- (a) passed at a Meeting by at least 75% of the votes cast by Noteholders entitled to vote on that resolution; or
- (b) made in writing by Noteholders in accordance with paragraph 1 (“Application of Meetings Provisions”) and (if applicable) paragraph 13.1(b) (“How to pass Circular Resolutions”) of the Meetings Provisions.

Stapled and **Stapling** have the meaning given to them in the Stapling Provisions.

Stapled Entity has the meaning given to it in the Stapling Provisions.

Stapled Group means all of the Stapled Entities.

Stapled Securities Offer Document means the combined prospectus and product disclosure statement to be lodged by RE with ASIC on or about 9 November 2005 for the issue of Stapled Securities including the Notes via an instalment receipt mechanism, and any supplementary or replacement offer document.

Stapled Security has the meaning given to it in the Stapling Provisions.

Stapling Commencement Date has the meaning given to it in the Stapling Provisions.

Stapling Provisions means the provisions relating to stapling contained in clause 18 of and Schedule 2 to the Note Trust Deed.

Statement of Holding means a statement of holding (in the form determined by RE or the Registrar (as applicable) from time to time) which sets out details of the number of Notes entered in the Register in a Noteholder's name as at the date specified in the statement.

Successor Requirements means the requirements for a successor Note Trustee set out in clause 13.4.

Tax means:

- (a) a tax, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding;
- (b) income, stamp or transaction duty, tax or charge; or
- (c) GST,

which is assessed, levied, imposed or collected by, or payable to, a Governmental Agency (excluding Income Tax other than interest withholding tax) and includes, but is not limited to, interest, fines, penalties, charges, fees or other amounts imposed on or in respect of any of the above.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or *Income Tax Assessment Act 1997* (Cth) (as appropriate).

Taxes means taxes, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any authority (whether in Australia or overseas) together with any related interest, penalties, fines and expenses in connection with them except if imposed on, or calculated having regard to, the net income of a person.

Tax Event means:

- (a) if in the opinion of the Directors (having obtained an opinion from reputable legal counsel or tax adviser):
 - (i) a change in any taxation law, interpretation or ruling issued by any relevant Governmental Agency has occurred (or is announced) and that as a result there is more than an insubstantial risk that RE would be exposed to more than a negligible increase in costs or effective cost of funds having regard to the taxation treatment of interest paid or payable on the Notes and the timing of any available deductions, in relation to the Notes or as a result of the Notes being on issue (having regard to any tax consequences impacting RE or any increased charges or civil liabilities); or
 - (ii) RE will or there is more than an insubstantial risk that RE would be denied deductibility of the interest payable on the Notes; or
- (b) RE is denied deductibility of the interest payable on the Notes.

Terms of Issue means the terms and conditions of the Notes set out in Schedule 1 to the Note Trust Deed.

Transfer means a form of transfer for Notes which satisfies the requirements of clause 10.1 of the Terms of Issue.

Winding Up means:

- (a) the appointment of a liquidator or provisional liquidator (and where the appointment is made by a court, by a court of competent jurisdiction in Australia); or
- (b) in relation to RE, a decision or resolution to wind up the Spark Infrastructure Trust, or steps being taken to realise the assets of the Spark Infrastructure Trust following termination of the Spark Infrastructure Trust.

writing includes printing, typing, lithography and other modes of reproducing words in a visible form including electronically.

Note Trust Deed

Signing page

DATED: November 2005

SIGNED, SEALED AND DELIVERED)
by)
SPARK INFRASTRUCTURE RE)
LIMITED in its capacity as responsible)
entity of the Spark Infrastructure)
Trust in accordance with section 127(1))
of the Corporations Act 2001 (Cwlth) by)
authority of its directors:)
)
)
)

.....)
Signature of director)

.....)
Name of director (block letters)

.....)
Signature of director/company secretary*

.....)
* delete whichever is not applicable

.....)
Name of director/company secretary*

.....)
* delete whichever is not applicable

SIGNED, SEALED AND DELIVERED)
THE COMMON SEAL of)
AUSTRALIAN EXECUTOR)
TRUSTEES LIMITED is duly)
affixed by authority of its directors in)
the presence of:

.....)
Signature of authorised person

.....)
Office held

.....)
Name of authorised person (block
letters)

.....)
Signature of authorised person

.....)
Office held

.....)
Name of authorised person (block
letters)

Note Trust Deed Contents