

Interface Works Agreement

Title	Interface Works Agreement
Version	Version 1 (published on 1 July 2018)
Purpose	<p>This document has been uploaded onto ElectraNet Pty Limited's (ElectraNet) website as required by schedule 5.10 of the National Electricity Rules (NER).</p> <p>The NER enables parties other than ElectraNet (being the <i>Primary Transmission Network Service Provider</i> in South Australia) to construct and own <i>contestable IUSA components (IUSA)</i>. When this occurs, the third party which owns the IUSA (the IUSA Provider) is required to enter into an interface works agreement (IWA) with ElectraNet.</p> <p>The IWA sets out the terms and conditions upon which the IUSA Provider will coordinate its works in respect of the <i>contestable IUSA components</i> with the ElectraNet connection works and how any interfaces between the IUSA and the ElectraNet connection works will be constructed.</p>
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Further Information	<p>For further information in relation to this document please contact our connections team at: connections@electranet.com.au</p>



Interface Works Agreement

ElectraNet Pty Limited (**ElectraNet**)

and

[INSERT] (**IUSA Provider**)

[INSERT] Project

www.electranet.com.au

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Date

Parties

ElectraNet	ElectraNet Pty Limited ACN 094 482 416 of 52-55 East Terrace, ADELAIDE SA 5000
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IUSA Provider	[INSERT] ACN [INSERT] of [INSERT]
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Background

-
- A The TNU has entered, or will enter, into the TCA in order to *connect* its *facility* to the Transmission System and for ElectraNet to provide certain *transmission services* to the TNU.
- B In order to *connect* the Facility to the Transmission System, it will first be necessary to construct the Connection Assets.
- C ElectraNet will design, procure and construct the ElectraNet Assets under the terms and conditions contained in the TCA.
- D The IUSA Provider will design, procure and construct the IUSA under the terms and conditions contained in the IUSA Work Agreement.
- E This deed sets out the coordination arrangements to apply between the Parties with respect to the Interfaces between the ElectraNet Assets and the IUSA.

The Parties agree as follows.

PART 1 - DEFINITIONS, INTERPRETATION AND COMMENCEMENT

1. Definitions and interpretation

1.1 Defined terms

In this deed, unless the context otherwise requires:

Affected Party has the meaning set out in clause 19.1(a).

Applicable Event of Force Majeure has the meaning set out in clause 19.1(a).

Applicable Laws means the *National Electricity Law*, NER, Electricity Act, Pricing Rules, Transmission Licence, Authorisations, Emissions Requirements and any other legislation, rules, regulations, guidelines, codes, Directives, licence conditions or other regulatory instruments which:

- (a) are directly or indirectly binding on or are expressed to apply to ElectraNet or the IUSA Provider (or both) from time to time; or
- (b) relate to the Transmission System, the Interfaces, the IUSA, the Facility or the performance of the Connection Work.

Applicable Technical Standard means, subject to the requirements of the CQMP:

- (a) with respect to any switchgear and high voltage plant, the applicable IEC Standard; or
- (b) with respect to any other items of Materials and Equipment, the applicable Australian Standard; or
- (c) if there is no applicable IEC Standard or Australian Standard, such other recognised standard relating to the particular items of Materials and Equipment as directed by ElectraNet.

As-built Documents means the records, documents, drawings and other information prepared (and including, where the context requires, to be prepared) by the IUSA Provider detailing the as-built condition of the IUSA and Interfaces as required by, and in accordance with, this deed.

Associate means in relation to a party, that party's officers, employees, 'associated entities' (as defined in the Corporations Act), authorised agents, suppliers, contractors, subcontractors and professional advisers, and for the avoidance of doubt, ElectraNet is not an Associate of the IUSA Provider.

Australian Standard means any standard issued from time to time by Standards Australia.

Authorisation means any approval, declaration, authorisation, certificate, consent, exemption, filing, licence, notarisation, permit, registration, ruling, statutorily required policy of insurance or waiver (and any renewal or variation of any of them) by or with an Authority.

Authority means:

- (a) any government or regulatory department, body, instrumentality, minister, agency or other authority; or
- (b) the System Controller, *AER*, *AEMO*, *ESCOSA* or any other person exercising an authority granted to it under an Applicable Law.

Business Day means any day except a Saturday, Sunday or public holiday in South Australia.

Certificate of Practical Completion means a certificate issued by ElectraNet in respect of the IUSA Work under clause 10.10.

Change in Applicable Law Event means:

- (a) a change in (or a change in the application or interpretation of) an Applicable Law;
- (b) the repeal of an Applicable Law;
- (c) the introduction of an Applicable Law; or
- (d) a Directive is given by an Authority,

after the Execution Date.

Change of Control means:

- (a) in respect of any person which is a body corporate, a change to the entity or entities which Control that person; or
- (b) in respect of any trust, a change to the entity or entities which Control that trust,

but does not include a change in Control of a company listed on a recognised stock exchange where a Party is such a company or is a wholly owned subsidiary (directly or indirectly of such a company).

Claims includes all claims, demands, actions or proceedings for any Damages, including any such claim by way of indemnity, under contract (including any breach of this deed), in equity (including breach of equitable duty or breach of fiduciary duty), under statute (including breach of statutory duty) (to the maximum extent possible), in tort (including negligence or negligent misrepresentation) or otherwise.

Codes of Practice means any 'approved code of practice' as defined in the *Work Health and Safety Act 2012* (SA).

Commencement Date means the date on which ElectraNet provides a Notice to the IUSA Provider in accordance with clause 2.4 confirming that all of the Preconditions have been satisfied or waived in accordance with clause 2.3(a).

Commissioning Completion Certificate has the meaning set out in clause 10.1(a)(ii).

Commissioning Test means, in relation to an item of Materials and Equipment, a process by which the item of Materials and Equipment is approved for active service based on observed or measured operation that meets the Functional Specifications, the Applicable Technical Standard, the Switching Manual and the other reasonable requirements of ElectraNet.

Competent Contractor means an experienced and competent design and construction contractor of the highest skill and quality, with particular experience in the electricity transmission industry in Australia.

Confidential Information means all information relating to the disclosing Party that is by its nature confidential, has been designated as confidential by the disclosing Party or which a receiving Party knows or ought to know is confidential, and includes all trade secrets, know-how, financial information and other commercially or scientifically valuable information of whatever description and in whatever form (whether written or oral, in tangible or intangible form) and includes the terms of this deed.

Connection Assets means the ElectraNet Assets, the IUSA, the Interfaces and all other *connection assets* (including any DCA) required to *connect* the Facility to the Transmission System.

Connection Work means the ElectraNet Work, the IUSA Work and the work relating to the design, engineering, procurement, construction, testing and commissioning of the DCA required to *connect* the Facility to the Transmission System.

Consequential Loss means any:

- (a) indirect or consequential loss, damage, injury or expense;
- (b) loss, damage, injury or expense (whether direct, indirect or consequential in nature) which constitutes or, arises out of, loss of actual or anticipated revenue or profits, loss of, or interruption to, business, loss of production, loss of opportunity, loss of goodwill, loss of contract, loss of anticipated savings or increased costs of working; or
- (c) special, exemplary or punitive damages,

whether or not it was reasonably foreseeable or reasonably within the contemplation of the Parties at the date of execution of this deed.

Construction Completion Criteria means the criteria for first *energisation* as specified in the CQMP agreed between the Parties for the Interfaces and the IUSA.

Contract IP Materials means all IP Materials created or produced by, or on behalf of, ElectraNet as part of, or in the course of this deed.

Contract Year has the meaning given in the Network Operating Agreement, except that for the purposes of this deed, paragraph (b) of that definition is replaced with 'the period from 1 July preceding the termination of the Interface Works Agreement (**Last Contract Year**)'.

Control has the same meaning as defined in the Corporations Act, with such amendments as are necessary to ensure that the term "entity" as used in that definition is taken to include any trust.

Coordination Committee means the committee established under clause 5.2.

Coordination Matters means the following matters in respect of the Work:

- (a) the scheduling of any construction activities comprising the Work;
- (b) industrial relations issues;
- (c) access to the ElectraNet Site and the IUSA Provider Site and any other land on which the Work is (or will be) performed;
- (d) the undertaking of any construction activities comprising the Work, including any interfaces between the Work;
- (e) any *outages* that are required in order to complete the Work, whether during the Target Outage Window or otherwise; and
- (f) any matters related, or incidental, to any of the matters referred to in paragraphs (a) to (e).

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

CQMP means the commissioning quality management plan agreed between the Parties pursuant to clause 7.

Damages includes any liabilities, expenses, losses (including Consequential Losses), damages and costs (including legal costs on a full indemnity basis and whether incurred by or awarded against a Party) whether arising under contract (including any breach of this deed), in equity (including breach of equitable duty or breach of fiduciary duty), under statute (including breach of statutory duty) (to the maximum extent possible), in tort (including negligence or negligent misrepresentation) or otherwise.

Date of Construction Completion has the meaning given in the TCA.

Date of Practical Completion means the date certified as the date on which Practical Completion has been achieved in the Certificate of Practical Completion.

DCA means any *dedicated connection asset* used to *connect* the Facility to the IUSA.

DCA Interfaces means the interfaces required between the IUSA and the DCA as detailed in Schedule 4.

DCA Provider means the third party *Dedicated Connection Asset Service Provider* detailed in Item 6 of Schedule 1 (if any).

Defect means:

- (a) any error, deficiency, omission, non-conformity, fault, failure, malfunction, irregularity or defect in the IUSA or the IUSA Interfaces; or

- (b) any part of the IUSA or the IUSA Interfaces which is not in accordance with the requirements of the Functional Specifications, a Project Document or Applicable Law.

Design Documents means the drawings, information, plans, reports, computer records, models and specifications (whether in hard copy or electronic form) prepared (and including, where the context requires, to be prepared) by or on behalf of the IUSA Provider or its Associates in respect of the IUSA, including the Detailed Design and documents and other information which detail the manner in which the IUSA is to be constructed, and all other technical documents as required by, and in accordance with, this deed.

Detailed Design means the detailed design for the IUSA containing each of the items listed in the second row of the table in rule 5.2A.4(a) (*Detailed design for IUSA*) of the NER.

Directive means any present or future requirement, instruction, direction, condition or order of an Authority (whether formal or informal) which is binding on or expressed to apply to ElectraNet or the IUSA Provider or relates directly or indirectly to the Transmission System, the Facility or the IUSA.

Dispose means assign, novate, transfer, lease, sub-lease, licence or otherwise dispose any legal or equitable estate (either in whole or in part) whether by sale, lease, licence, declaration or creation of trust or otherwise and **Disposal** will have a corresponding meaning.

Disposing Party has the meaning set out in clause 26.2.

Dispute means any dispute or difference of opinion between the Parties or the absence of agreement by the Parties about a matter in connection with this deed or its performance.

Documents means the documents, manuals, instructions, information and the like prepared (and including, where the context requires, to be prepared) by or on behalf of the IUSA Provider or its Associates in respect of the IUSA including the Design Documents and the As-built Documents as required by, and in accordance with, this deed.

ElectraNet means ElectraNet Pty Limited (ACN 094 482 416).

ElectraNet Asset Access Manual means ElectraNet's asset access manual provided by ElectraNet or available online, and as updated from time to time.

ElectraNet Assets means those Connection Assets which are to be designed, procured and constructed by ElectraNet under the terms of the TCA, which assets are summarised in Item 3 of Schedule 1, and which for clarity, excludes the IUSA.

ElectraNet Background IP Materials means all IP Materials owned or licensed to ElectraNet and provided by, or on behalf of, ElectraNet to the IUSA Provider for the purposes of this deed, including the ElectraNet Data.

ElectraNet Data means any information relating to ElectraNet's business including its operations, facilities, customers, employees, assets, products, sales and transactions, in whatever form the information exists, and includes any:

- (a) database in which data or information is contained;
- (b) documentation or records related to data or information;
- (c) products resulting from the use or manipulation of data or information; and
- (d) copies of any of the above.

ElectraNet Group means:

- (a) ElectraNet and each of its Related Bodies Corporate;

- (b) each contractor and subcontractor of the persons mentioned in paragraph (a) of this definition; and
- (c) each Associate of the persons in paragraphs (a) and (b) of this definition.

ElectraNet Liability Limits has the meaning set out in clause 22.1(a).

ElectraNet Project Document Default Termination Event means where a Project Document has been terminated by the counterparty to that Project Document due to an ElectraNet default under that Project Document.

ElectraNet Site means the site on which the ElectraNet Assets are to be constructed and located in accordance with the terms of the TCA.

ElectraNet Work means the design, procurement and construction of:

- (a) the ElectraNet Assets, which are to be constructed in accordance with the terms of the TCA between ElectraNet and the TNU; and
- (b) the Interfaces, to the extent required by this deed.

Electricity Act means the *Electricity Act 1996* (SA).

Emergency means the actual or imminent occurrence of an event which in any way poses or has the potential to pose a threat to *power system security* or the safety of persons, or may lead to damage to the *transmission network*, the Connection Assets, the Facility or any other equipment or property.

Emissions Requirements means any legislation, rules, regulations, codes, Directives, licence conditions or other regulatory instruments which has as one of its purposes the reduction, or limitation of greenhouse gases, reporting greenhouse gas emissions or any related information, trading in greenhouse gas emissions, offsets or other types of greenhouse gas emissions related permits, addressing the effects of climate change, encouraging the generation of renewable energy or the minimisation of the impact on the environment of the electricity industry generally, and includes the *National Greenhouse and Energy Reporting Act 2007* (Cth) and the *National Greenhouse and Energy Reporting Regulations 2008* (Cth).

Encumbrance means any:

- (a) mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement, notice or arrangement having a similar effect including any "security interest" as defined in sections 12(1), (2) or (3) of the PPSA; or
- (b) other arrangement (including any preferential, trust or set-off arrangement) having a similar commercial effect as a grant of security.

Environment means all or any of the following (whether alone or in combination):

- (a) physical factors, including the land (whether above or below ground), soil, weather, atmosphere, climate (including wind) sounds, odours and tastes;
- (b) air (including the air within buildings and the air within other natural or man-made structures whether above or below ground);
- (c) water (including water under or within land or in drains or sewers);
- (d) properties and occupants of those properties;
- (e) social factors of aesthetics; and
- (f) ecological systems and living organisms (including humans),

at, on, in, under, above, around, nearby or affecting the IUSA Provider Site.

Equipment means either or both of the ElectraNet Assets and the IUSA as the context requires.

ESCOSA means the Essential Services Commission of South Australia.

Event of Force Majeure means any event, circumstance, act or omission (or combination of them) which is beyond the reasonable control of the Affected Party, including:

- (a) acts of God, lightning strikes, earthquakes, floods, droughts, storms and other adverse weather conditions, mudslides, radioactive or chemical contamination, explosions, fires or other natural disasters, acts of war or terrorism, cyber-attacks or computer viruses, acts of public enemies, riots, civil commotions, protest, malicious damage, sabotage, blockades and revolutions;
- (b) industrial disputes (other than industrial disputes which are limited solely to the Affected Party's employees);
- (c) action or inaction by, or an order, Authorisation, determination, Directive or finding of, a Court, government or Authority including any injunction or a denial, refusal or failure to grant any Authorisation;
- (d) where ElectraNet is the Affected Party, a Change in Applicable Law Event;
- (e) where ElectraNet is the Affected Party, any mechanical or electrical breakdown, or failure of equipment forming part of, the IUSA **or the ISUA Interfaces** occurring at any time not attributable to ElectraNet's:
 - (i) negligence; or
 - (ii) breach of its obligations under this deed;
- (f) where ElectraNet is the Affected Party, a failure by a Third Party DCA Provider or the TNU to comply with any obligations contained in the Project Documents;
- (g) any Project Document is terminated, other than as a result of a breach by the Affected Party; or
- (h) a delay of a supplier (being a party with whom the Affected Party contracts from time to time) of goods and services to provide those goods and services, where that supplier is granted an extension of time for the provision of those goods or services due to the occurrence of a force majeure event (or similar event beyond the reasonable control of that supplier) under the terms of its contract with the Affected Party.

Execution Date means the date on which this deed is signed by the last Party to do so.

Facility means the *facility* and related equipment and assets proposed to be constructed, owned and operated by the TNU and *connected* directly or indirectly to the Transmission System.

First Party has the meaning set out in clause 2.5(a)(i).

Force Majeure Suspension Notice has the meaning set out in clause 19.1(b).

Force Majeure Suspension Period has the meaning set out in clause 19.2(a).

Functional Specifications means the functional specifications for the IUSA set out in Attachment 1, being the functional specifications prepared by ElectraNet in relation to the IUSA in accordance with rule 5.3.3(b)(9) of the NER.

GST Exclusive Consideration has the meaning set out in clause 23(b)(i).

High Risk Area means an area which is designated from time to time to be unsafe for work by the member of the relevant Party Group which occupies and controls relevant Site or infrastructure for WHS purposes.

IEC Standard means the standard issued from time to time by the International Electrotechnical Commission.

Independent Expert has the meaning set out in clause 24.2(a).

Intellectual Property Rights means intellectual property and rights including any copyright, trademarks, patents, designs, circuit layout rights, the right to protect confidential information, know-how and trade secrets and any application or right to apply for registration of any of those rights.

Intended Purpose means in respect of the IUSA or any part of the IUSA (including the Materials and Equipment forming part of the IUSA):

- (a) the purpose stated in this deed or any other Project Document in respect of the IUSA or relevant part of the IUSA; and
- (b) any other purpose as could be reasonably inferred from what is stated in this deed or any other Project Document in respect of the IUSA or relevant part of the IUSA.

Interfaces means the IUSA Interfaces and the DCA Interfaces.

IP Materials means material in whatever form, including documents, specifications, designs, plans, reports, studies, products, equipment, information, data, concepts, inventions, processes, formulae, know-how, graphic layouts, images and software.

IUSA means the *contestable IUSA components* identified in Item 4 of Schedule 1 which have the agreed boundaries detailed in the single line diagrams set out in Attachment 2 and includes any alterations, replacements or augmentations to those assets.

IUSA Interfaces means interfaces between the ElectraNet Assets and the IUSA as detailed in Schedule 4.

IUSA Provider means the entity stated as the "IUSA Provider" under the "Parties" section on page 1 of this deed.

IUSA Provider Background IP Materials means all IP Materials owned or licensed to the IUSA Provider and provided by, or on behalf of, the IUSA Provider to ElectraNet for the purposes of this deed.

IUSA Provider Group means:

- (a) the IUSA Provider and the TNU and each of their Related Bodies Corporate;
- (b) each contractor and subcontractor of the persons mentioned in paragraph (a) of this definition; and
- (c) each Associate of the persons in paragraphs (a) and (b) of this definition.

IUSA Provider Liability Limits has the meaning set out in clause 22.2(a).

IUSA Provider Site means the site on which the IUSA is to be constructed and located in accordance with the terms of the IUSA Work Agreement.

IUSA Work means all activities and items of work relating to the design, construction and commissioning of:

- (a) the IUSA performed (or, where the context requires, to be performed) by the IUSA Provider under the IUSA Work Agreement; and
- (b) the Interfaces, to the extent required by this deed.

IUSA Work Agreement means the agreement between the IUSA Provider and the TNU for the design, construction and commissioning of the IUSA.

IUSA Work Period means the period commencing on the Execution Date and ending on the Date of Construction Completion.

Materials and Equipment means all machinery, plant, equipment, apparatus, materials, parts and any other things supplied by the IUSA Provider forming part of the IUSA or the Interfaces, including spare parts.

Minor Outstanding Items means:

- (a) any Defect that does not prevent Practical Completion from being achieved as determined by ElectraNet; or
- (b) any work the Parties agree is a Minor Outstanding Item, regardless of whether it is identified in an Outstanding Completion Items List.

NER means the “National Electricity Rules” as defined in the *National Electricity Law* set out in the schedule to the *National Electricity (South Australia) Act 1996 (SA)*.

Network Operating Agreement means the agreement entitled “Network Operating Agreement” between ElectraNet and the IUSA Provider dated on or about the date of this deed.

Network Operating Functions means the functions to be performed by ElectraNet in respect of the IUSA as required by the NER and includes the management, operation and maintenance of the Transmission System (including the “Operation and Maintenance Obligations” as defined under the Network Operating Agreement) so as to enable ElectraNet to provide *transmission services* in accordance with all *connection agreements* with the *Network Users* that are *connected* or will be *connected* to the IUSA, all Applicable Laws and *good electricity industry practice*.

Non-financial Obligation means an obligation under this deed other than an obligation to pay or cause to be paid an amount of money.

Notice has the meaning set out in clause 27.1 and **Notify** has a corresponding meaning.

Off Load Completion Certificate has the meaning set out in clause 9.1(a)(iii).

Outstanding Completion Items List means a list issued by ElectraNet under clause 10.8(a), or an updated list issued under clause 10.8(d)(ii), setting out those items that must be completed to achieve Practical Completion.

Parties means ElectraNet and the IUSA Provider and **Party** means either one of them.

Party Group means in respect of ElectraNet, the ElectraNet Group and in respect of the IUSA Provider, the IUSA Provider Group.

Performance Default has the meaning set out in clause 18.1(b).

Performance Default Cure Date has the meaning set out in clause 18.1(b)(i).

PPSA means the *Personal Property Securities Act 2009 (Cth)*.

PPSR means the Personal Property Securities Register established and governed by the PPSA.

Practical Completion means, that stage in the IUSA Work when the Practical Completion Criteria have been satisfied and ElectraNet has issued a Certificate of Practical Completion to the IUSA Provider.

Practical Completion Criteria means the criteria for Practical Completion of the IUSA Work as specified in the CQMP agreed between the Parties for the Interfaces and the IUSA.

Preconditions means the preconditions set out in Schedule 2.

Pricing Rules means the provisions of Chapter 6A of the NER and (where applicable) a Revenue Decision made in accordance with Chapter 6A of the NER which describes the service being regulated and regulates the manner in which the price payable for the provision of that service by ElectraNet may be determined by ElectraNet from time to time.

Project Document means:

- (a) this deed;
- (b) the TCA (including the operating protocol under the TCA);
- (c) the Network Operating Agreement;
- (d) any Third Party DCA Transmission Connection Agreement (including any operating protocol between ElectraNet and the DCA Provider (if any)); and
- (e) any other document which the Parties agree in writing is a Project Document.

Project Document Dispute has the meaning set out in clause 24.10(a).

Related Body Corporate has the meaning given to that term by the Corporations Act and, for the purposes of this deed also includes a partnership comprised of one or more Related Bodies Corporate.

Related Entity has the meaning given to that term in rule 5.2A.7(f) of the NER.

Representing Party has the meaning set out in clause 32.1.

Required Date means, in respect of each Precondition, the corresponding date by which that Precondition must be satisfied as set out in Schedule 2.

Revenue Decision means a decision, determination, order or other ruling made by the AER in accordance with the terms of the NER relating to the provision of, and the pricing for, any *transmission services*.

SCADA System means supervisory control and data acquisition system.

Second Party has the meaning set out in clause 2.5(a)(i).

Site means either or both of the ElectraNet Site and the IUSA Provider Site as the context requires.

Solvency Default means, in relation to a Party, the occurrence of any one of the following events in relation to that Party:

- (a) an originating process or application for the winding up of that Party (other than a frivolous or vexatious application) is filed in a court or a special resolution is passed to wind up that Party, and is not dismissed before the expiration of 60 days from service on that Party;

- (b) a receiver, receiver and manager or administrator is appointed in respect of all or any part of the assets of that Party, or a provisional liquidator is appointed to that Party;
- (c) a mortgagee, chargee or other holder of security, by itself or by or through an agent, enters into possession of all or any part of the assets of that Party;
- (d) a mortgage, charge or other security interest granted by that Party is enforced by its holder or becomes enforceable or can become enforceable with the giving of notice, lapse of time or fulfilment of a condition;
- (e) that Party applies for, consents to, or acquiesces in the appointment of a trustee in bankruptcy or receiver of that Party or any of its property;
- (f) a court appoints a liquidator, provisional liquidator, receiver or trustee, whether permanent or temporary, of all or any part of that Party's property;
- (g) a Party takes any step to obtain protection or is granted protection from its creditors under any applicable legislation or a meeting is convened or a resolution is passed to appoint an administrator or controller (as defined in the Corporations Act) in respect of that Party;
- (h) a controller (as defined in the Corporations Act) is appointed in respect of any part of the property of the Party;
- (i) that Party is or states in writing that it is unable to pay its debts when they fall due;
- (j) except to reconstruct or amalgamate while solvent on terms approved by the other Party (which approval will not be unreasonably withheld or delayed), a Party enters into or resolves to enter into a scheme of arrangement, compromise or re-construction is proposed with its creditors (or any class of them) or with its members (or any class of them) or proposes re-organisation, re-arrangement, moratorium or other administration of that Party's affairs; or
- (k) that Party is the subject of an event described in section 459C(2) of the Corporations Act.

Subsequent TNU has the meaning given to it in the Network Operating Agreement.

Switching Manual means the "ElectraNet Switching Manual" and the "State Industry Switching Manual" made available to the IUSA Provider by ElectraNet from time to time.

System Controller means the person authorised under an Applicable Law to exercise system control over that part of the *power system* situated in South Australia (and includes a *System Operator* under the NER in relation to that part of the *power system*).

Target Outage Window means the targeted window detailed in Item 5 of Schedule 1 for any *outages* required in order to complete the Work as extended or amended in accordance with clause 5.3.

TCA means the *connection agreement* (or *connection agreements*) listed in Item 1 of Schedule 1.

Third Party DCA Transmission Connection Agreement means any agreement so entitled between ElectraNet and the DCA Provider in respect of any DCA which is required for the purpose of *connecting* the Facility to the Transmission System.

TLC means the Transmission Lessor Corporation as defined in the *Public Corporations (Transmission Lessor Corporation) Regulations 2010* (SA).

TNU means the party (or parties) listed in Item 2 of Schedule 1.

Transmission Licence means the licence issued to ElectraNet under the Electricity Act authorising it to operate a *transmission system* in South Australia.

Transmission System means the *transmission system* operated by ElectraNet and identified in the Transmission Licence from time to time.

WHS means work, health and safety.

WHS Legislation means the *Work Health and Safety Act 2012 (SA)*, *Work Health and Safety Regulation 2012 (SA)* and approved Codes of Practice, as amended from time to time.

Wilful Misconduct means any act or omission which the party in question knew would be wrongful with the intent to cause harm to the other party or where the party had a reckless disregard whether or not the conduct engaged in would be wrongful on its part and what its consequences might be.

Work means:

- (a) in the case of ElectraNet, the ElectraNet Work; and
- (b) in the case of the IUSA Provider, the IUSA Work.

1.2 NER definitions and references

In this deed, unless the context otherwise requires:

- (a) words appearing in italics have the meaning assigned to them from time to time by the NER; and
- (b) if a word in italics is no longer defined in the NER, it will have the meaning last assigned to it by the NER until the Parties otherwise agree in writing.

1.3 Interpretation

In this deed, unless the context otherwise requires:

- (a) words indicating the singular number include the plural number and vice versa;
- (b) words indicating persons only include natural persons, bodies corporate and unincorporated associations;
- (c) where a party or group is constituted by more than one person, a reference to that party or group is a reference to each of those persons jointly and severally;
- (d) other grammatical forms of words or phrases defined in this deed will have a corresponding meaning;
- (e) references to persons include their respective administrators, successors, liquidators and permitted assigns;
- (f) headings are for convenience only and do not affect the interpretation of this deed;
- (g) a reference to a document includes all amendments or supplements to, or replacements or novation of, that document;
- (h) a reference to an annexure, a clause or a schedule is to an annexure, a clause or schedule of this deed;
- (i) the recitals, annexures and schedules form part of this deed;

- (j) mentioning anything after the words “include”, “includes”, “including” or “for example” (or similar expressions) does not limit what else is included;
- (k) a reference to an Authority includes any body which is the successor to the administrative responsibilities of that Authority;
- (l) a reference to a period of time (including, without limitation, a year, a month and a day) is to a calendar period;
- (m) a reference to any act of Parliament or to any section or provision in any act of Parliament extends to and includes:
 - (i) any regulations, codes, orders or other instruments made under that act; and
 - (ii) any statutory modification, re-enactment or substitution for that act, section or provision;
- (n) a rule of construction does not apply to the disadvantage of a Party because the Party was responsible for the preparation of this deed or any part of it; and
- (o) a reference to “dollars”, “\$”, “AUD” or “A\$” is to the lawful currency of Australia.

1.4 Consideration

In addition to the mutual promises contained in this deed, each Party agrees to pay the other Party A\$10 upon demand as consideration for the other Party entering into and performing its obligations under this deed.

2. Commencement

2.1 Preconditions to commencement

Other than the clauses referred to in clause 2.6, this deed does not commence, and has no force or effect, until each of the Preconditions have been satisfied or waived in accordance with clause 2.3(a).

2.2 Satisfaction of Preconditions

- (a) Each Party will use its best endeavours to satisfy the Preconditions applying to that Party as soon as reasonably possible after the Execution Date but in any event by no later than the Required Date for the satisfaction of the relevant Precondition.
- (b) Each Party will provide to the other Party such assistance as the other Party may reasonably request from time to time in relation to any activity required to be undertaken by that Party in order to satisfy any Precondition.
- (c) Each Party will keep the other Party informed of progress towards satisfaction of the Preconditions applying to that Party and promptly Notify the other Party if it becomes aware that any Precondition has been satisfied or has become incapable of being satisfied.

2.3 Waiver of Preconditions

- (a) A Precondition may only be waived in writing by the Party who has the right to waive the relevant Precondition as set out in Schedule 2.
- (b) If ElectraNet waives a Precondition applying to the IUSA Provider in accordance with clause 2.3(a), it may do so on such conditions as it deems necessary.

2.4 Notice of Commencement Date

ElectraNet must Notify the IUSA Provider of the Commencement Date as soon as reasonably practical after the Preconditions have been satisfied or waived in accordance with clause 2.3(a).

2.5 Failure of Preconditions

- (a) If a Precondition is not satisfied, or waived in accordance with clause 2.3(a), by the Required Date for the satisfaction of that Precondition:
 - (i) the Party who is specifically stated in Schedule 2 to be responsible for satisfying that Precondition (**First Party**) must serve a Notice on the other Party (**Second Party**) advising that the relevant Precondition has not been satisfied by the Required Date; or
 - (ii) if the First Party fails to serve a Notice on the Second Party in accordance with clause 2.5(a)(i), the Second Party may serve a Notice on the First Party advising that the relevant Precondition has not been satisfied by the Required Date.
- (b) Upon receipt of a Notice under clause 2.5(a) the Parties must consult with each other to determine whether the relevant Precondition can be satisfied by the First Party within 5 Business Days from the date of receipt of that Notice (or such longer period as is agreed in writing between the Parties).
- (c) A Party may terminate this deed immediately by giving written Notice to the other Party if:
 - (i) the relevant Precondition is not satisfied after the end of the relevant period referred to in clause 2.5(b); and
 - (ii) the relevant Precondition has not been waived in accordance with clause 2.3(a) before the end of the relevant period referred to in clause 2.5(b).
- (d) If either Party terminates this deed under clause 2.5(c), neither Party will be entitled to any Claim against the other Party under, in respect of, or in connection with, this deed and each Party releases the other Party from any such Claims.

2.6 Clauses not subject to Preconditions

Clauses 1, 2, 13, 16, 18.1(a), 18.2(a), 18.3, 18.4, 18.5, 18.6, 19, 21, 22, 24, 25, 26, 27, 29, 31 and 32 come into full force and effect immediately on the Execution Date.

PART 2 - IUSA

3. Work

3.1 Work to be completed by the Parties

The Parties acknowledge and agree that in order to *connect* the Facility to the Transmission System, ElectraNet will complete the ElectraNet Work and the IUSA Provider will complete the IUSA Work.

3.2 Work associated with the Interfaces

- (a) In order to complete the Work, the Parties agree that they will:

- (i) supply any required machinery, equipment, apparatus, materials, parts and any other things required in relation to each Interface; and
 - (ii) complete any Work required to install and commission each Interface,
- where it is their responsibility to do so as set out in Schedule 4.
- (b) The Parties acknowledge and agree that subject to the Project Documents, they will retain title in those parts of the Interfaces that they are responsible for supplying as detailed in Schedule 4.

3.3 Authorisations

- (a) The Parties acknowledge and agree that unless another Party is responsible for satisfying any of the following items as a Precondition:
 - (i) the IUSA Provider will be responsible for obtaining and maintaining, at its cost, all Authorisations which the IUSA Provider is required under Applicable Law to obtain or hold before the performance of the IUSA Work can commence and be completed; and
 - (ii) ElectraNet will be responsible for obtaining (including through the TNU under the TCA) and maintaining all Authorisations which ElectraNet is required under Applicable Law to obtain or hold before the performance of the ElectraNet Work can commence and be completed.
- (b) The IUSA Provider represents and warrants to ElectraNet that the IUSA Provider holds (or at the relevant time, will hold) all Authorisations required by Applicable Law to perform its obligations under this deed.

4. IUSA Work

4.1 Acknowledgements by IUSA Provider

The IUSA Provider acknowledges and agrees that:

- (a) ElectraNet is relying on the IUSA Provider's:
 - (i) advice, skill, expertise and judgment for the performance and completion of the IUSA Work in accordance with this deed; and
 - (ii) representations and warranties made to ElectraNet in connection with this deed (including the warranties set out in clause 4.2);
- (b) the Functional Specifications:
 - (i) are not a comprehensive or complete design; and
 - (ii) do not set out an exhaustive list of the scope of the IUSA Work;
- (c) the Detailed Design is the sole responsibility of the IUSA Provider;
- (d) the obligations and liabilities of the IUSA Provider under this deed (including the warranties set out in clause 4.2) will remain unaffected despite:
 - (i) the Functional Specifications (including any error, omission, inadequacy or deficiency in the Functional Specifications);
 - (ii) the scope of the IUSA Work;

- (iii) any variation in the IUSA Work;
 - (iv) any information, data, representation, statement or document made available by ElectraNet (including the Functional Specifications), or any other person (whether on ElectraNet's behalf or not and whether made available prior to the Commencement Date), to the IUSA Provider in relation to the IUSA Work, the IUSA Provider Site or the Environment; and
 - (v) any error, omission, inadequacy or deficiency in the information referred to in clause 4.1(d)(iv);
- (e) the IUSA Provider has not in any way relied upon, and will not rely upon:
- (i) any information referred to in clause 4.1(d)(iv); or
 - (ii) the accuracy or adequacy of any such information referred to in clause 4.1(d)(iv);
- (f) neither ElectraNet nor anyone on ElectraNet's behalf, warrants, guarantees, assumes any responsibility for, or makes any representation about, the accuracy or adequacy of information referred to in clause 4.1(d)(iv);
- (g) neither ElectraNet nor anyone on ElectraNet's behalf owes any duty of care to the IUSA Provider with respect to the information referred to in clause 4.1(d)(iv);
- (h) ElectraNet is not liable for, or in connection with, any Claim (and the IUSA Provider is not entitled to make any Claim) arising out of, or in connection with, the information referred to in clause 4.1(d)(iv); and
- (i) the IUSA Provider has entered into this deed and the IUSA Work Agreement based on its own investigations, interpretations, deductions, information and determinations.

4.2 IUSA Work

Without limiting the generality of clause 4.1, the IUSA Provider represents and warrants to ElectraNet that the IUSA Provider:

- (a) at all times will:
- (i) be suitably qualified and experienced;
 - (ii) exercise due skill, care and diligence expected of a Competent Contractor;
 - (iii) be fit and proper; and
 - (iv) hold all Authorisations as required under any Applicable Law,
- in the execution and completion of the IUSA Work;
- (b) will design, perform and complete the IUSA Work so that the IUSA Work and the IUSA are in accordance with the Applicable Standards, the Switching Manual, all Applicable Laws and Authorisations and the requirements of this deed;
- (c) has examined and carefully checked:
- (i) the information referred to in clause 4.1(d)(iv);
 - (ii) all relevant information which is ascertainable upon the making of reasonable enquiries by the IUSA Provider and which is pertinent to the IUSA Work; and

- (iii) all other information which is ascertainable upon the making of reasonable enquiries by the IUSA Provider and which is relevant to the risks, contingencies and the like required by the IUSA Work,

and represents and warrants that each are accurate, suitable, appropriate and adequate for the Intended Purpose taking into account the IUSA Provider Site, the Environment, the design life of the IUSA (including each item of Materials and Equipment forming part of the IUSA), the Functional Specifications and this deed;

- (d) has investigated and satisfied itself as to:
 - (i) the adequacy and suitability of the IUSA Provider Site and the Environment for the purpose of performing the IUSA Work in accordance with this deed and all other risks and contingencies associated with the IUSA Provider Site and the Environment; and
 - (ii) the location of services, and the extent of availability (or unavailability) of services at the IUSA Provider Site;
- (e) has developed and completed the Design Documents:
 - (i) so that the Design Documents are accurate, suitable, appropriate and adequate for the Intended Purpose taking into account the IUSA Provider Site, the Environment, the design life of the IUSA (including each item of Materials and Equipment forming part of the IUSA), the Functional Specifications and this deed; and
 - (ii) to comply with all the requirements of this deed and *good electricity industry practice*;
- (f) will perform and complete the IUSA Work in accordance with the Design Documents so that when completed, the IUSA (including each of the Materials and Equipment forming part of the IUSA) will:
 - (i) be free of Defects;
 - (ii) be fit for, and otherwise in accordance with, the Intended Purpose;
 - (iii) comply with the Applicable Standards, the Switching Manual, the Functional Specifications, all Applicable Laws and *good electricity industry practice*;
 - (iv) enable ElectraNet to carry out the Network Operating Functions safely, and efficiently and otherwise in accordance with all Applicable Laws and *good electricity industry practice*;
 - (v) enable any repairs and maintenance to be carried out safety and efficiently; and
 - (vi) be capable of operating satisfactorily in the Environment in which the IUSA is located;
- (g) will perform and complete the IUSA Work in accordance with the Design Documents so that when completed, the IUSA or relevant part of the IUSA (including each item of Materials and Equipment forming part of the IUSA) will be of a quality, and constructed in a manner, which ensures:
 - (i) the longevity of the IUSA;
 - (ii) the IUSA can withstand the natural elements and other natural processes which have the potential otherwise to cause the IUSA to develop Defects;

- (iii) the occurrence of Defects is minimised; and
- (iv) the IUSA complies with all Applicable Laws (including the requirements of the relevant Authorities);
- (h) will design, perform and complete the IUSA to integrate with the ElectraNet Assets and the Interfaces;
- (i) will supply Materials and Equipment that are new, in conformity with their description and of merchantable quality;
- (j) will engage and retain subcontractors who are suitably qualified and experienced and will coordinate the activities of the subcontractors so that the IUSA Work is performed and completed in a proper and workmanlike manner and in accordance with this deed; and
- (k) the IUSA Provider:
 - (i) does not (and will not) own, operate or Control a *generating system*;
 - (ii) does not (and will not) own, operate or Control a *facility* utilising electrical *energy*; or
 - (iii) is not (and will not be) a Related Entity of a person who owns, operates or Controls a *generating system* or *facility* utilising electrical *energy*,

that is *connected* to the IUSA.

4.3 Warranties unaffected

The IUSA Provider acknowledges and agrees that the IUSA Provider's warranties, obligations and liabilities under this deed and at law will remain unaffected notwithstanding any one or more of the following:

- (a) that any design work (including any preliminary design) has been carried out by or on behalf of ElectraNet and included in the Functional Specifications;
- (b) the involvement of subcontractors in the execution of any of the IUSA Work;
- (c) any receipt or review of, comment on, or amendments directed to the Documents by or on behalf of ElectraNet (or any failure by or on behalf of ElectraNet to do so);
- (d) any direction given, or comment made, or rejection or approval of, or permission to use or deemed permission to use, or expression of satisfaction or dissatisfaction with:
 - (i) any Document;
 - (ii) any information provided by the IUSA Provider;
 - (iii) any submission, proposal or recommendation by the IUSA Provider; or
 - (iv) any of the IUSA Provider's work methods or procedures,

by or on behalf of ElectraNet (or any failure by or on behalf of ElectraNet to do so);
- (e) any supervision, or direction, or comment on, or rejection or approval of, or expression of satisfaction or dissatisfaction with:
 - (i) the choice of the IUSA Provider's appointed subcontractors;
 - (ii) any of the IUSA Provider's selection of Materials and Equipment; or

- (iii) the execution of any of the IUSA Work,
by or on behalf of ElectraNet;
- (f) any variation to the IUSA Work;
- (g) any failure by ElectraNet to do any of the things referred to in clauses 4.3(c), 4.3(d) or 4.3(e);
- (h) the IUSA Provider subcontracting any part of the IUSA Work; or
- (i) any matter stated or discussed at any meeting of the Coordination Committee or any minutes of meeting prepared under clause 5,

and ElectraNet is not liable for, or in connection with, any Claim (and the IUSA Provider is not entitled to make any Claim) arising out of or in connection with the matters referred to in this clause 4.3.

PART 3 - COORDINATION REQUIREMENTS

5. Coordination

5.1 IUSA Provider to manage and coordinate

- (a) The IUSA Provider must:
 - (i) supervise, manage, program and coordinate the performance of the IUSA Work with the ElectraNet Work;
 - (ii) carry out the IUSA Work so as to avoid delaying or disrupting the ElectraNet Work;
 - (iii) not issue any instruction to an Associate of ElectraNet or do anything which may give rise to any Claim by an Associate of ElectraNet against ElectraNet;
 - (iv) Notify ElectraNet of the reasonable precautions required to be taken by Associates of ElectraNet to ensure that the IUSA Work is protected from accidental damage by such Associates of ElectraNet; and
 - (v) indemnify ElectraNet against all Claims by, or liability to, any Associate of ElectraNet arising out of, or in connection with, the IUSA Provider's failure to comply with this clause 5.1(a).
- (b) Without limiting anything in clause 5.1(a), each Party must use reasonable endeavours to liaise with the other Party with respect to the performance of the Work of that Party including all Coordination Matters.

5.2 Coordination Committee

- (a) Prior to the commencement of any of the Connection Work, the Parties must establish a Coordination Committee consisting of a representative of each Party.
- (b) Each Party must ensure that the representative it elects for the Coordination Committee has:
 - (i) the appropriate level of skill and expertise to discharge their responsibilities under this clause 5.2; and
 - (ii) the proper authorisation to make decisions on behalf of that Party.

- (c) A member of the Coordination Committee may appoint a delegate to attend meetings of the Coordination Committee and to perform the responsibilities of the member under this clause 5.2.
- (d) The objectives of the Coordination Committee are for the Parties to consider and discuss Coordination Matters, including:
 - (i) for each Party to keep the other Party informed as to the status of the Work being undertaken by that Party and to alert the other Party to any actual or potential co-ordination, health, safety, environmental, native title or cultural heritage issues or risks;
 - (ii) to plan, review and co-ordinate activities that need to be, or are being, undertaken for the management of the interaction between the Work of the Parties;
 - (iii) for each Party to take all reasonable steps to minimise the impact of any interference with the Work of the other Party; and
 - (iv) for each Party to identify any variation or change in the Work of that Party (including any variation or change in design) that may impact the other Party.
- (e) The Coordination Committee must meet monthly until the Date of Practical Completion and such other times as reasonably requested by a Party.
- (f) Each Party must provide the Coordination Committee with any information that is relevant to the functions of the Coordination Committee.
- (g) ElectraNet's representative on the Coordination Committee will convene and chair the meetings of the Coordination Committee.
- (h) ElectraNet's representative is responsible for organising venues and convening meetings, circulating agendas and relevant material and keeping and issuing detailed minutes of proceedings of all meetings.
- (i) ElectraNet may, in its sole discretion, invite other persons to attend any meeting of the Coordination Committee as an observer by providing prior written Notice to the IUSA Provider.
- (j) If the Coordination Committee fails to reach a consensus on any Coordination Matter after the Parties exercising reasonable endeavours to negotiate a resolution of the Coordination Matter, the Coordination Matter may be referred for resolution under clause 24 by either Party.
- (k) Nothing in this clause 5.2 limits the obligations of the IUSA Provider under clause 5.1.

5.3 Outages

- (a) The Parties acknowledge and agree that the Target Outage Window is the proposed period during which all required *outages* necessary to complete the Work are intended to occur and ElectraNet will use its best endeavours to book and obtain such *outages* so that they can occur during the Target Outage Window.
- (b) The Parties acknowledge and agree that if:
 - (i) ElectraNet is unable to obtain any required Authorisations to book or obtain the required *outages* during the Target Outage Window;

- (ii) ElectraNet considers that, in order to comply with a requirement of any Applicable Law or any requirement of *AEMO*, it is unable to book or obtain the required *outages* during the Target Outage Window; or
- (iii) ElectraNet considers that any aspect of the Work has not been completed to the extent necessary to enable the required *outages* to occur during the Target Outage Window in order to perform or complete any other aspect of the Work (including commissioning and *energisation*),

then:

- (iv) without limiting any provision in this deed, ElectraNet will not be liable to the IUSA Provider or any member of the IUSA Provider Group for any Claims for Damages suffered or incurred by the IUSA Provider or any member of the IUSA Provider Group arising out of, or in connection with, any *outages* required by the IUSA Provider; and
 - (v) the Parties will meet to negotiate in good faith and agree to an extension to, or an amendment of, the Target Outage Window and book a subsequent *outage* as soon as reasonably practicable within the extended or amended Target Outage Window, or if the Parties are unable to agree to an extension to, or an amendment of, the Target Outage Window within 10 Business Days following the first meeting of the Parties pursuant to this clause 5.3(b)(v), the Target Outage Window will be extended or amended as determined by ElectraNet.
- (c) Without limiting clause 5.3(b), the IUSA Provider acknowledges that *outages*:
- (i) must generally be booked at least 3 months in advance and may only be booked or obtained by ElectraNet during certain times of the year; and
 - (ii) are subject in all respects to Applicable Law and requisite Authorisations from *AEMO*.
- (d) The IUSA Provider must not:
- (i) cause any *outage* except as permitted by this clause 5.3; or
 - (ii) cause the prolongation, or otherwise delay, any *outage* permitted by this clause 5.3.

5.4 Meetings with TNU

The IUSA Provider must, if requested by ElectraNet, attend any meetings held by ElectraNet and the TNU in respect of the Connection Work or otherwise in connection with the Facility to review progress and future planning of any work in connection with the Facility and to:

- (a) assist in any necessary coordination; and
- (b) consider any WHS or other issues identified by ElectraNet or the TNU.

6. Development of Documents

6.1 Requirements

- (a) The IUSA Provider must:
 - (i) develop, complete and revise the Documents in accordance with this deed; and

- (ii) not make, cause or permit to be made any changes or amendments to the Documents which have been submitted to, and reviewed by, ElectraNet under clause 6.2 (or in the case of the Detailed Designs, which have been submitted to, and reviewed by, ElectraNet prior to the Execution Date or under clause 6.2) without prior written approval of ElectraNet.
- (b) The IUSA Provider must ensure that all Documents:
- (i) are in English;
 - (ii) contain no inconsistency, conflict, ambiguity or discrepancy;
 - (iii) are consistent with the requirements of this deed and the Functional Specification;
 - (iv) do not unreasonably inhibit the ability of the IUSA to be expanded in order to *connect* Subsequent TNUs or otherwise;
 - (v) are adequate for the purposes of the IUSA Provider performing its obligations under this deed; and
 - (vi) are available at all reasonable times for reference by ElectraNet and, subject to clause 29, any persons nominated in writing by ElectraNet.

6.2 Review of Documents

- (a) The IUSA Provider must submit all Documents for review by ElectraNet:
- (i) as each Document is completed; and
 - (ii) in sufficient time to enable amendments suggested by ElectraNet to be incorporated into those Documents.
- (b) If:
- (i) ElectraNet Notifies the IUSA Provider that any Document does not comply with the requirements of this deed or the Functional Specifications; or
 - (ii) the IUSA Provider Notifies ElectraNet that it needs to amend any Document, at the election of ElectraNet, ElectraNet and the IUSA Provider must meet to discuss the respect in which the Document does not comply or the reasons why the IUSA Provider needs to amend the Document; and
 - (iii) subject to clauses 6.2(e) and 6.3:
 - (A) ElectraNet may direct the IUSA Provider to amend the Document; and
 - (B) the IUSA Provider must amend the Document in accordance with the directions of ElectraNet.
- (c) The IUSA Provider must promptly submit the amended Document to ElectraNet for review in accordance with clause 6.2(a) and the procedure under this clause 6.2 applies to the amended Document.
- (d) If the IUSA Provider disagrees with an amendment directed by ElectraNet pursuant to clause 6.2(b)(iii), the IUSA Provider may:
- (i) refer the matter to dispute resolution in accordance with clause 24; and

- (ii) proceed with the IUSA Work in accordance with the Documents that ElectraNet has advised do not comply with this deed or the Functional Specifications.
- (e) Where the IUSA Provider proceeds with the IUSA Work in accordance with clause 6.2(d), the IUSA Provider:
 - (i) does so entirely at the IUSA Provider's own risk; and
 - (ii) must, if it is subsequently determined under clause 24 that the Documents do not comply with this deed or the Functional Specifications, immediately replace and rectify any aspect of the IUSA Work that does not comply with this deed or the Functional Specifications and amend and resubmit the relevant Documents at the IUSA Provider's sole cost and expense.

6.3 Acknowledgements by IUSA Provider

Without limiting clause 4.3, the IUSA Provider acknowledges and agrees that:

- (a) ElectraNet does not assume or owe any duty of care to the IUSA Provider to review or comment on, direct any amendments to or approve, any Documents pursuant to this clause 6;
- (b) any:
 - (i) receipt or review of, comment on, or amendments directed in relation to the Documents by or on behalf of ElectraNet pursuant to clause 6.2 or otherwise; or
 - (ii) failure by ElectraNet to perform (including any failure to perform correctly) any of the functions referred to in clause 6.2 or as required under Applicable Law,
 will not:
 - (iii) limit, or relieve the IUSA Provider of, any obligation or liability under this deed;
 - (iv) limit any right of ElectraNet under this deed;
 - (v) constitute acceptance by ElectraNet of the performance of the IUSA Provider's obligations under this deed;
 - (vi) be considered as a representation or an acknowledgment by ElectraNet that the relevant Documents comply with this deed or the Functional Specifications; or
 - (vii) give rise to any Damages or Claim on the part of the IUSA Provider;
- (c) the IUSA Provider has not in any way relied (and will not rely) upon any:
 - (i) receipt or review of, comment on, or amendments directed in relation to the Documents by or on behalf of ElectraNet pursuant to clause 6.2 or otherwise; or
 - (ii) failure by ElectraNet to perform (including any failure to perform correctly) any such function referred to in clause 6.2 or as required under Applicable Law;
- (d) the IUSA Provider has carefully reviewed all Documents and is satisfied that those Documents:
 - (i) contain no inconsistency, ambiguity, discrepancy or inadequacy;

- (ii) are adequate for the purposes of the IUSA Provider performing its obligations under this deed; and
- (iii) are adequate for the purposes of the IUSA Provider performing the IUSA Work so that upon completion the IUSA will be fit for the Intended Purpose; and
- (e) ElectraNet is not liable for, or in connection with, any Claim (and the IUSA Provider is not entitled to make any Claim) arising out of or in connection with the matters referred to in this clause 6.

PART 4 - TESTING, COMMISSIONING AND PRACTICAL COMPLETION

7. Commissioning quality management plan

7.1 Development of CQMP

- (a) A CQMP containing the agreed testing and commissioning requirements of the Parties in relation to the Interfaces and the IUSA must be negotiated and agreed between the Parties in accordance with this clause 7.
- (b) The Parties must act in good faith in order to negotiate and agree the CQMP required in connection with the IUSA and the Interfaces as follows:
 - (i) the IUSA Provider will mark-up its proposed amendments to the draft CQMP within 20 Business Days after the Commencement Date and provide the marked-up CQMP to ElectraNet;
 - (ii) ElectraNet will provide its response to the IUSA Provider's proposed amendments to the draft CQMP (and confirm all nominated hold points and witness points) within 10 Business Days of receiving the proposed amendments in accordance with clause 7.1(b)(i); and
 - (iii) the Parties will then use their best endeavours to agree the CQMP and sign an agreed copy of the CQMP within 10 Business Days of ElectraNet providing its response in accordance with clause 7.1(b)(ii).

7.2 Failure to agree on final CQMP

- (a) The Parties agree that no testing, commissioning or *energisation* of the IUSA or the Interfaces will occur unless the CQMP has been formally agreed and signed by the Parties in accordance with clause 7.1.
- (b) ElectraNet will not be liable for any Claims or Damages suffered or incurred by any member of the IUSA Provider Group as a result of the IUSA Work being delayed because of any failure to finalise the CQMP within the timeframe set out in clause 7.1.

7.3 Contents of the CQMP

Among other things, the CQMP agreed in accordance with this clause 7 must contain the following items in relation to the IUSA and the Interfaces:

- (a) details of all factory acceptance tests to be completed in relation to Materials and Equipment forming part of the Interfaces and the IUSA;
- (b) details of all off load Commissioning Tests to be completed in relation to the Interfaces and the IUSA before they can be *energised*;

- (c) all Construction Completion Criteria;
- (d) details of all on load Commissioning Tests to be completed in relation to the Interfaces and the IUSA before they will be accepted by ElectraNet; and
- (e) all Practical Completion Criteria.

7.4 Modifying the CQMP

If, at any time, ElectraNet Notifies the IUSA Provider that in ElectraNet's opinion, in respect of an item of Materials and Equipment, the CQMP:

- (a) omits a Commissioning Test; or
- (b) is not otherwise sufficient to enable the IUSA Provider to demonstrate that the relevant item of Materials and Equipment:
 - (i) will meet the Functional Specifications;
 - (ii) will be able to be operated in accordance with Applicable Law or any Authorisation;
 - (iii) will meet the Applicable Technical Standard; or
 - (iv) will meet the requirements of the Switching Manual,

ElectraNet may direct the IUSA Provider to modify the CQMP, in which case the IUSA Provider must modify the CQMP accordingly before the relevant item of Materials and Equipment is tested, commissioned or *energised*.

8. Factory acceptance tests

8.1 Obligation to ensure factory acceptance tests are conducted

The IUSA Provider must ensure that each item of Materials and Equipment listed in the CQMP as Materials and Equipment which is to be factory tested has, before delivery to the Site for incorporation into the IUSA Work, passed the factory acceptance tests:

- (a) according to the Applicable Technical Standard;
- (b) in accordance with Applicable Law and *good electricity industry practice*; and
- (c) in accordance with any other requirements of the CQMP.

8.2 Review of factory acceptance tests

- (a) As soon as practicable after completion of a factory acceptance test in relation to any item of Materials and Equipment, the IUSA Provider must provide evidence to ElectraNet that the relevant factory acceptance test has been successfully conducted and passed.
- (b) The evidence referred to in clause 8.2(a) must, in respect of each test:
 - (i) identify the item of Materials and Equipment to which the test relates;
 - (ii) identify the manufacturer of the item of Materials and Equipment to which the test relates;
 - (iii) set out the Applicable Technical Standard and other criteria against which the item of Materials and Equipment was tested;

- (iv) state whether the item of Materials and Equipment passed the test; and
 - (v) be signed and dated by an authorised officer of the manufacturer to confirm that the manufacturer endorses the results of the test.
- (c) ElectraNet may Notify the IUSA Provider that, despite the evidence provided by the IUSA Provider under clause 8.2(a) or clause 8.2(d), ElectraNet considers that:
- (i) evidence of a successful factory acceptance test for the item of Materials and Equipment has not been provided by the IUSA Provider; or
 - (ii) the evidence provided in relation to the item of Materials and Equipment does not meet the requirements of clause 8.2(b).
- (d) If ElectraNet gives a Notice to the IUSA Provider under clause 8.2(c), the IUSA Provider must provide ElectraNet with the outstanding information as required by clause 8.2(a) in relation to the item of Materials and Equipment.
- (e) The IUSA Provider's obligation to provide ElectraNet with evidence under clause 8.2(b) is an ongoing obligation until the requirements of clause 8.2(a) are met, or the evidence is determined to be sufficient as a result of the application of a determination under clause 24.
- (f) If ElectraNet wishes to Notify the IUSA Provider under clause 8.2(c), ElectraNet must do so within 10 Business Days after receiving the relevant item of evidence from the IUSA Provider under clause 8.2(a) or clause 8.2(d).
- (g) ElectraNet may, by Notice to the IUSA Provider, waive the need for the IUSA Provider to provide evidence under clause 8.2(a) or clause 8.2(d) for any particular item of Materials and Equipment.

8.3 ElectraNet may witness factory acceptance tests

- (a) Where the CQMP states that ElectraNet needs to witness a factory acceptance test in relation to any specific item of Materials and Equipment, the IUSA Provider must Notify ElectraNet no less than 10 Business Days before the date on which the relevant factory acceptance test is expected to occur, together with details of the location of the factory acceptance test.
- (b) Following the receipt of a Notice under clause 8.3(a), ElectraNet may Notify the IUSA Provider that ElectraNet or its Associate (or both) will attend and witness the factory acceptance test, in which case, the IUSA Provider must grant or procure such access as required for ElectraNet or its Associate (or both) to attend and witness such test.
- (c) Despite anything else in this deed, ElectraNet may reject any item of Materials and Equipment (and refuse to proceed with off load commissioning under clause 9) where the IUSA Provider has failed to comply with the requirements of this clause 8.3 in relation to that item of Materials and Equipment.

9. Off load commissioning prior to first energisation

9.1 Deliverables before first energisation

- (a) Before the IUSA Provider *energises* any item of Materials and Equipment, it must:
 - (i) demonstrate to ElectraNet that it has completed all off load Commissioning Tests which are required to be completed in accordance with this clause 9;
 - (ii) deliver to ElectraNet all Documents required for first *energisation* (in form and substance acceptable to ElectraNet in all respects) listed in the CQMP; and
 - (iii) deliver to ElectraNet an off load completion certificate signed by the IUSA Provider (which is to be based on ElectraNet's template document) certifying that in the IUSA Provider's view, all Construction Completion Criteria have been satisfied (**Off Load Completion Certificate**).
- (b) ElectraNet will provide its template off load completion certificate to the IUSA Provider promptly upon request.
- (c) ElectraNet may ask the IUSA Provider to:
 - (i) amend an Off Load Completion Certificate as reasonably required by ElectraNet to meet the requirements of the CQMP; or
 - (ii) provide additional supporting evidence reasonably required to verify any matter covered by an Off Load Completion Certificate.
- (d) The IUSA Provider must act in good faith in amending the Off Load Completion Certificate and to comply with any request for additional supporting evidence under clause 9.1(c) as soon as reasonably practicable.

9.2 Nature of the tests before first energisation

The IUSA Provider must ensure that each item of Materials and Equipment tested under clause 9.1 is tested:

- (a) according to the Applicable Technical Standard;
- (b) in accordance with Applicable Law and *good electricity industry practice*;
- (c) in accordance with any other requirements of the CQMP.

9.3 ElectraNet written approval required before first energisation

The IUSA Provider must not *energise* any item of Materials and Equipment for the first time until ElectraNet has countersigned the Off Load Completion Certificate and:

- (a) the IUSA Provider has provided ElectraNet with a written request to *energise* the Materials and Equipment; and
- (b) ElectraNet has given a Notice to the IUSA Provider confirming that ElectraNet does not have any objection to the *energisation* of the specific items of Materials and Equipment which the IUSA Provider seeks permission to *energise* for the first time.

9.4 ElectraNet may witness off load Commissioning Tests

- (a) Where the CQMP provides that an off load Commissioning Test in relation to any specific item of Materials and Equipment is to be witnessed by ElectraNet, the IUSA Provider must Notify ElectraNet no less than 10 Business Days before the date on

which the relevant off load Commissioning Test is expected to occur, together with details of the location of the off load Commissioning Test.

- (b) Following the receipt of a Notice under clause 9.3(a), ElectraNet may Notify the IUSA Provider that ElectraNet or its Associate (or both) will attend and witness the off load Commissioning Test, in which case, the IUSA Provider must grant or procure such access as required for ElectraNet or its Associate (or both) to attend and witness such test.
- (c) Despite any other clause of this deed, ElectraNet may reject any item of Materials and Equipment (and refuse to counter sign the Off Load Completion Certificate) where the IUSA Provider has failed to comply with the requirements of this clause 9.4 in relation to that item of Materials and Equipment.

10. On load commissioning and Practical Completion

10.1 Obligation to perform on load Commissioning Tests

- (a) In order to achieve Practical Completion, the IUSA Provider must:
 - (i) demonstrate to ElectraNet that it has completed all on load Commissioning Tests which are required to be completed in accordance with this clause 10; and
 - (ii) deliver to ElectraNet a commissioning completion certificate signed by the IUSA Provider (which is to be based on ElectraNet's template document) certifying that in the IUSA Provider's view, all Practical Completion Criteria have been satisfied (**Commissioning Completion Certificate**).
- (b) ElectraNet will provide its template commissioning completion certificate to the IUSA Provider promptly upon request.
- (c) ElectraNet may direct the IUSA Provider to:
 - (i) amend a Commissioning Completion Certificate as reasonably required by ElectraNet to meet the requirements of the CQMP; or
 - (ii) provide additional supporting evidence reasonably required to verify any matter covered by a Commissioning Completion Certificate.
- (d) The IUSA Provider must act in good faith in amending the Commissioning Completion Certificate or complying with any request for additional supporting evidence under clause 10.1(c) as soon as reasonably practicable.

10.2 Nature of the tests before Practical Completion

In order to demonstrate that Practical Completion has been achieved, the IUSA Provider must ensure that each item of Materials and Equipment is tested and commissioned:

- (a) according to the Applicable Technical Standard;
- (b) in accordance with Applicable Law and *good electricity industry practice*; and
- (c) in accordance with any other requirements of the CQMP.

10.3 Secondary systems must be joint-commissioned

In addition to the on load Commissioning Tests set out in clause 10.2, the IUSA Provider acknowledges and agrees that:

- (a) all *protection systems*, protection signalling, interlocking and *control systems* to be used in connection with the Facility, the IUSA and any DCA (including the SCADA System to be used in connection with the Facility, the IUSA and any DCA) must be jointly commissioned by the TNU, the IUSA Provider and the DCA Provider; and
- (b) during such joint commissioning, tests must be carried out by the TNU, the IUSA Provider and the DCA Provider to ensure:
 - (i) the data presented to ElectraNet's SCADA System by the SCADA System for the Facility, the IUSA and the DCA; and
 - (ii) all *protection systems*, protection signalling, interlocking and *control systems* to be used in connection with the Facility, the IUSA and the DCA,

fully comply with the performance requirements contained in the Project Documents, the Functional Specifications and Applicable Law.

10.4 ElectraNet may witness on load Commissioning Tests

- (a) Where:
 - (i) a joint commissioning test or exercise of the kind referred to in clause 10.3 is to be undertaken; or
 - (ii) the CQMP provides that an on load Commissioning Test in relation to any specific item of Materials and Equipment is to be witnessed by ElectraNet,

the IUSA Provider must Notify ElectraNet no less than 10 Business Days before the date on which the relevant test or exercise is expected to occur, together with details of the location of the relevant test or exercise.

- (b) Following the receipt of a Notice under clause 10.4(a), ElectraNet may Notify the IUSA Provider that ElectraNet or its Associate (or both) will attend and witness the relevant test or exercise, in which case, the IUSA Provider must grant or procure such access as required for ElectraNet or its Associate (or both) to attend and witness such test or exercise.
- (c) Despite any other clause of this deed, ElectraNet may reject any item of Materials and Equipment (and refuse to counter sign the Commissioning Completion Certificate) where the IUSA Provider has failed to comply with the requirements of this clause 10.4 in relation to that item of Materials and Equipment.

10.5 Review of Commissioning Tests

- (a) The IUSA Provider must provide evidence to ElectraNet's reasonable satisfaction that each on load Commissioning Test and each joint commissioning test or exercise of the kind mentioned in clause 10.3 in respect of each item of Materials and Equipment has been conducted and passed as contemplated by this clause 10.
- (b) The evidence referred to in clause 10.5(a) must, in respect of each test:
 - (i) identify the item of Materials and Equipment to which the test or exercise relates;
 - (ii) set out the date on which the test or exercise occurred;
 - (iii) state whether the item of Materials and Equipment passed the test or exercise; and

- (iv) be signed and dated by an authorised officer of the IUSA Provider to confirm that it endorses the results of the test or exercise.
- (c) ElectraNet may Notify the IUSA Provider that, despite the evidence provided by the IUSA Provider under clause 10.5(a) or clause 10.5(d), ElectraNet reasonably considers that in relation to an item of Materials and Equipment:
 - (i) the item of Materials and Equipment has not passed the Commissioning Tests or the joint commissioning test or exercise of the kind mentioned in clause 10.3 as contemplated by this clause 10;
 - (ii) evidence of a Commissioning Test or a joint commissioning test or exercise of the kind mentioned in clause 10.310.3 for the item of Materials and Equipment has not been provided by the IUSA Provider to ElectraNet; or
 - (iii) the evidence provided in relation to the item of Materials and Equipment does not meet the requirements of clause 10.5(b).
- (d) If ElectraNet gives a Notice to the IUSA Provider under clause 10.5(c), the IUSA Provider must provide ElectraNet with evidence to ElectraNet's reasonable satisfaction, as required by clause 10.5(a) in relation to the item of Materials and Equipment.
- (e) The IUSA Provider's obligation to provide ElectraNet with evidence under clause 10.5(a) is an ongoing obligation until the requirements of clause 10.5(b) are met.
- (f) If ElectraNet wishes to Notify the IUSA Provider under clause 10.5(c), ElectraNet must do so as soon as practicable after receiving the relevant evidence from the IUSA Provider under either clause 10.5(a) or clause 10.5(d).
- (g) ElectraNet may, by Notice to the IUSA Provider, waive the need for the IUSA Provider to provide evidence for a particular item of Materials and Equipment under clause 10.5(a).

10.6 Failure of Commissioning Tests

If a Commissioning Test or a joint commissioning test or exercise of the kind mentioned in clause 10.3 is not successful, the IUSA Provider must:

- (a) Notify ElectraNet of the failure;
- (b) consider ElectraNet's views concerning the failure;
- (c) rectify the failure in the shortest possible time; and
- (d) keep ElectraNet informed with respect to all efforts undertaken to rectify the failure.

10.7 Compliance with rule 5.8 of the NER

Prior to the initial *connection* of the Facility or any IUSA to ElectraNet's *transmission network* the IUSA Provider must do all things reasonably necessary to ensure that ElectraNet and the TNU are able to comply with their respective obligations under rule 5.8 of the NER.

10.8 Outstanding Completion Items List

- (a) Within 10 Business Days of receipt of a Commissioning Completion Certificate under clause 10.1(a)(ii), ElectraNet must consider the material submitted by the IUSA Provider and determine whether the Practical Completion Criteria are satisfied and if Practical Completion has not been achieved, provide the IUSA Provider with an

Outstanding Completion Items List or at ElectraNet's discretion, waive any Practical Completion Criteria in writing.

- (b) Upon receipt of an Outstanding Completion Items List, the IUSA Provider must:
 - (i) Notify ElectraNet if the IUSA Provider disagrees with any item set out in an Outstanding Completion Items List and if ElectraNet and the IUSA Provider cannot resolve the disagreement within 5 Business Days, refer the Dispute for resolution in accordance with clause 24; or
 - (ii) perform the work specified in that Outstanding Completion Items List as soon as is reasonably practicable, and provide further evidence to ElectraNet when the IUSA Provider reasonably believes that Practical Completion has been achieved.
- (c) The IUSA Provider must notify ElectraNet when, in its view, it has completed the work in an Outstanding Completion Items List and provide any supporting material.
- (d) Within 10 Business Days of receipt of a Notice under clause 10.8(c), ElectraNet must consider the material submitted by the IUSA Provider and determine whether the Practical Completion Criteria are satisfied or waived and if:
 - (i) Practical Completion has been achieved, issue a Certificate of Practical Completion under clause 10.10; or
 - (ii) Practical Completion has not been achieved, provide the IUSA Provider an update to the Outstanding Completion Items List or at ElectraNet's discretion, waive any Practical Completion Criteria in writing.

10.9 Practical Completion

- (a) The IUSA Provider acknowledges and agrees that Practical Completion will not be achieved until:
 - (i) ElectraNet has countersigned the Commissioning Completion Certificate provided to ElectraNet under clause 10.1(a)(ii);
 - (ii) all *protection systems*, protection signalling, interlocking and *control systems* to be used in connection with the Facility, the IUSA and any DCA (including the SCADA System to be used in connection with the Facility, the IUSA and any DCA) have been jointly commissioned by the IUSA Provider and the TNU as required by this deed; and
 - (iii) ElectraNet has issued a Certificate of Practical Completion to the IUSA Provider under clause 10.10.
- (b) The IUSA Provider must provide to ElectraNet (at the IUSA Provider's cost) such access and assistance as reasonably required by ElectraNet in order to jointly commission the secondary systems for the Facility listed in clause 10.9(a)(ii).

10.10 Certificate of Practical Completion

ElectraNet will issue a Certificate of Practical Completion in respect of the Interfaces and the IUSA, certifying that Practical Completion has been achieved and confirming the Date of Practical Completion, on the last of the following dates:

- (a) the date on which all Practical Completion Criteria (other than those waived by ElectraNet in writing (if any)) are satisfied to ElectraNet's reasonable satisfaction;

- (b) the date on which all Commissioning Tests required by this clause 10 have been satisfied to ElectraNet's reasonable satisfaction;
- (c) the date on which ElectraNet has received from the IUSA Provider a Commissioning Completion Certificate in accordance with clause 10.1(a)(ii);
- (d) the date on which ElectraNet has completed all joint commissioning with the TNU as required by clause 10.9;
- (e) the date on which the last piece of evidence or documentation the IUSA Provider is required to provide ElectraNet under clause 10.1(c) has been provided to ElectraNet; and
- (f) the date on which all items in the Outstanding Completion Items List have been finalised.

10.11 Date of Practical Completion

The Date of Practical Completion will be as set out in the Certificate of Practical Completion issued in accordance with clause 10.10.

10.12 Effect of Certificate of Practical Completion

Any list, certificate or Notice under clause 10 is not an approval by ElectraNet of:

- (a) the IUSA Provider's performance of its obligations under this deed; or
- (b) an acknowledgement that the IUSA Work (including any matter not identified in an Outstanding Completion Items List) has been constructed in accordance with this deed.

11. Costs and responsibility for testing

- (a) The IUSA Provider is responsible for the costs of all tests required to be performed in connection with this deed and nothing in this deed will make ElectraNet liable to bear the costs of any such tests.
- (b) Without limiting clause 4.3, the IUSA Provider acknowledges and agrees that the obligations of the IUSA Provider in relation to the quality of the IUSA or relevant part of the IUSA (including each of the Materials and Equipment forming part of the IUSA), are not in any way limited or reduced by the carrying out of any tests under this deed.

PART 5 - RISK, INSURANCE AND SAFETY

12. Risk of loss or damage to IUSA Work

- (a) On and from the Execution Date the IUSA Provider bears the risk of loss or damage to the IUSA Work and the IUSA until the date title in the IUSA is transferred to ElectraNet in accordance with the Network Operating Agreement.
- (b) Except as otherwise provided in this deed:
 - (i) the IUSA Provider must at its cost promptly make good any loss or damage to the IUSA Work and the IUSA up until, and including, the Date of Practical Completion; and

- (ii) the IUSA Provider must bear the costs of ElectraNet making good any loss or damage to the IUSA after the Date of Practical Completion in accordance with the Network Operating Agreement.

13. Insurance

13.1 IUSA Provider insurance

The IUSA Provider must, at its own expense, effect and maintain the insurance policies specified in Item 7 of Schedule 1 with insurers of good repute and on terms, both pre-approved by ElectraNet in writing.

13.2 Inspection of IUSA Provider insurance policy documentation

The IUSA Provider will on reasonable request of ElectraNet provide:

- (a) certificates evidencing that the insurance policies required by clause 13.1 have been effected and all premiums have been paid; and
- (b) such other reasonable documentation (but excluding full policy terms) as ElectraNet may require from time to time to confirm that the insurance policies are valid, current and meet the requirements of clause 13.1.

13.3 Failure to effect and maintain insurance

If the IUSA Provider fails to effect or maintain an insurance policy required by clause 13.1, ElectraNet may effect and maintain the insurance policy and recover all costs incurred as a debt immediately due and payable from the IUSA Provider.

13.4 ElectraNet insurance

ElectraNet must effect and maintain the insurance policies specified in Item 8 of Schedule 1 with insurers of good repute.

13.5 Inspection of ElectraNet insurance policy documentation

ElectraNet will on reasonable request by the IUSA Provider provide:

- (a) certificates evidencing that the insurance policies required by clause 13.4 have been effected and all premiums have been paid; and
- (b) such other reasonable documentation (but excluding full policy terms) as the IUSA Provider may require from time to time to confirm that the insurance policies are valid, current and meet the requirements of clause 13.4.

14. Work health and safety

14.1 Defined terms

In this clause 14, the terms **Construction Project**, **Principal Contractor** and **Workplace** have the meanings given to them under the WHS Legislation.

14.2 Construction project

The Parties acknowledge that the ElectraNet Work constitutes a separate and discrete Construction Project for the purposes of the WHS Legislation and does not form part of any other Construction Project arising in relation to the construction of the Facility or the IUSA Work.

14.3 Health and safety obligations

- (a) The IUSA Provider must Notify ElectraNet immediately of anything or any circumstance arising in connection with the IUSA Provider's activities (including the IUSA Work) which may affect ElectraNet's ability to perform the ElectraNet Work or without risk to health or safety of any person.
- (b) The IUSA Provider must provide ElectraNet with any information requested by ElectraNet from time to time about hazards and risks arising at or in relation to the IUSA Provider's activities (including the IUSA Work) or any other safety matters relevant to the conduct of the ElectraNet Work.
- (c) The IUSA Provider must take all reasonably practicable steps to:
 - (i) assist ElectraNet; and
 - (ii) compel any relevant third party whom the IUSA Provider has the capacity to influence or control to assist ElectraNet,to coordinate safety matters in relation to the Construction Project constituted by the ElectraNet Work.

14.4 Principal Contractor engagement

- (a) The Parties acknowledge and agree that for the purposes of the WHS Legislation, ElectraNet's sub-contractor will be appointed by ElectraNet as the Principal Contractor in respect of the Construction Project which is constituted by the ElectraNet Work.
- (b) The IUSA Provider must and must procure its Associates to:
 - (i) consult and cooperate with ElectraNet and the Principal Contractor appointed by ElectraNet in good faith in respect of any activities on or near the Workplaces on which the ElectraNet Work is to be completed; and
 - (ii) comply with the reasonable directions of ElectraNet and the Principal Contractor appointed by ElectraNet in relation to all matters concerning WHS on or near the Workplaces on which the ElectraNet Work is to be performed.

PART 6 - GENERAL OBLIGATIONS

15. Access

15.1 General access

- (a) Each Party will ensure that members of the other Party Group are granted access to its respective Site and Equipment from time to time for the purpose of allowing the Work (including without limitation, any Work relating to any Interfaces) to be completed.
- (b) Each Party must ensure that before any members of its Party Group access the Site or Equipment of the other Party Group, 12 hours' written Notice is provided to the other Party, which Notice must contain:
 - (i) names and photo identification of all personnel who will be accessing the relevant Site or Equipment; and
 - (ii) reasonable details of why access is required and the proposed times for access.

- (c) At all times whilst accessing the relevant Site or Equipment under this clause 15.1, each Party must ensure that all members of its Party Group:
 - (i) comply with the other Party's reasonable security, WHS and other access directions, policies and procedures;
 - (ii) in respect of access to any ElectraNet Site or ElectraNet Equipment, comply with the ElectraNet Asset Access Manual;
 - (iii) do not carry out any work in any High Risk Areas;
 - (iv) consult in good faith with members of the other Party Group in respect of matters concerning WHS; and
 - (v) if required by the member of the other Party Group which occupies and controls the relevant Site or Equipment:
 - (A) wear a valid visitor's pass and be escorted by a representative or safety observer; and
 - (B) are formally inducted before they obtain access to the relevant Site or Equipment.
- (d) Other than in the event of any Emergency, access to the Sites and Equipment under this clause 15.1 will be restricted to the hours of 8:30am to 5:00pm on Business Days and weekends which are not public holidays.

15.2 Emergency access

In the event of an Emergency, clause 15.1 will apply subject to the following exceptions:

- (a) the requirements of clause 15.1(b) will not need to be complied with before access is granted, provided they are complied with as soon as reasonably practicable; and
- (b) the access time restrictions in clause 15.1(d) will not apply.

16. Compliance with Applicable Laws

16.1 Compliance

Notwithstanding any other provision of this deed, each Party will comply with the obligations imposed on that Party by any Applicable Law. If such obligations are inconsistent with the obligations of that Party under this deed:

- (a) the provisions of this deed will prevail to the extent permitted by that Applicable Law; and
- (b) otherwise the provisions of that Applicable Law will prevail over the provisions of this deed to the extent of that inconsistency.

16.2 Limitation

Nothing in this deed will limit any right either Party may have under an Applicable Law except to the extent that that right can be limited in accordance with the provisions of that Applicable Law by agreement between the Parties and this deed directly or indirectly limits that right.

17. Records and Audit

17.1 Records

- (a) The IUSA Provider must keep accurate and complete records necessary to demonstrate compliance with this deed.
- (b) Records may be maintained in writing or electronically.
- (c) The IUSA Provider must maintain the records referred to in clause 17.1(a) for at least 7 years after the date of their creation and must provide ElectraNet with reasonable access to those records.
- (d) The IUSA Provider must give ElectraNet not less than 20 Business Days' Notice of its intention to dispose of any records. ElectraNet may collect such records within that period and use them in its business.

17.2 Audit

- (a) ElectraNet may audit records of the IUSA Provider referred to in clause 17.1(a) during normal business hours of any Business Day.
- (b) ElectraNet must give the IUSA Provider at least 2 Business Days' Notice of its intention to carry out an audit under clause 17.2(a) and include the following information in the Notice:
 - (i) the nature of the audit;
 - (ii) the names and offices of the representatives appointed to conduct the audit; and
 - (iii) the time at which the audit is planned to commence.
- (c) Audits will occur at the location at which the relevant records are maintained by the IUSA Provider.
- (d) The IUSA Provider must co-operate and provide ElectraNet with such access to all relevant records and personnel as is reasonably necessary for ElectraNet to conduct the audit.

17.3 No PPSA security interest

- (a) The Parties agree that nothing in this deed creates an Encumbrance which is registrable on the PPSR and agree that no such Encumbrance is to be registered at any time during the term of this deed.
- (b) If such an Encumbrance is registered by either Party in contravention of clause 17.3(a), the Party that has made the registration must promptly, and in any event within 5 Business Days of a Notice received from the other Party, discharge the registration.

PART 7 - TERMINATION, LIABILITIES AND INDEMNITIES

18. Termination

18.1 Termination by ElectraNet

ElectraNet may terminate this deed:

- (a) in accordance with clause 2.5(c); or

- (b) at any time, if the IUSA Provider has failed to comply with any of its material obligations under this deed (**Performance Default**) and:
 - (i) ElectraNet has given a Notice to the IUSA Provider specifying the particulars of the Performance Default and a reasonable deadline for curing the relevant failure (**Performance Default Cure Date**); and
 - (ii) the IUSA Provider has not remedied the Performance Default by the Performance Default Cure Date or such later date as agreed in writing by ElectraNet acting reasonably.

18.2 Termination by the IUSA Provider

The IUSA Provider may terminate this deed:

- (a) in accordance with clause 2.5(c); or
- (b) by giving 20 Business Days' Notice where:
 - (i) the Transmission Licence or ElectraNet's registration as a *Network Service Provider* under the NER has been terminated; or
 - (ii) ElectraNet ceases to carry on its business as *Network Service Provider*, other than for the purposes of solvent business reconstruction, reorganisation or amalgamation.

18.3 Termination for Solvency Default

- (a) If a Solvency Default occurs in relation to ElectraNet, the IUSA Provider may terminate this deed by Notice to ElectraNet if this deed has not been novated from ElectraNet to TLC or another entity licenced to provide the Network Operating Functions within a reasonable time after the occurrence of the Solvency Default.
- (b) If a Solvency Default occurs in relation to the IUSA Provider, ElectraNet may terminate this deed by Notice to the IUSA Provider.
- (c) Subject to clause 18.3(d), if a Party gives a termination Notice under clause 18.3(a) or 18.3(b) (as applicable) then this deed will be terminated from the day which is the later of:
 - (i) the day following the day on which the Notice was given; and
 - (ii) the day nominated in the Notice.
- (d) The Parties agree that to the extent any stay period applies to the termination rights set out in this clause 18.3 under the Corporations Act or any other Applicable Law, a Notice given under clause 18.3(a) or 18.3(b) will be deemed to be given and will only take effect from the day after the day on which such stay period under the Corporations Act or any other Applicable Law expires.

18.4 Termination of Project Documents

ElectraNet may terminate this deed immediately by giving Notice to the IUSA Provider in the event that any one or more of the other Project Documents is terminated for any reason.

18.5 Consequences of termination

- (a) On termination of this deed by either Party under the events listed in clause 18.1, 18.2, 18.3 and 18.4:

- (i) each Party must promptly return to the other Party any of the other Party's Confidential Information which is in its possession and control as at the date of termination and must use best endeavours to procure the prompt return of any of the other Party's Confidential Information which is in the possession and control of its Associates; and
- (ii) ElectraNet may:
 - (A) *disconnect* the IUSA from the Transmission System, dismantle, *decommission* and remove any part of the ElectraNet Assets from the IUSA Provider Site and undertake any further decommissioning, rehabilitation or remediation which ElectraNet considers is required in relation to the IUSA Provider Site; and
 - (B) undertake, complete and commission all other work which ElectraNet reasonably determines is necessary to allow the Transmission System to operate in accordance with *good electricity industry practice* and the other requirements of Applicable Laws.
- (b) If this deed is terminated for any reason (other than where this deed is terminated by the IUSA Provider under clause 18.2(b) or 18.3(a) or where this deed has been terminated by ElectraNet under clause 18.4 due to a Project Document being terminated for an ElectraNet Project Document Default Termination Event) the IUSA Provider will reimburse ElectraNet for any costs which are incurred by ElectraNet in undertaking the work referred to in clause 18.5(a)(ii) (upon receipt from ElectraNet of reasonable evidence substantiating the amount of costs incurred).
- (c) If ElectraNet exercises its rights under clause 18.5(a)(ii), then until ElectraNet has completed the work referred to in clause 18.5(a)(ii), the IUSA Provider must not in any circumstance dismantle, *decommission*, remove or otherwise deal with the IUSA.
- (d) Nothing in this clause 18.5 will limit either Party's right to recover Damages from the other Party for breach of contract.

18.6 Option to purchase

- (a) The IUSA Provider grants ElectraNet an option to purchase the IUSA and the Interfaces, which, if this deed is terminated in accordance with clause 18 before Practical Completion may be exercised by ElectraNet providing a Notice to the IUSA Provider.
- (b) The Parties acknowledge and agree that the option in this clause 18.6 may be exercised by ElectraNet on the same terms as the option to purchase contained in clause 13 of the Network Operating Agreement as if:
 - (i) that clause was set out in full in this deed; and
 - (ii) the capitalised terms used in that clause were defined in this deed with the same meanings,
 except with the following changes:
 - (iii) in this deed, "Option Period" means the 6 month period commencing on the date this deed is terminated in accordance with this clause 18;
 - (iv) in this deed "Option Exercise Date" means the date on which the option is exercised by ElectraNet under this clause 18.6;
 - (v) references to "IUSA" in the Network Operating Agreement are to be taken to be references to the IUSA and the Interfaces under this deed;

- (vi) in this deed, "Land" means all land on which the IUSA and the Interfaces are located or to be located;
- (vii) any Disputes regarding the exercise of the option by ElectraNet in this deed will be resolved in accordance with clause 24 of this deed;
- (viii) clause 13.3(a) of the Network Operating Agreement will not apply to the option contained in this deed;
- (ix) in this deed, all references to clause 13 will be taken to be references to this clause 18.6.

18.7 Survival

- (a) This clause 18 survives the termination or expiry of this deed.
- (b) Termination of all or any part of this deed for any reason does not affect the accrued rights and obligations of the Parties.

19. Applicable Event of Force Majeure

19.1 Notice of Event of Force Majeure

- (a) A Party that becomes aware of any matter likely to constitute an Event of Force Majeure in relation to any of its obligations under this deed (**Affected Party**) which:
 - (i) causes delay in, or prevents, the performance by the Affected Party of its obligations; and
 - (ii) the Affected Party could not have prevented by the exercise of a standard of care and diligence consistent with the observance of *good electricity industry practice*,

(Applicable Event of Force Majeure), must immediately give Notice to the other Party of:

 - (iii) that fact; and
 - (iv) all relevant particulars relating to that potential Applicable Event of Force Majeure of which it is aware at that time.
- (b) Within 10 Business Days of an Applicable Event of Force Majeure occurring, the Affected Party must give the other Party Notice containing whatever particulars are available at that time of the Applicable Event of Force Majeure, including:
 - (i) its nature and likely duration;
 - (ii) the obligations of the Affected Party affected by the Applicable Event of Force Majeure and the nature and extent of its effect on those obligations; and
 - (iii) the actions taken, or proposed to be taken by the Affected Party to remedy, abate, mitigate or minimise the effects of the Applicable Event of Force Majeure,

(Force Majeure Suspension Notice).
- (c) The Affected Party must Notify the other Party of any changes to the particulars of the Applicable Event of Force Majeure (as compared to those set out in the relevant Force Majeure Suspension Notice) as soon as possible after becoming aware of that change in particulars.

- (d) If a Party receives a Force Majeure Suspension Notice, it will be deemed to have accepted the contents of that Force Majeure Suspension Notice unless the contents are Disputed by the Party receiving the Force Majeure Suspension Notice in accordance with clause 24 within 10 Business Days of the Force Majeure Suspension Notice being sent.

19.2 Suspension of obligations

- (a) Subject to compliance with the notice requirements under clause 19.1, the Non-financial Obligations of the Affected Party will be suspended in whole or in part as the case may require, to the extent that the Affected Party is prevented from performing those Non-financial Obligations by the Applicable Event of Force Majeure, from the time that the Applicable Event of Force Majeure prevents the performance of such Non-financial Obligations until the time that such Non-financial Obligations are no longer affected by the Applicable Event of Force Majeure (**Force Majeure Suspension Period**).
- (b) The Affected Party will have no liability to the other Party in respect of the failure to perform such Non-financial Obligations during the Force Majeure Suspension Period to the extent that such failure is caused by the Applicable Event of Force Majeure.
- (c) Suspension of any Non-financial Obligation pursuant to clause 19.2(a) will not affect any rights or obligations in relation to any other Non-financial Obligations which the Affected Party is not prevented from performing by the Applicable Event of Force Majeure,

19.3 Mitigation

- (a) The Affected Party must, subject to clause 19.3(b), use best endeavours to remedy, abate, mitigate or minimise the effects of the Applicable Event of Force Majeure, and the other Party will co-operate and give such assistance as the Affected Party may reasonably request in connection with the removal and mitigation of the effect of that Applicable Event of Force Majeure.
- (b) Nothing in clause 19.3(a):
 - (i) requires the Affected Party to settle any industrial or labour Dispute otherwise than as the Affected Party in its absolute discretion sees fit or to act in a manner which is contrary to the requirements of any Applicable Law; and
 - (ii) where the Affected Party is ElectraNet, requires ElectraNet to spend money in order to remedy, abate, mitigate or minimise the effects of the Applicable Event of Force Majeure, otherwise than as ElectraNet in its absolute discretion sees fit.

19.4 Cessation or abatement of an Applicable Event of Force Majeure

An Affected Party must:

- (a) give immediate Notice to the other Party of:
 - (i) the cessation of an Applicable Event of Force Majeure the subject of a Force Majeure Suspension Notice; or
 - (ii) any abatement in the Applicable Event of Force Majeure which permits the Affected Party to resume performance of the suspended Non-financial Obligation; and

- (b) as soon as reasonably possible after the cessation or abatement of that Applicable Event of Force Majeure, resume performance of the suspended Non-financial Obligation.

20. Warranties, liability and indemnities

20.1 Exclusion of warranties

Subject to clause 20.2 and except as otherwise expressly set out in this deed, ElectraNet does not give any warranties or undertakings, and has not made any representations in relation to the condition, suitability, quality, fitness or safety of the IUSA, the IUSA Work or the ElectraNet Work.

20.2 Exclusion of implied terms

Each Party excludes from this deed, to the maximum extent permitted by Applicable Law or general law, all conditions, warranties and terms implied or imposed by Applicable Law or general law, except for any condition, warranty or term which is expressly set out in this deed or to the extent that any condition, warranty or term the exclusion of which would:

- (a) contravene any Applicable Law or general law which imposed or implied it; or
- (b) cause this clause 20.2 to be void.

20.3 Competition and Consumer Act

A Party's liability to the other Party for breach of any condition, warranty or term implied into this deed by the *Competition and Consumer Act 2010* (Cth) is limited to the maximum extent permitted by that Act.

20.4 Applicable Laws and limitations on liability

This clause 19 and clauses 21 and 22 will apply in addition to (and will not limit) any exclusion from, or limitation on, liability a Party may be entitled to claim the benefit of under an Applicable Law (including without limitation sections 116, 119 or 120 of the *National Electricity Law*).

20.5 Effect on insurance policies

The Parties acknowledge and agree that clauses 20.1, 20.2, 20.3, 20.4, 21 and 22 do not, and are not intended to, limit the entitlement of either Party under any insurance policies or to limit the concept of loss suffered by either Party under those insurance policies.

20.6 Indemnities

- (a) The IUSA Provider, to the extent permitted by law, indemnifies and holds harmless, ElectraNet and each other member of the ElectraNet Group against any Damages or Claims arising under, out of, or in connection with:
 - (i) loss of, or damage to, any real or personal property owned, leased, licensed or controlled by ElectraNet, caused by, arising out of, or in connection with, the Work or any activity for which the IUSA Provider or any Associate of the IUSA Provider is directly or indirectly responsible, except to the extent caused or contributed to by ElectraNet or any other member of the ElectraNet Group;
 - (ii) loss of, or damage to, any real or personal property of any third party, caused by, arising out of, or in connection with, the Work or any activity for which the IUSA Provider or any Associate of the IUSA Provider is directly or indirectly

responsible, except to the extent caused or contributed to by ElectraNet or any other member of the ElectraNet Group;

- (iii) personal injury (which includes illness) or death of any person caused by, arising out of, or in connection with, the Work or any activity for which the IUSA Provider or any Associate of the IUSA Provider is directly or indirectly responsible, except to the extent caused or contributed to by ElectraNet or any other member of the ElectraNet Group; and
 - (iv) the Wilful Misconduct, Gross Negligence or fraud of the IUSA Provider or any Associate of the IUSA Provider.
- (b) ElectraNet holds the benefit of the indemnity in clause 20.6(a) for itself and on trust for each other member of the ElectraNet Group.

21. Exclusions of liability

21.1 ElectraNet exclusions of liability

- (a) No member of the ElectraNet Group will be liable (to the maximum extent permitted at law and whether in tort (including negligence), contract or otherwise) for any Damages or Claims of whatever kind suffered or incurred by the IUSA Provider or any Associate of the IUSA Provider arising directly or indirectly out of, or in connection with, the IUSA Work, including any failure by any member of the IUSA Provider or any Associate of the IUSA Provider to design, procure or construct the IUSA in accordance with any Applicable Law, the Functional Specifications or any Project Document (including any liability of the IUSA Provider or any Associate of the IUSA Provider to a third party by means of liquidated or delay damages arising from or in connection with the IUSA Work, the IUSA Work Agreement or otherwise).
- (b) Without limiting clause 21.1(a), but subject to clause 21.1(e), no member of the ElectraNet Group will be liable (to the maximum extent permitted at law and whether in tort (including negligence), contract or otherwise) for any Consequential Loss of whatever kind suffered or incurred by the IUSA Provider or any Associate of the IUSA Provider arising directly or indirectly in connection with this deed or any other Project Document (including Claims by third parties against the IUSA Provider or any Associate of the IUSA Provider for Consequential Loss).
- (c) The IUSA Provider indemnifies and holds harmless ElectraNet and each other member of the ElectraNet Group against any Claims from the IUSA Provider or any Associate of the IUSA Provider against any member of the ElectraNet Group in respect of:
 - (i) any Damages or Claims of whatever kind suffered or incurred by the IUSA Provider or any Associate of the IUSA Provider referred to in clause 21.1(a); and
 - (ii) any Consequential Loss of whatever kind suffered or incurred by the IUSA Provider or any Associate of the IUSA Provider referred to in clause 21.1(b).
- (d) ElectraNet holds the benefit of the indemnity in clause 21.1(c) for itself and on trust for each other member of the ElectraNet Group.

- (e) Subject to the ElectraNet Liability Limits referred to in clause 22.1(a), the exclusion of liability for Consequential Loss contained in clause 21.1(b) does not apply to the liability of ElectraNet to the extent that such Consequential Loss is caused by the Wilful Misconduct, Gross Negligence or fraud of ElectraNet or any other member of the ElectraNet Group.

21.2 IUSA Provider exclusions of liability

- (a) Subject to clause 21.2(b), the IUSA Provider will not be liable (to the maximum extent permitted at law and whether in tort (including negligence), contract or otherwise) for any Consequential Loss of whatever kind suffered or incurred by any member of the ElectraNet Group arising directly or indirectly out of, or in connection with, this deed.
- (b) The exclusion of liability for Consequential Loss contained in clause 21.2(a) does not apply to:
 - (i) the liability of the IUSA Provider under the indemnities it provides under clauses 5.1(a)(v), 20.6(a)(ii), 20.6(a)(iii), 21.1(c), 22.1(b) and 30.5(a); or
 - (ii) the liability of the IUSA Provider to the extent that such Consequential Loss is caused by the Wilful Misconduct, Gross Negligence or fraud of the IUSA Provider or any Associate of the IUSA Provider (including the liability of the IUSA Provider under the indemnity it provides under clause 20.6(a)(iv)).

22. Limitations of liability

22.1 ElectraNet Liability Limits

- (a) Subject to clauses 21.1 and 22.1(c), ElectraNet's aggregate liability to the IUSA Provider and each other member of the IUSA Provider Group for any Damages and Claims arising directly or indirectly out of, or in connection with, this deed or any other Project Document will not (to the maximum extent permitted by law) exceed:
 - (i) in respect of the IUSA Work Period, the relevant amount for ElectraNet as specified in Item 9 of Schedule 1 in respect of:
 - (A) each event or circumstance giving rise to such Damages or Claim which occurs during the IUSA Work Period; and
 - (B) all events or circumstances giving rise to such Damages or Claims, in the aggregate, which occur during the IUSA Work Period; and
 - (ii) in respect of each Contract Year, the relevant amount for ElectraNet as specified in Item 9 of Schedule 1 in respect of:
 - (A) each event or circumstance giving rise to such Damages or Claim which occurs during that Contract Year; and
 - (B) all events or circumstances giving rise to such Damages or Claims, in the aggregate, which occur during that Contract Year,

(ElectraNet Liability Limits).

- (b) The IUSA Provider indemnifies and holds harmless ElectraNet against any Claims from any member of the IUSA Provider Group against ElectraNet for any Damages or Claims referred to in clause 22.1(a) to the extent such Claims, when aggregated with all other Claims in respect of which the ElectraNet Liability Limits apply, exceed any of the applicable ElectraNet Liability Limits.
- (c) The ElectraNet Liability Limits under clause 22.1(a) do not apply to any liability of ElectraNet for or in respect of Claims for Damages caused by the Wilful Misconduct, Gross Negligence or fraud of ElectraNet or any member of the ElectraNet Group (other than such Claims for Damages which are in the nature of Consequential Loss, which are subject to the ElectraNet Liability Limits referred to in clause 22.1(a)).

22.2 IUSA Provider Liability Limits

- (a) Subject to clauses 21.2 and 22.2(b), the IUSA Provider's aggregate liability to ElectraNet arising directly or indirectly out of, or in connection with, this deed will not (to the maximum extent permitted by law) exceed:
 - (i) in respect of the IUSA Work Period, the relevant amount for the IUSA Provider as specified in Item 10 of Schedule 1 in respect of:
 - (A) each event or circumstance giving rise to such Damages or Claim which occurs during the IUSA Work Period; and
 - (B) all events or circumstances giving rise to such Damages or Claims, in the aggregate, which occur during the IUSA Work Period; and
 - (ii) in respect of each Contract Year, the relevant amount for the IUSA Provider as specified in Item 10 of Schedule 1 in respect of:
 - (A) each event or circumstance giving rise to such Damages or Claim which occurs during that Contract Year; and
 - (B) all events or circumstances giving rise to such Damages or Claims, in the aggregate, which occur during that Contract Year,

(IUSA Provider Liability Limits).

- (b) The IUSA Provider Liability Limits under clause 22.2(a) do not apply to any liability of the IUSA Provider for or in respect of:
 - (i) the liability of the IUSA Provider under clause 18.5(b);
 - (ii) the liability of the IUSA Provider under the indemnities it provides under clauses 5.1(a)(v), 20.6(a)(ii), 20.6(a)(iii), 21.1(c), 22.1(b) and 30.5(a); or
 - (iii) Claims for Damages caused by the Wilful Misconduct, Gross Negligence or fraud of the IUSA Provider or any Associate of the IUSA Provider (including the liability of the IUSA Provider under the indemnity it provides under clause 20.6(a)(iv)).

PART 8 - MISCELLANEOUS

23. Goods and services tax

- (a) Unless specifically described in this deed as "GST inclusive", any sum payable (or amount included in the calculation of a sum payable), or consideration to be provided,

under or in accordance with this deed does not include any amount on account of GST.

- (b) Where any payment to be made by one Party (**supplier**) to another Party (**recipient**) under or in accordance with this deed is subject to GST (other than a supply the consideration for which is specifically described in this deed as “GST inclusive”):
 - (i) the consideration payable or to be provided for that supply but for the application of this clause (**GST Exclusive Consideration**) will be increased by, and the recipient will pay to the supplier, an amount equal to the GST payable by the supplier in respect of that supply; and
 - (ii) the recipient must pay that additional amount at the same time and in the same manner as the GST Exclusive Consideration payable or to be provided for that supply.
- (c) If any payment to be made to a Party under or in accordance with this deed is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that Party, then the amount of the payment must be reduced by the amount of any input tax credit to which that Party is entitled for that expense or other liability, such deduction to be effected before any increase in accordance with clause 23(b).
- (d) The supplier must issue a tax invoice to the recipient in respect of a taxable supply made by the supplier under or in accordance with this deed, such tax invoice to be issued no later than 14 days after the supplier receives the consideration for that taxable supply.
- (e) If an adjustment event has occurred in respect of a taxable supply made under or in accordance with this deed, any Party that becomes aware of the occurrence of that adjustment event must Notify the other Party to that taxable supply as soon as practicable, and all of those Parties agree to take whatever steps are necessary (including to issue an adjustment note), and to make whatever adjustments are required, to ensure that any GST or additional GST on that taxable supply, or any refund of GST (or part thereof), is paid no later than 28 days after the supplier first becomes aware that the adjustment event has occurred.
- (f) A word or expression used in this clause 23 which is defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the same meaning in this clause 23.

24. Dispute resolution

24.1 First stage dispute resolution

- (a) If a Dispute arises between the Parties a Party may, by Notice, refer the Dispute to resolution in accordance with this clause.
- (b) The Parties will use their best endeavours to resolve the Dispute within a period of 20 Business Days from the service of the Notice under clause 24.1(a).

24.2 Reference to and appointment of Independent Expert

- (a) If the Dispute remains unresolved at the end of the period referred to in clause 24.1(b) then, either Party may require that the Dispute be determined by an independent expert appointed in accordance with clause 24.2(b) (**Independent Expert**).
- (b) The Party wishing to have the Dispute determined by an Independent Expert will give Notice to that effect to the other Party specifying the nature of the Dispute. The

Parties will meet and use all best endeavours to agree upon the identity of the Independent Expert, but if they are unable to agree within 5 Business Days of the Notice, then either Party may refer the matter to AER or if AER will not or cannot make an appointment, to the chair for the time being of the Resolution Institute (or, if that body no longer exists, then to the chair for the time being of such successor body or association as is then performing the function formerly carried out by the Resolution Institute), to nominate a suitably qualified person to act as the Independent Expert to determine the Dispute.

24.3 Role of Independent Expert

- (a) The Independent Expert will:
 - (i) act as an expert and not as an arbitrator;
 - (ii) have no interest or duty which conflicts, or which may conflict, with his or her function as the Independent Expert;
 - (iii) not be a former or current employee or representative of either Party or of a Related Body Corporate of either of them; and
 - (iv) disclose fully to the Parties, before being appointed, any interest or duty which may conflict with his or her position.
- (b) Any Party may object to the appointment or continuation in office of a person proposed to be appointed or appointed as the Independent Expert before the expiration of 5 Business Days after that Party became aware of any matter which may reasonably be regarded as an interest or duty which conflicts, or which may conflict, with the functions of the Independent Expert. Upon receipt by the other Party of a Notice of such objection, the Parties must act to remove the Independent Expert.

24.4 Representation and evidence

Each Party:

- (a) may be legally represented at any hearing before the Independent Expert;
- (b) will be entitled to produce to the Independent Expert any materials or evidence which that Party believes is relevant to the Dispute; and
- (c) will make available to the Independent Expert all materials requested by him or her and all other materials which are relevant to his or her determination.

24.5 Rules of evidence

The Independent Expert will not be bound by the rules of evidence.

24.6 Power

The Independent Expert will have the power to inform himself or herself independently as to the facts to which the Dispute relates and to take such measures as he or she thinks fit to expedite the determination of the Dispute.

24.7 Determination

- (a) The Independent Expert will make a determination on the Dispute and:
 - (i) will determine what, if any, adjustments may be necessary between the Parties; or
 - (ii) if relevant, determine the amendments required to the terms of this deed.

- (b) The determination of the Independent Expert will be, in the absence of bias or manifest error, final and binding upon the Parties.
- (c) For the avoidance of doubt:
 - (i) if this deed requires the Parties to negotiate in good faith to reach agreement concerning an issue;
 - (ii) the Parties are unable to reach agreement within the time period allowed under this deed; and
 - (iii) the relevant clause of this deed requires that failure to agree to be resolved in accordance with this clause 24,

the Parties agree that the Independent Expert will have the power to resolve that failure to agree by specifying the terms and conditions which should apply between the Parties in relation to that issue.

24.8 Costs

The costs in relation to a determination by the Independent Expert will be dealt with as follows:

- (a) the remuneration of the Independent Expert will be agreed by the Parties, and in default of agreement between the Parties, fixed by the person to whom a Party may refer a matter pursuant to clause 24.2(b);
- (b) unless the Parties otherwise agree, the Independent Expert will determine which Party will bear the costs of the determination and in what proportion, having regard to the degree to which he or she considers that Party was at fault or unreasonable in failing to agree to the matter under reference, and that Party will bear those costs accordingly; and
- (c) the Parties will bear their own costs incurred in the preparation and presentation of any submissions or evidence to the Independent Expert.

24.9 Obligations not suspended

Except as otherwise provided by this deed, no Party is relieved from the performance of an obligation under this deed during investigation and determination of a Dispute by an Independent Expert.

24.10 Disputes under a Project Document

Where a Dispute under this deed relates or is connected to a dispute under a Project Document, the IUSA Provider:

- (a) consents to be joined in any dispute proceedings under the relevant Project Document (**Project Document Dispute**); and
- (b) agrees that it will, insofar as the dispute under the Project Document relates to the same matters to which the Dispute under this deed relate:
 - (i) be bound by the settlement or resolution of the Project Document Dispute: and
 - (ii) not reopen, revisit or otherwise dispute that settlement or resolution and the subject matter of that settlement or resolution,

irrespective of whether or not the IUSA Provider is joined to the Project Document Dispute.

24.11 Disputes generally

- (a) Neither Party may have recourse to litigation in relation to a Dispute without first having complied with this clause 24.
- (b) This clause 24 does not prevent a Party seeking an urgent interlocutory injunction from a court of competent jurisdiction.

24.12 Survival

This clause 24 survives the termination or expiry of this deed.

25. Change to Applicable Law Event

25.1 Interpretation of deed

- (a) If a Change in Applicable Law Event occurs, then subject to clauses 25.1(b) and 25.2, this deed will be interpreted (as far as possible) in such a way as to enable compliance with that Applicable Law.
- (b) This deed may need to be amended to take into account the effect of any Change in Applicable Law Event as ElectraNet reasonably considers necessary, in which case, the IUSA Provider must negotiate in good faith with ElectraNet to reach agreement on such matters and execute all required documents to give effect to such amendments.

25.2 Disputes

In determining a Dispute relating to a matter arising under this clause 25 (in accordance with clause 24), the Independent Expert will take into account (among other things) the following factors:

- (a) that the contents of this deed must be fair and reasonable having regard to the commercial interests of the Parties;
- (b) that at all times, the IUSA Work provided under this deed must be provided in accordance with *good electricity industry practice* and the other requirements of this deed and Applicable Laws; and
- (c) that this deed should be consistent with the prevailing practices and standards in the electricity industry at that time.

26. Assignment and transfer

26.1 Restriction

- (a) ElectraNet may Dispose of some or all of its rights and obligations under this deed to a Related Body Corporate, or TLC (or a nominee of TLC). If it does so, it must give Notice to the IUSA Provider before that Disposal.
- (b) Other than in the circumstances set out in clause 26.1(a), and subject to clause 26.2, no Party may Dispose of its rights or obligations under this deed to anyone without the prior written consent of the other Party, which consent must not be unreasonably withheld, delayed or made subject to unreasonable conditions.

26.2 Requirements for Disposals

For the purposes of clause 26.1(b), a Party cannot reasonably withhold consent to a Disposal by the other Party (**Disposing Party**), if the person to whom the Disposal is made:

- (a) is a body corporate with substantial assets to which all or a material part of the assets of the Disposing Party are transmitted, transferred or vested as part of a reconstruction of the Disposing Party;
- (b) has, or an Associate of that person has, all licences, registrations and approvals necessary for that person (or an Associate of that person) to operate or control the Disposing Party's *facilities* in accordance with Applicable Laws; and
- (c) before the Disposal occurs, executes and delivers to the other Party a deed (in a form and substance satisfactory to the other Party) by which that person agrees to assume obligations (whether arising before or after the Disposal) which are substantially equivalent to the Disposing Party's obligations under this deed.

26.3 Execution of documents

Each Party must do all things and execute all documents as may be required by law or reasonably required by the other Party to effect the Disposals contemplated by this clause 26.

26.4 Change in ownership of the IUSA

- (a) The IUSA Provider must not transfer or Dispose of any interest in the IUSA to a third party without ElectraNet's prior written consent unless ElectraNet consents to novate this deed to that third party at the same time as the transfer or disposal of the interest in the IUSA takes place, by the third party taking over all the rights and obligations of the IUSA Provider under this deed and the other Project Documents to which the IUSA Provider is a party to.
- (b) ElectraNet will provide its consent to a novation in accordance with clause 26.4(a) and will do all things necessary to give effect to that novation, provided that ElectraNet is satisfied that:
 - (i) the proposed new party is capable of performing the obligations of the IUSA Provider under this deed and the other Project Documents to which it will be a party;
 - (ii) ElectraNet will not suffer a financial prejudice that is not capable of being remedied by provision of a guarantee or some other form of credit support;
 - (iii) ElectraNet's accrued rights under this deed as at the date of the novation will be preserved; and
 - (iv) ElectraNet will not incur any additional risks or costs that could not adequately be compensated for.
- (c) If the IUSA Provider disputes ElectraNet's decision to not agree to a novation, the matter will be resolved in accordance with clause 24.

26.5 Deed of acknowledgement and consent

- (a) The IUSA Provider must not create or permit to exist any security interest, mortgage, charge or Encumbrance over any of its rights under this deed except with the prior written consent of ElectraNet.
- (b) If requested by the IUSA Provider, ElectraNet will act reasonably in negotiating a tripartite deed with any secured party under which ElectraNet consents to the relevant

security interest and undertakes to provide notification prior to exercising rights of termination and provide the secured party with step-in rights in respect of this deed, subject to cure of pre-existing breaches, which must be in form and substance satisfactory to ElectraNet.

26.6 Change of Control

- (a) ElectraNet may terminate this deed by Notice to the IUSA Provider where there is a Change of Control in relation to:
 - (i) the IUSA Provider; or
 - (ii) where the IUSA Provider is expressed to be a party to this deed as trustee of a trust, that trust,without obtaining ElectraNet's prior written consent, which consent is not to be unreasonably withheld or delayed.
- (b) The Parties agree that it is not unreasonable for ElectraNet to withhold consent under clause 26.6(b) if ElectraNet is not reasonably satisfied that the Change of Control will not diminish, fetter, limit or otherwise restrict the ability of the IUSA Provider to fulfil its obligations under this deed.
- (c) A termination under clause 26.6(a) will be deemed to be a termination of this deed by ElectraNet under clause 18.1(b).

27. Notices

27.1 Giving of Notices

All notices, consents, requests, invoices or other communication required, permitted or appropriate to be given by a Party to the other Party under or in connection with this deed (**Notice**) must be:

- (a) in writing, which includes email and other electronic communications, (unless otherwise specified in Schedule 3 for that type of Notice);
- (b) addressed to the person holding the office identified in Schedule 3 for that type of Notice; and
- (c) sent in the manner identified in Schedule 3 for that type of Notice.

27.2 Timing of receipt

A Notice given to a Party in accordance with clause 27.1 will be treated as having been given and received:

- (a) if delivered, on the day of delivery if a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the fourth Business Day after posting; and
- (c) if sent electronically:
 - (i) at the time the sender's computer or other device generates a report confirming that the Notice has been received by the recipient's information system; or

- (ii) if no such report is generated, 1 Business Day after the date on which the Notice is sent, provided that the sender has not by that time received a delivery failure notification (or similar).

27.3 Addresses and Notice details

A Party may change any details relating to that Party set out in Schedule 3 by Notice to the other Party given in accordance with this clause 27.

28. Provision and use of information

The IUSA Provider will provide to ElectraNet (within 10 Business Days of being requested to do so) any information requested by ElectraNet which:

- (a) concerns the IUSA, the IUSA Work or the IUSA Provider's operations; or
- (b) is reasonably necessary to enable ElectraNet to:
 - (i) comply with its obligations under any Project Document;
 - (ii) comply with its obligations under any Applicable Law; or
 - (iii) operate, develop, design and plan the Transmission System in accordance with *good electricity industry practice* and the requirements of all Applicable Laws.

29. Confidential Information

29.1 Privileged information

Subject to any Applicable Law, a Party is not obliged to provide to the other Party any information which is subject to legal professional privilege.

29.2 Confidential Information to be kept confidential

- (a) Each Party must keep confidential any Confidential Information which comes into the possession or control of that Party or of which the Party becomes aware as a result of the operation of this deed.
- (b) A Party:
 - (i) must not disclose Confidential Information to any person except as permitted by this deed (including clauses 29.3 and 29.4);
 - (ii) must only use or reproduce Confidential Information for the purpose for which it was disclosed or another purpose contemplated by this deed; and
 - (iii) must not permit unauthorised persons to have access to Confidential Information.
- (c) Each Party must use all best endeavours:
 - (i) to prevent unauthorised access to Confidential Information which is in the possession or control of that Party; and
 - (ii) to ensure that any person to whom it discloses Confidential Information observes the provisions of this clause 29 in relation to that information.
- (d) Subject to clauses 29.2(e), 29.2(f) and 29.2(g), neither Party may make any statement or representation in relation to this deed (including, in particular, a statement to the

effect that the Party has entered into this deed) without the written consent of the other Party which consent will not be unreasonably withheld.

- (e) If a Party makes a statement or representation in relation to this deed (including, in particular, a statement to the effect that that Party has entered into this deed) without the written consent of the other Party, the other Party will be entitled to make a statement or statements in response to the statement made by the Party, clarifying any issues that the other Party may have with the statement made by the Party.
- (f) Despite clauses 29.2(d) and 29.2(e), a Party is entitled to make a statement to the following effect in relation to this deed: *“ElectraNet and [insert] have entered into a conditional interface works agreement in relation to the [insert] substation located [insert]”*.
- (g) ElectraNet may advertise, publish or release any information, document or article for publication in relation to this deed in any media if ElectraNet has liaised with the IUSA Provider regarding the content of such information, document or article and the IUSA Provider has consented to such content (such consent not to be unreasonably withheld or delayed).

29.3 Disclosures required under Applicable Laws

Without limiting any other provision of this clause 29, the IUSA Provider consents to ElectraNet using any information concerning the IUSA, electricity usage, *metering data* and any related or similar information for the purpose of complying with ElectraNet’s obligations under this deed or any Applicable Law (including the provision of that information to AEMO, the System Controller and any other relevant Authority).

29.4 Other exceptions

Subject to clause 29.5, clause 29.2 does not prevent:

- (a) **(public domain)**: the disclosure, use or reproduction of Confidential Information if the relevant information is at the time generally and publicly available other than as a result of breach of confidence by the Party (including a breach of this deed) who wishes to disclose, use or reproduce the information or any person to whom the Party has disclosed the information;
- (b) **(employees and advisers)**: the disclosure of Confidential Information by a Party to:
 - (i) an employee or officer of the Party or a Related Body Corporate of the Party; or
 - (ii) a legal or other professional adviser, auditor or other consultant of the Party, who requires the information for the purposes of this deed, the NER, or for the purpose of advising the Party in relation to those matters;
- (c) **(Project Documents)**: the disclosure of Confidential Information by ElectraNet to a counterparty under any other Project Document as required by ElectraNet in order to comply with its obligations under that Project Document;
- (d) **(contractors)**: the disclosure of Confidential Information by the IUSA Provider to a contractor engaged in relation to the IUSA or by ElectraNet to a contractor engaged in relation to the ElectraNet Work;
- (e) **(consent)**: the disclosure, use or reproduction of Confidential Information with the consent of the Party who provided the relevant information;

- (f) **(law)**: the disclosure, use or reproduction of Confidential Information to the extent required by law or by a lawful requirement of:
 - (i) any Authority having jurisdiction over a Party or its Related Bodies Corporate; or
 - (ii) any stock exchange having jurisdiction over a Party or its Related Bodies Corporate;
- (g) **(Disputes)**: the disclosure, use or reproduction of Confidential Information if required in connection with legal proceedings, arbitration, expert determination or other dispute resolution mechanism under this deed or the NER or for the purpose of advising a person in relation thereto;
- (h) **(safety)**: the disclosure of Confidential Information to the extent required to protect the safety of personnel or equipment;
- (i) **(potential investment)**: the disclosure, use or reproduction of Confidential Information by or on behalf of a Party to the extent reasonably required in connection with the Party's financing arrangements, investment in that Party or a Disposal of that Party's assets or a purchase of that Party's shares;
- (j) **(response to potential investment query)**: the disclosure, use or reproduction of Confidential Information by or on behalf of ElectraNet to a person:
 - (i) who has received information from the IUSA Provider under clause 29.4(i); and
 - (ii) to the extent reasonably required in order to answer any question by that person concerning the terms and conditions of this deed;
- (k) **(regulator)**: the disclosure of Confidential Information to the AER, AEMO, ESCOSA or any other Authority having jurisdiction over a Party;
- (l) **(reports)**: the disclosure, use or reproduction of Confidential Information of an historical nature in connection with the preparation and giving of reports under the NER;
- (m) **(aggregate sum)**: the disclosure, use or reproduction of Confidential Information as an unidentifiable component of an aggregate sum;
- (n) **(profile)**: the publication of a profile;
- (o) **(Intellectual Property Rights)**: the disclosure of Confidential Information necessary or desirable to give effect to the licences of Intellectual Property Rights granted to each Party under this deed;
- (p) **(Connection Applicant)**: the disclosure of any Confidential Information concerning the IUSA to a *Connection Applicant* where that information is required in order to negotiate the terms of the *connection agreement* and any other document with the *Connection Applicant*; or
- (q) **(Applicable Laws)**: the disclosure, use or reproduction of Confidential Information where required or permitted from time to time under an Applicable Law.

29.5 Undertaking to keep confidential and restrictions on use

In the case of a disclosure under clause 29.4(b), 29.4(c), 29.4(d) or 29.4(i), prior to making the disclosure the Party who wishes to make the disclosure must inform the proposed recipient of the confidentiality of the information and must take appropriate precautions to ensure that the

recipient keeps the information confidential in accordance with the provisions of clauses 29.2 and 29.3 and does not use the information for any purpose other than that permitted under clause 29.2(b).

29.6 Continuing rights and obligations

This clause 29 survives the termination or expiry of this deed.

30. Intellectual Property Rights

30.1 ElectraNet Background IP Materials

The IUSA Provider acknowledges that it does not own any Intellectual Property Rights in the ElectraNet Background IP Materials.

30.2 IUSA Provider Background IP Materials

- (a) ElectraNet acknowledges that it does not own any Intellectual Property Rights in the IUSA Provider Background IP Materials.
- (b) The IUSA Provider hereby grants to ElectraNet a non-exclusive, royalty free, perpetual, irrevocable, worldwide licence (including the right to sub-licence) to (itself or using third party contractors) use, reproduce, modify, adapt and further develop all Intellectual Property Rights in the IUSA Provider Background IP Materials:
 - (i) to the extent necessary or desirable to enable ElectraNet and the ElectraNet Group to (itself or using third party contractors):
 - (A) exercise any rights and perform any obligations under this deed or the other Project Documents;
 - (B) perform the ElectraNet Work; and
 - (C) fully enjoy, exploit and further develop the Contract IP Materials; or
 - (ii) any other purposes relating to this deed or any operations of any member of the ElectraNet Group,

except for the purpose of tendering for, or negotiating contestable *transmission services* specified in rule 5.2A.4(a) of the NER.

- (c) Notwithstanding the exception contained in clause 30.2(b), on and from the second anniversary of the Execution Date, the IUSA Provider hereby grants to ElectraNet a non-exclusive, royalty free, perpetual, irrevocable, worldwide licence (including the right to sub-licence) to (itself or using third party contractors) use, reproduce, modify, adapt and further develop all Intellectual Property Rights in the IUSA Provider Background IP Materials (including the Documents) for the purpose of tendering for, or negotiating contestable *transmission services* specified in rule 5.2A.4(a) of the NER.

30.3 Contract IP Materials

- (a) Upon creation, all Contract IP Materials created by or on behalf of ElectraNet in connection with this deed will vest in ElectraNet free of all Encumbrances and the IUSA Provider hereby unconditionally assigns to ElectraNet:
 - (i) all Intellectual Property Rights (other than copyright) in the Contract IP Materials, without the need for further assurance; and

- (ii) all copyright in the Contract IP Materials, as an assignment of future property under section 197 of the *Copyright Act 1968* (Cth) and in equity.
- (b) ElectraNet grants to the IUSA Provider a non-exclusive, irrevocable, perpetual, royalty free licence to use any Contract IP Materials for the purposes of this deed.

30.4 Warranties by IUSA Provider

- (a) The IUSA Provider represents and warrants to ElectraNet that:
 - (i) the IUSA Provider is the legal and beneficial owner of, or is entitled to use (or will on creation own or be entitled to use); or
 - (ii) is entitled to licence to ElectraNet and each member of the ElectraNet Group in accordance with clause 30.2(b),the Intellectual Property Rights in the IUSA Provider Background IP Materials.
- (b) The IUSA Provider represents and warrants to ElectraNet that it is able to assign the Intellectual Property Rights in all Contract IP Materials pursuant to clause 30.3.

30.5 Indemnity

- (a) The IUSA Provider indemnifies and holds harmless ElectraNet and each member of the ElectraNet Group against any Damage or Claim arising from:
 - (i) any infringement or alleged infringement of Intellectual Property Rights owned by any third party in respect of any of the IUSA Provider Background IP Materials;
 - (ii) any breach of the warranties set out in clause 30.4.
- (b) ElectraNet holds the benefit of the indemnity in clause 30.5(a) for itself and on trust for each other member of the ElectraNet Group.

30.6 Survival

This clause 30 survives the termination or expiry of this deed.

31. Governing law and jurisdiction

31.1 Governing law

This deed is governed by and will be construed according to the laws of South Australia.

31.2 Jurisdiction

- (a) The Parties submit to the non-exclusive jurisdiction of the courts of South Australia and any courts which may hear appeals from those courts in respect of any proceedings in connection with this deed.
- (b) Each Party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

32. General

32.1 Authority to enter into deed

Each Party (in this clause 32.1 called the **Representing Party**) represents and warrants to the other Party that each of the following statements relating to it is correct:

- (a) the Representing Party is duly constituted and validly existing under the laws of its jurisdiction of incorporation and has full corporate power and authority to enter into, perform and observe its obligations and duties under this deed;
- (b) the Representing Party holds all Authorisations required by Applicable Law to enter into this deed;
- (c) the Representing Party has entered into this deed in its own right and not as trustee of any trust or as an agent or nominee on behalf of any other entity;
- (d) all corporate and other necessary action has been taken to authorise the signing and performance of this deed by the Representing Party, and this deed is a valid and binding agreement of the Representing Party and is enforceable against it, subject to the exercise of judicial discretion and laws concerning insolvency, in accordance with its terms; and
- (e) the entering into of this deed by the Representing Party does not, and the transactions contemplated by this deed will not result in a breach of any Applicable Law or any constituent documents of the Representing Party or any agreement to which the Representing Party is a party.

32.2 Amendment and waiver

- (a) Unless expressly stated to the contrary in this deed, this deed may only be amended or supplemented in writing signed by the Parties.
- (b) The non-exercise of or delay in exercising any power or right of a Party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. Unless expressly stated to the contrary in this deed, a power or right may only be waived in writing, signed by the Party to be bound by the waiver.

32.3 Severance

Any provision in this deed which is invalid, void or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity, voidness or unenforceability, without affecting the remaining provisions of this deed or affecting the validity or enforceability of that provision in any other jurisdiction.

32.4 Entire agreement

This deed constitutes the entire agreement between the Parties in relation to its subject matter and supersedes any previous arrangements between the Parties in relation to that subject matter. All representations, communications and prior agreements in relation to that subject matter are merged in and superseded by this deed.

32.5 No reliance

No reliance is to be placed by the IUSA Provider on any representation, promise or other inducement made or given or alleged to be made or given by ElectraNet prior to the Execution Date.

32.6 Further assurances

Each Party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of the deed and the transactions contemplated by it.

32.7 Cost and expenses

The IUSA Provider must pay its own costs in connection with the negotiation, preparation and execution of this deed.

32.8 System Controller

Nothing in this deed is intended to fetter or constrain ElectraNet in the performance of its functions as a System Controller.

32.9 Rights cumulative

Subject to any provision of this deed to the contrary, the rights and remedies provided in this deed do not exclude any rights or remedies provided by law.

32.10 Relationship of the Parties

- (a) Nothing in this deed gives a Party authority to bind any other Party in any way.
- (b) Nothing in this deed imposes any fiduciary duties on a Party in relation to any other party.

32.11 Survival

- (a) If this deed is terminated or expires, then except where this deed expressly provides otherwise:
 - (i) the Parties are released from their obligations to continue to perform this deed except the obligations which are expressed to or by their nature, survive termination or expiry;
 - (ii) each party retains the rights and Claims it has against the other party for any past breach of this deed; and
 - (iii) the provisions of this deed survive termination or expiry to the extent necessary to give effect to clause 32.11(a)(i).
- (b) Without limiting clause 32.11(a):
 - (i) any warranties provided by the Parties under this deed; and
 - (ii) clauses 1, 2.5(d), 4.1, 13, 18, 19, 17, 21, 22, 24, 27, 29, 30, 31 and this clause 32,survive expiry or termination of this deed.

32.12 Survival of indemnities

Without limiting clause 32.11, each indemnity in this deed is a continuing obligation which survives the termination or expiry of this deed.

32.13 Non merger

The indemnities, covenants and warranties and any other provisions of this deed will not merge on completion or termination of this deed unless expressly set out in this deed.

32.14 Counterparts

This deed may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument. The Parties agree that counterparts may be circulated electronically in PDF format.

Executed as a deed.

Signed for and on behalf of **ElectraNet Pty Limited** by its attorney (who has no notice of the revocation of its power of attorney) in the presence of:

Signature of witness

Name (please print)

Signature of attorney

Name (please print)

Position held

Executed by **[INSERT]** in accordance with section 127 of the *Corporations Act 2001* (Cth):

Signature of director

Name (please print)

Signature of director/secretary

Name (please print)

Schedule 1 – Agreement details

Table 1-1
Agreement details

Item	Description
Item 1 – TCA	[Drafting Note: insert details of TCA(s)]
Item 2 - TNU	[Drafting Note: insert details of TNU(s)]
Item 3 – ElectraNet Assets	[Drafting Note: insert description of assets being constructed by ElectraNet as non-contestable works.]
Item 4 - IUSA	<p>IUSA description:</p> <p>[Drafting Note: insert description of the <i>contestable IUSA components</i> used to connect the Facility to the ElectraNet <i>transmission network</i>.]</p> <p>Agreed boundaries and physical connections – single line diagram:</p> <p>As set out in Attachment 2.</p>
Item 5 – Target Outage Window	[Drafting Note: Insert details of target outage window.]
Item 6 – DCA Provider	[Drafting Note: Insert name and ACN of third party <i>Dedicated Connection Asset Service Provider</i>] OR [Not applicable]
Item 7 - IUSA Provider insurance	<p>Insurance policies specified below:</p> <ul style="list-style-type: none"> (a) contract works insurance covering the IUSA Work, with a sum insured of not less than the capital value of the IUSA Work; (b) an employer’s liability and worker’s compensation insurance to the extent required by law; (c) a public liability policy covering legal liability for damage to real or personal property, death, injury or disease, for not less than \$20 million limit of liability any one occurrence and unlimited in the aggregate; and (d) a property damage or industrial special risks policy for the reinstatement value of the IUSA and the IUSA Interfaces. <p>The IUSA Provider must ensure that ElectraNet is named as an insured party on its insurance policies set out in paragraphs (c) and (d) above.</p>
Item 8 – ElectraNet insurance	<p>Insurance policies specified below:</p> <ul style="list-style-type: none"> (a) contract works insurance covering the ElectraNet Work with a sum insured of not less than the capital value of the ElectraNet Work; and (b) a public liability policy covering legal liability for damage to real or personal property, death, injury or disease, for not less than \$20 million limit of liability any one occurrence and unlimited in the aggregate.
Item 9 – ElectraNet Liability Limits	<ul style="list-style-type: none"> (a) For the ElectraNet Liability Limit referred to in clause 22.1(a)(i): \$1,000,000. (b) For the ElectraNet Liability Limit referred to in clause 22.1(a)(ii): the amount specified under [Item 9(b) of Schedule 1] of the Network Operating Agreement. <p>[Drafting Note: To be aligned with TCA(s) and other Project Documents.]</p>
Item 10 – IUSA Provider Liability Limits	<ul style="list-style-type: none"> (a) For the IUSA Provider Liability Limit referred to in clause 22.2(a)(i): \$1,000,000. (b) For the IUSA Provider Liability Limit referred to in clause 22.2(a)(ii):

	\$1,000,000 per Contract Year.
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Schedule 2– Preconditions

Table 2-1
Preconditions

[Drafting Note: below is an example only and will be amended on a case by case basis.]

No	Precondition	Required Date	Party responsible for satisfying	Party with right to waive
1.1	<p>Insurance</p> <p>The IUSA Provider has provided ElectraNet with evidence reasonably satisfactory to ElectraNet that all of the insurance policies required to be effected by the IUSA Provider under clause 13 have been effected.</p>	20 Business Days after the Execution Date (or such later date as agreed in writing between the Parties).	IUSA Provider	ElectraNet
1.2	<p>Execution of TCA</p> <p>The TCA has been executed by the TNU and ElectraNet, and all preconditions to the TCA (other than a precondition requiring the Preconditions under this deed to have been satisfied or waived) have been satisfied or waived in accordance with the TCA.</p>	20 Business Days after the Execution Date (or such later date as agreed in writing between the Parties).	ElectraNet	ElectraNet
1.3	<p>Execution of Network Operating Agreement</p> <p>The Network Operating Agreement has been executed by the IUSA Provider and ElectraNet, and all preconditions to the Network Operating Agreement (other than a precondition requiring the Preconditions under this deed to have been satisfied or waived) have been satisfied or waived in accordance with the Network Operating Agreement.</p>	20 Business Days after the Execution Date (or such later date as agreed in writing between the Parties).	IUSA Provider and ElectraNet	ElectraNet
1.4	<p>Execution of IUSA Work Agreement</p> <p>The IUSA Work Agreement has been executed by the TNU and IUSA Provider, and all preconditions to the IUSA Work Agreement (other than a precondition requiring the Preconditions under this deed to have been satisfied or waived) have been satisfied or waived in accordance with the IUSA Work Agreement.</p>	20 Business Days after the Execution Date (or such later date as agreed in writing between the Parties).	IUSA Provider	ElectraNet and IUSA Provider
1.5	<p>Authorisations</p> <p>The IUSA Provider holds development approval in relation to the IUSA and the IUSA Work and all other Authorisations required to enable the IUSA Work to commence.</p>	20 Business Days after the Execution Date (or such later date as agreed in writing between the Parties).	IUSA Provider	ElectraNet

No	Precondition	Required Date	Party responsible for satisfying	Party with right to waive
1.6	<p>Draft CQMP</p> <p>A draft CQMP dealing with all testing, commissioning and completion criteria has been provided to the IUSA Provider.</p>	<p>20 Business Days after the Execution Date (or such later date as agreed in writing between the Parties).</p>	<p>ElectraNet</p>	<p>IUSA Provider</p>

Schedule 3 – Notice details

Table 3-1
Notice details

Type of Notice	Permitted service method	ElectraNet Description of person to whom Notice must be sent	IUSA Provider Description of person to whom Notice must be sent
All Notices up until Practical Completion	Written only	<p><u>Attention:</u> Project Manager</p> <p><u>Physical address:</u> ElectraNet 52-55 East Terrace Rymill Park Adelaide SA 5000</p> <p><u>Email address:</u> To: [INSERT]@electranet.com.au Cc: notices@electranet.com.au</p>	<p><u>Attention:</u> [INSERT]</p> <p><u>Physical address:</u> [INSERT]</p> <p><u>Email address:</u> [INSERT]</p>
All Notices after Practical Completion	Any method	<p><u>Attention:</u> Manager, Business Development</p> <p><u>Physical address:</u> ElectraNet 52-55 East Terrace Rymill Park Adelaide SA 5000</p> <p><u>Email address:</u> To: [INSERT]@electranet.com.au Cc: notices@electranet.com.au</p>	<p><u>Attention:</u> [INSERT]</p> <p><u>Physical address:</u> [INSERT]</p> <p><u>Email address:</u> [INSERT]</p>

Schedule 4 – Work relating to Interfaces

1 IUSA Interfaces

Table 6-1 below specifies the Interfaces which the Parties agree are required between the ElectraNet Assets and the IUSA.

Table 6-1 – IUSA Interfaces

[**Drafting Note:** Required interfaces will vary on a case by case basis. Wording below is an example only and needs to be carefully considered. See ElectraNet generic interfaces document on website for further information.]

Interface 1 - Site establishment	
Description	[INSERT]
Purpose	[INSERT]
Supplied By	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]
Interface 2 – Earthing	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]
Interface 3– AC/DC Supplies	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]
Interface 4– Primary plant	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]

Interface 5– Lines	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]

Interface 6– Protection	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]

Interface 7– Control	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]

Interface 8– Security	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]

Interface 9– Telecommunication bearers	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]

Interface 10 – Telecommunications services	
Description	[INSERT]

Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]

2 DCA Interfaces

- (a) The Parties acknowledge and agree that the DCA Interfaces will be described in:
- (i) the TCA, where the TNU owns or will own the DCA used to *connect* the Facility to the IUSA; and
 - (ii) the Third Party DCA Transmission Connection Agreement, where a DCA Provider owns or will own the DCA used to *connect* the Facility to the IUSA.
- (b) In both scenarios, the IUSA Provider must design, procure and construct the IUSA in accordance with the Functional Specification and the Detailed Design in order to be compatible with the relevant DCA and DCA Interfaces in all respects.
- (c) Table 6-2 below specifies the IUSA Provider’s responsibilities in relation to the procurement and construction of the DCA Interfaces.

Table 6-2 – DCA Interfaces – IUSA Provider Responsibilities

[**Drafting Note:** Required interfaces will vary on a case by case basis. Wording below is an example only and needs to be carefully considered. See ElectraNet generic interfaces document on website for further information.]

Interface 1 – Earthing	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]
Interface 2 – Telecommunication services	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]
Interface 2 – Lines	
Description	[INSERT]
Purpose	[INSERT]

Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]
Interface 6– Protection	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]
Interface 7– Control	
Description	[INSERT]
Purpose	[INSERT]
Supplied by	[INSERT]
IUSA Work	[INSERT]
ElectraNet Work	[INSERT]

[Drafting Note: ElectraNet may require a separate multiparty interfacing agreement where a third party DCA Provider will own the DCA.]

Attachment 1 – Functional Specifications

[Drafting Note: IUSA Functional Specification to be attached.]

Attachment 2 –Single line diagrams

[Drafting Note: SLD's to be attached which clearly illustrate:

- physical boundaries between ElectraNet Assets and the IUSA;
- Interfaces between the ElectraNet Assets and the IUSA;
- physical boundaries between the ElectraNet Site and the IUSA Provider Site;
- physical boundaries between the IUSA and the DCA; and
- Interfaces between the IUSA and the DCA.]