

**DUET Company Limited**  
ABN 93 163 100 061  
**DUET Investment Holdings Limited**  
ABN 22 120 456 573  
**DUET Finance Limited**  
ABN 15 108 014 062  
AFS Licence No. 269287

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1 May 2017

**ASX RELEASE**

**SCHEMES EFFECTIVE AND AMENDED DFT CONSTITUTION**

DUET Group (DUET) advises that copies of the Supreme Court of NSW orders issued on 28 April 2017 and the executed Supplemental Deed to amend the constitution of DUET Finance Trust (copy attached), as approved at the general meeting on 21 April 2017, have been lodged with ASIC today.

The company schemes of arrangement and the trust scheme are therefore effective as of today.

For further information, please contact:

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DUET Finance Limited  
Amending the Constitution for DUET Finance Trust

## Supplemental Deed

Execution Version

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**Contents**

<b>1</b>	<b>Definitions and Interpretation</b>	<b>1</b>
<b>2</b>	<b>Benefit of this Supplemental Deed</b>	<b>2</b>
<b>3</b>	<b>Conditions</b>	<b>2</b>
<b>4</b>	<b>Amendments to Constitution</b>	<b>2</b>
<b>5</b>	<b>No Resettlement</b>	<b>2</b>
<b>6</b>	<b>Governing Law and Jurisdiction</b>	<b>2</b>
	<b>Schedule 1</b>	<b>4</b>

**This Deed** is made on 1 May 2017

## Party

- 1 **DUET Finance Limited** (ACN 108 014 062) as responsible entity of DUET Finance Trust of Level 14, 20 Martin Place, Sydney NSW 2000 (the **Trustee**).

## Recitals

- A The Trustee is the responsible entity of the trust known as DUET Finance Trust (ARSN 109 363 135) (the **Trust**).
- B The Trust has been registered pursuant to section 601EB of the Corporations Act 2001 (Cth) (the **Corporations Act**) as a managed investment scheme.
- C The Units of the Trust are quoted and traded on the ASX.
- D DUET, Bidco and others have agreed, by executing a scheme implementation agreement dated 14 January 2017 (the **Scheme Implementation Agreement**), to propose and implement the Scheme and schemes of arrangement under Part 5.1 of the Corporations Act in respect of DUECo, DFL and DIHL.
- E The Constitution must be amended to facilitate the Scheme.
- F Section 601GC(1)(a) of the Corporations Act provides that the Constitution may be amended by special resolution of the Members.
- G Under clause 23.1 of the Constitution, the Constitution may be amended by resolution and the Trustee may give effect to the modification by executing a supplemental deed.
- H The Trustee proposes to execute this Supplemental Deed and lodge it with the Australian Securities and Investments Commission (**ASIC**) to modify the Constitution, as set out in this Supplemental Deed, to give effect to the resolution to modify the Constitution that was passed by Members at a meeting held on 21 April 2017.

**It is declared** as follows.

## 1 Definitions and Interpretation

### 1.1 Definitions

In this Supplemental Deed including the Recitals, the following definitions apply unless the context otherwise requires. Capitalised terms used in this but not otherwise defined have the meaning given in the Constitution.

**ASIC** has the meaning given to that term in Recital H.

**Bidco** means CK William Australia Bidco Pty Ltd (ACN 613 693 182).

**Constitution** means the trust deed dated 26 June 2003 constituting the Trust, as amended from time to time.

**Corporations Act** has the meaning given to that term in Recital B.

**DFL** means DUET Finance Limited (ACN 108 014 062).

**DIHL** means DUET Investment Holdings Limited (ACN 120 456 573).

**DUECo** means DUET Company Limited (ACN 163 100 061).

**DUET** means DUECo, DFL in its personal capacity as responsible entity of the Trust, and DIHL.

**Effective Time** means the date on and time at which a copy of this Supplemental Deed is, or the modifications set out in it are, lodged with ASIC under section 601GC(2) of the Corporations Act.

**Scheme** means the arrangement set out in the Scheme Implementation Agreement under which Bidco acquires all of the Units on issue as at the Record Date from the Members and facilitated by the amendments to the Constitution set out in this Supplemental Deed.

**Scheme Implementation Agreement** has the meaning given to that term in Recital D.

**Trust** has the meaning given to that term in Recital A.

## 1.2 Interpretation

Clause 30.2 (Interpretation) of the Constitution applies to this Supplemental Deed as if set out in this Supplemental Deed, except that references to 'constitution' are reference to this Supplemental Deed.

## 2 Benefit of this Supplemental Deed

This Supplemental Deed is made by the Trustee with the intent that the benefit of this Supplemental Deed shall enure to the benefit of Members, jointly and severally.

## 3 Conditions

This Supplemental Deed is conditional upon, and will have no force of effect until, the satisfaction of each of the conditions precedent stipulated in clause 2.1 of the Company Schemes (as defined in the Scheme Implementation Agreement).

## 4 Amendments to Constitution

With effect from the Effective Time, the Constitution is amended in the manner set out in Schedule 1.

## 5 No Resettlement

The Trustee confirms that it is not by this Supplemental Deed intending to:

- (a) settle or re-declare the trust declared under the Constitution; or
- (b) cause the transfer, vesting or accruing of any property comprising the assets of the Trust in any person.

## 6 Governing Law and Jurisdiction

This Supplemental Deed is governed by the laws of Victoria. In relation to it and related non-contractual matters each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

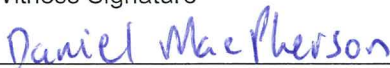
**Executed and delivered as a Deed Poll** in Sydney

Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.


**Executed and Delivered** by and on behalf of **DUET Finance Limited** in its capacity as responsible entity of DUET Finance Trust by its attorney under power of attorney in the presence of:

  
\_\_\_\_\_

Witness Signature

  
\_\_\_\_\_

Print Name

  
\_\_\_\_\_

Attorney Signature

  
\_\_\_\_\_

Print Name

## Schedule 1

### Amendments to the Constitution for DUET Finance Trust

The Constitution is amended as following:

#### 1 Clause 30.1

In clause 30.1 the following definitions are inserted in alphabetical order:

**Bidco** means CK William Australia Bidco Pty Ltd (ACN 613 693 182).

**Bidco Deed Poll** means the deed poll executed by Bidco and the Guarantors in favour of the Scheme Unit Holders.

**CHES** means the Clearing House Electronic Subregister System for the electronic transfer of securities, operated by ASX Settlement Pty Limited (ABN 49 008 504 532).

**DIHL** means DUET Investment Holdings Limited (ACN 120 456 573)

**DIHL Scheme** means a scheme of arrangement under Part 5.1 of the Corporations Act between DIHL and holders of DIHL Scheme Shares under which Bidco acquires all of DIHL Scheme Shares, as contemplated by the Scheme Implementation Agreement.

**DIHL Scheme Share** means the DIHL Shares on issue as at the Record Date other than the Excluded Securities.

**DIHL Share** means a fully paid ordinary share issued in the capital of DIHL.

**DUECo** means DUET Company Limited (ACN 163 100 061)

**DUECo Scheme** means a scheme of arrangement under Part 5.1 of the Corporations Act between DUECo and holders of DUECo Scheme Shares under which Bidco acquires all of the DUECo Scheme Shares, as contemplated by the Scheme Implementation Agreement.

**DUECo Scheme Share** means the DUECo Shares on issue as at the Record Date other than the Excluded Securities.

**DUECo Share** means a fully paid ordinary share issued in the capital of DUECo.

**DUET** means DUECo, DIHL and the Trustee in its personal capacity and as responsible entity of the Trust.

**DUET Scheme Security** means a DUECo Scheme Share, Trustee Scheme Share, DIHL Scheme Share and Scheme Unit collectively.

**DUET Security** means a DUECo Share, Trustee Share, DIHL Share and Unit collectively.

**Effective Date** means the date on and time at which the supplemental deed making amendments to this Constitution to facilitate the Scheme, take effect pursuant to section 601GC(2) of the Corporations Act.

**Guarantors** means:

- (a) Cheung Kong Property Holdings Limited of 7th Floor, Cheung Kong Center, 2 Queen's Road, Central, Hong Kong;
- (b) Cheung Kong Infrastructure Holdings Limited of 12/F Cheung Kong Center, 2 Queen's Rd, Central, Hong Kong; and
- (c) Power Assets Holdings Limited of Rooms 1913-1914, 19/F Hutchison House, 10 Harcourt Road, Central, Hong Kong.

**Implementation Date** means the date that is three Scheme Business Days after the Record Date, or such other date as DUET and Bidco agree in writing.

**Permitted DUET Distributions** means:

- (a) a distribution and dividend payable to holders of DUET Securities for the 6 month period ending 31 December 2016 of no more than 9.25 cents payable either in cash per DUET Security or in accordance with the distribution and dividend reinvestment plan in place as at the date of the Scheme Implementation Agreement;
- (b) a dividend or dividends payable to holders of DUET Securities in accordance with clause 6.1(b) of the Scheme Implementation Agreement; and
- (c) a distribution payable to holders of DUET Securities in accordance with clause 6.3 of the Scheme Implementation Agreement.

**Record Date** means 7.00pm on the date that is five Scheme Business Days after the Effective Date, or such other date as DUET and Bidco agree in writing.

**Registered Address** means, in relation to a Scheme Unit Holder, the address of that Scheme Unit Holder shown on the Register as at the Record Date.

**Registry** means Computershare Investor Services Pty Ltd (ACN 078 279 277) or any replacement share registry services provider to the Trustee.

**Scheme** means the arrangement under which Bidco acquires all of the Scheme Units from the Scheme Unit Holders, facilitated by the amendments to the Constitution set out in this Supplemental Deed.

**Scheme Business Day** means:

- (a) a Business Day as defined in the Listing Rules; and
- (b) a week day on which trading banks are open for business in Sydney, Australia.

**Scheme Consideration** means, in respect of each DUET Scheme Security, a cash amount of \$3 less the amount by which any Special Distribution determined by the Trustee in accordance with clause 6.1 of the Scheme Implementation Agreement, when added to the per-DUET Security value of any Permitted DUET Distribution determined to be made pursuant to clause 6.3 of the Scheme Implementation Agreement, exceeds 3 cents per DUET Scheme Security, net of any payment made to the Australian Taxation Office in accordance with Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* in respect of the acquisition of the relevant DUET Scheme Security.

**Scheme Implementation Agreement** means the agreement of that name between DUET, Bidco and the Guarantors in respect of the proposal and implementation of the Scheme, the Trustee Scheme, the DUECo Scheme and the DIHL Scheme.

**Scheme Meeting** means the meeting of Members held on 21 April 2017 for the purpose of, *inter alia*, voting on the Scheme Resolutions.

**Scheme Resolutions** means resolutions of Members to approve the Scheme, being:

- (a) an ordinary resolution approving for all purposes, including item 7 of section 611 of the Corporations Act, the acquisition by Bidco of all the Scheme Units; and
- (b) a special resolution for the purpose of section 601GC(1) of the Corporations Act to approve amendments to the Constitution to facilitate the implementation of the Scheme.

**Scheme Transfers** means, for each Scheme Unit Holder, a proper instrument of transfer of their Scheme Units for the purpose of section 1071B of the Corporations Act (which may be a master transfer of all or part of all of the Scheme Units).



**Scheme Unit** means a Unit on issue as at the Record Date.

**Scheme Unit Holder** means a person registered in the Register as a holder of one or more Scheme Units as at the Record Date.

**Special Distribution** means the distribution (expressed on a per DUET Security basis and prior to any withholding being made) to be made in accordance with clause 6.1(a) of the Scheme Implementation Agreement and clause 10.9 of the Constitution.

**Trust Account** means an Australian dollar denominated trust account operated by the Trustee (or by the Registry on behalf of the Trustee) as trustee for Scheme Unit Holders

**Trustee Scheme** means a scheme of arrangement under Part 5.1 of the Corporations Act between the Trustee and holders of Trustee Scheme Shares under which Bidco acquires all of the Trustee Scheme Shares, as contemplated by the Scheme Implementation Agreement.

**Trustee Scheme Share** means the Trustee Shares on issue as at the Record Date other than the Excluded Securities.

**Trustee Share** means a fully paid ordinary share issued in the capital of the Trustee.

## 2 Clause 31

A new clause 31 is inserted immediately after clause 30 of the Constitution as set out below:

### 31 Scheme

#### Implementation of the Scheme

- 31.1 Each Scheme Unit Holder and the Trustee must do all things and execute all deeds, instruments, transfers or other documents as the Trustee considers are necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it.
- 31.2 Without limiting the Trustee's other powers under this clause 31, the Trustee has power to do all things that it considers necessary or desirable to give effect to the Scheme and the Scheme Implementation Agreement.
- 31.3 Subject to the Corporations Act, the Trustee, the other DUET entities, Bidco, the Guarantors, or any of their respective directors, officers, employees or associates, may do any act, matter or thing described in or contemplated by this clause 31 even if they have an interest (financial or otherwise) in the outcome.
- 31.4 This clause 31:
- (a) binds the Trustee and all of the Members (including those who do not attend the Scheme Meeting, those who do not vote at the Scheme Meeting and those who vote against the Scheme Resolutions); and
  - (b) to the extent of any inconsistency, overrides the other provisions of this Constitution (but, for the avoidance of doubt, remains subject to the Corporations Act and the Listing Rules).

#### Entitlement to Scheme Consideration

- 31.5 Each Scheme Unit Holder will be entitled to receive the Scheme Consideration for each Scheme Unit held by that Scheme Unit Holder.

#### Deposit of Scheme Consideration

- 31.6 Bidco must, by no later than the Business Day before the Implementation Date:

- (a) deposit (or procure the deposit) in cleared funds into the Trust Account an amount equal to the aggregate amount of the Scheme Consideration payable to Scheme Unit Holders provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidco's account; and
- (b) provide written confirmation to the Trustee of that deposit.

#### **Payment to Scheme Unit Holders**

- 31.7 On the Implementation Date, subject to Bidco having satisfied its obligations in clause 31.6, the Trustee must pay or procure the payment, from the Trust Account, to each Scheme Unit Holder the Scheme Consideration as that Scheme Unit Holder is entitled under clause 31.5.
- 31.8 The obligations of the Trustee under clause 31.7 will be satisfied by the Trustee (in its absolute discretion):
- (a) where a Scheme Unit Holder has, before the Record Date, made a valid election in accordance with the requirements of the Registry to receive dividend payments from the Trustee by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
  - (b) otherwise, whether or not the Scheme Unit Holder has made an election referred to in paragraph (a), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Unit Holder by prepaid post to their Registered Address (as at the Record Date), such cheque being drawn in the name of the Scheme Unit Holder (or in the case of joint holders, in accordance with the procedures set out in clause 31.10).
- 31.9 If, following satisfaction of Bidco's obligations under clause 31.6 but prior to the occurrence of all of the events described in clause 2.1 of the Company Schemes (as defined in the Scheme Implementation Agreement), the Scheme lapses under clause 31.33:
- (a) the Trustee must immediately repay (or cause to be repaid) to or at the direction of Bidco the funds that were deposited in the Trust Account plus any interest on the amounts deposited (less bank fees and other charges);
  - (b) the obligation to transfer Scheme Units, together with all rights and entitlements attaching to the Scheme Units as at the Implementation Date, to Bidco under clause 31.16 will immediately cease;
  - (c) Bidco must return the Scheme Transfers, if provided pursuant to clause 31.16(b); and
  - (d) the Trustee is no longer obliged to enter, or procure the entry of, the name of Bidco in the Register in accordance with clauses 31.17 to 31.22.

#### **Joint holders**

- 31.10 In the case of Scheme Units held in joint names:
- (a) any cheque required to be sent under the Scheme will be made payable to the joint holders and sent to either, at the sole discretion of the Trustee, the holder whose name appears first in the Register as at the Record Date or to the joint holders; and

- (b) any other document required to be sent under the Scheme, will be forwarded to either, at the sole discretion of the Trustee, the holder whose name appears first in the Register as at the Record Date or to the joint holders.

#### **Fractional entitlements**

31.10A Where the calculation of the Scheme Consideration to be paid to a Scheme Unit Holder would result in the Scheme Unit Holder becoming entitled to a fraction of a cent, that fractional entitlement will be rounded down to the nearest whole cent.

#### **Cancellation and re-issue of cheques**

31.11 The Trustee may cancel a cheque issued under this clause 31 if the cheque:

- (a) is returned to the Trustee or the Registry; or
- (b) has not been presented for payment within 6 months after the date on which the cheque was sent.

31.12 During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Unit Holder to the Trustee or the Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), the Trustee must reissue a cheque that was previously cancelled under clause 31.11.

#### **Unclaimed monies**

31.13 The *Unclaimed Money Act 2008* (VIC) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of the *Unclaimed Money Act 2008* (VIC)).

31.14 Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidco.

#### **Remaining monies (if any) in Trust Account**

31.15 To the extent that, following satisfaction of the Trustee's obligations under clause 31.6 and provided Bidco has by that time acquired the Scheme Units in accordance with the Scheme, there is a surplus in the Trust Account, then subject to compliance with applicable laws, the other terms of the Scheme, the Bidco Deed Poll and the Scheme Implementation Agreement, that surplus (less any bank fees and related charges) shall be paid by the Trustee (or the Registry on the Trustee's behalf) to Bidco.

#### **Transfer of Scheme Units to Bidco**

31.16 On the Implementation Date, subject to Bidco having provided the Scheme Consideration in the manner contemplated by the Scheme Implementation Agreement and clause 31.6, and Bidco having provided the Trustee with written confirmation of that having occurred all of the Scheme Units, together with all rights and entitlements attaching to the Scheme Units as at the Implementation Date, will be transferred to Bidco, without the need for any further act by any Scheme Unit Holder (other than acts performed by the Trustee (or any of its directors and officers appointed as sub-attorneys and/or agents of the Trustee) as attorney and/or agent for Scheme Unit Holders under the Scheme), by:

- (a) the Trustee delivering to Bidco for execution duly completed and, if necessary, stamped Scheme Transfers to transfer all of the Scheme Units to Bidco, duly executed by the Trustee (or any of its directors and officers appointed as sub-attorneys and/or agents of the Trustee) as the attorney and/or agent of each Scheme Unit Holder as transferor under clause 31.24;
- (b) Bidco immediately executing the Scheme Transfers as transferee and deliver them to the Trustee for registration; and

- (c) the Trustee, immediately after receipt of the Scheme Transfers under paragraph (b), entering, or procure the entry of, the name and address of Bidco in the Register as the holder of all of the Scheme Units.

31.16A The transfer of all of the Scheme Shares to Bidco in accordance with clause 31.16 must occur simultaneously with:

- (i) the transfer to Bidco of all of the DIHL Scheme Shares under the DIHL Scheme;
- (ii) the transfer to Bidco of all of the DUECo Scheme Shares under the DUECo Scheme; and
- (iii) the transfer to Bidco of all of the DFL Scheme Shares under the DFL Scheme.

### **Dealings in Units**

31.17 For the purpose of establishing the persons who are Scheme Unit Holders and determining entitlements to the Scheme Consideration, dealings in Units will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Register as the holder of the relevant Units by the Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received by the Registry by 5:00pm on the day which is the Record Date at the place where the Register is located (in which case the Trustee must register such transfer or transmission application before 7:00pm on that day),

and the Trustee will not accept for registration, nor recognise for any purpose (including the purpose of establishing the persons who are Scheme Unit Holders) other than to transfer to Bidco pursuant to this clause 31 and any subsequent transfers by Bidco or its successors in title, any transfer or transmission application in respect of Units received after the Record Date, or received prior the Record Date but not in actionable or registrable form (as appropriate).

31.18 The Trustee will, until the Scheme Consideration has been provided and the name and address of Bidco have been entered in the Register as the holder of all of the Scheme Units, maintain, or procure the maintenance of, the Register in accordance with clauses 31.17 to 31.21. The Register immediately after registration of registrable transfers or transmission applications of the kind referred to in clause 31.17(b) will solely determine the persons who are Scheme Unit Holders and their entitlements to the Scheme Consideration. As from the Record Date (and other than for Bidco following the Implementation Date), each entry in the Register as at the Record Date relating to Scheme Units will cease to have any effect other than as evidence of the entitlements of Scheme Unit Holders to the Scheme Consideration in respect of the Scheme Units.

3.18A As soon as possible on or after the Record Date, and in any event within one Business Day after the Record Date, the Trustee will ensure that details of the names, Registered Addresses and holdings of Scheme Units for each Scheme Unit Holder as shown in the Register are available to Bidco in the form Bidco reasonably requires.

31.19 Other than Bidco and its successors in title (after registration of Bidco in respect of all Scheme Units under clause 31.16(d)), no Scheme Unit Holder (or any person purporting to claim through them) may deal with Scheme Units in any way after the Record Date except as set out in clauses 31.17 to 31.21, and any attempt to do so will have no effect.

- 31.20 Other than in respect of Bidco (after registration of Bidco in respect of all Scheme Units under clause 31.16(d)), from the Record Date, all certificates and holding statements (as applicable) for Scheme Units as at the Record Date will cease to have any effect as evidence of title, and each entry on the Register as at the Record Date will cease to have any effect other than as evidence of the entitlements of Scheme Unit Holders to the Scheme Consideration.
- 31.21 If the Scheme becomes Effective, each Scheme Unit Holder, and any person claiming through that Scheme Unit Holder, must not dispose of or purport or agree to dispose of any Scheme Units or any interest in them, after 5,00pm on the Record Date other than to Bidco in accordance with the Scheme and any subsequent transfers by Bidco and its successors in title.

### **Covenants by Members**

- 31.23 Each Scheme Unit Holder :
- (c) acknowledges that this clause 31 binds the Trustee and all of the Members from time to time (including those who do not attend the Scheme Meeting, do not vote at the Scheme Meeting or vote against the Scheme Resolutions);
  - (d) irrevocably agrees to the transfer of their Scheme Units, together with all rights and entitlements attaching to those Scheme Units, to Bidco in accordance with the terms of the Scheme, without the need for any further act by that Scheme Unit Holder;
  - (e) agrees to the modification or variation (if any) of the rights attaching to their Scheme Units arising from this clause 31, without the need for any further act by that Scheme Unit Holder ;
  - (f) irrevocably consents to the Trustee and Bidco doing all things and executing all deeds, instruments, transfers or other documents (including the Scheme Transfers) as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it, without the need for any further act by that Scheme Unit Holder; and
  - (g) agrees to provide to the Trustee such information as the Trustee may reasonably require to comply with any law in respect of the Scheme and the transactions contemplated in this clause 31, including information required to meet obligations under the *Anti-Money Laundering and Counter Terrorism Financing Act 2006* (Cth).

### **Appointment of the Trustee as attorney and as agent for implementation of Scheme**

- 31.24 Each Scheme Unit Holder, without the need for any further act by that Member, irrevocably appoints the Trustee as that Member's attorney and as that Member's agent for the purpose of:
- (a) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it, including effecting a valid transfer or transfers of the Scheme Units to Bidco under clause 31.16, including executing and delivering any Scheme Transfers; and
  - (b) enforcing the Bidco Deed Poll against Bidco,
- and the Trustee accepts such appointment. The Trustee, as attorney and as agent of each Member, may sub-delegate its functions, authorities or powers under this clause 31.24 to all or any of its directors and officers (jointly, severally, or jointly and

severally). Each Member indemnifies the Trustee and each of its directors and officers against all losses, liabilities, charges, costs and expenses arising from the exercise of powers under this clause 31.24.

#### **Appointment of Bidco as attorney and as agent for Scheme Units**

- 31.25 From the time that Bidco has satisfied its obligations in clause 31.6 until Bidco is registered in the Register as the holder of all Scheme Units, each Scheme Unit Holder:
- (a) without the need for any further act by that Scheme Unit Holder, irrevocably appoints the Trustee as its attorney and as its agent (and directs the Trustee in such capacity) to irrevocably appoint Bidco as its sole proxy and, where applicable, corporate representative, for the purpose of:
    - (i) attending Member meetings;
    - (ii) exercising the votes attaching to the Units registered in the name of the Member in the Register; and
    - (iii) signing any Members' resolution;
  - (b) must take all other action in the capacity of a Member for the purposes of facilitating the Scheme as Bidco reasonably directs; and
  - (c) acknowledges and agrees that in exercising the powers referred to in article 31.25(a), Bidco and any person nominated by Bidco under clause 31.25(a) may act in the best interests of Bidco as the intended registered holder of the Scheme Units.
- 31.26 From the time that Bidco has satisfied its obligations in clause 31.6 until Bidco is registered in the Register as the holder of all Scheme Units, no Member may attend or vote at any meetings of Unit Holders or sign any Unit Holders' resolution (whether in person, by proxy or by corporate representative) other than under clause 31.25.
- 31.27 The Trustee undertakes in favour of each Member that it will appoint the Chairman of Bidco (or other nominee of Bidco) as the Members' proxy or, where applicable, corporate representative in accordance with clause 31.25.

#### **Status of Scheme Units**

- 31.28 To the extent permitted by law, the Scheme Units transferred to Bidco under clause 31.16 will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- 31.29 Each Scheme Unit Holder is deemed to have warranted to Bidco, and, to the extent enforceable, to have appointed and authorised the Trustee as that Scheme Unit holder's agent and attorney to warrant to Bidco, that all of their Scheme Unit any rights and entitlements attaching to those Scheme Unit) will, at the time of the transfer of them to Bidco pursuant to the Scheme, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to sell and to transfer their Scheme Unit (together with any rights and entitlements attaching to those Scheme Unit) to Bidco pursuant to the Scheme. The Trustee undertakes in favour of each Scheme Unit Holder that it will provide such warranty, to the extent enforceable, to Bidco on behalf of that Scheme Unit Holder.

- 31.30 Bidco will be beneficially entitled to the Scheme Units transferred to it under clause 31.16 pending registration by the Trustee of the name and Registered Address of Bidco in the Register as the holder of the Scheme Units.

#### **Suspension and termination of quotation of Units**

- 31.31 The Trustee must apply to ASX for suspension of trading of the Units on ASX with effect from the close of business on the Effective Date.
- 31.32 The Trustee must apply to ASX for termination of official quotation of the Units on ASX and the removal of the Trust from the official list of the ASX with effect from the Scheme Business Day immediately following the Implementation Date, or from such later date as may be determined by Bidco.

#### **Lapsing**

- 31.33 Clause 31 (except clause 31.9) will lapse and have no further force or effect if the Company Schemes (as defined in the Scheme Implementation Agreement) lapse in accordance with clause 2.2 of each of the Company Schemes.

#### **Notices**

- 31.34 Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to the Trustee, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at the Trust's registered office or by the Registry, as the case may be.

#### **Costs and stamp duty**

- 31.35 Subject to clause 31.36, each of Bidco and the Trustee will pay their share of the costs of the Scheme in accordance with the Scheme Implementation Agreement. The Trustee may pay or be reimbursed for such costs out of the Assets.
- 31.36 Bidco will pay all stamp duty (including fines, penalties and interest) payable on or in connection with the transfer by Scheme Unit Holders of the Scheme Units to Bidco pursuant to the Scheme.

#### **Limitation of liability**

- 31.37 Without limiting clause 18 but subject to the Corporations Act, the Trustee will not have any liability of any nature whatsoever to Members, beyond the extent to which the Trustee is actually indemnified out of the Assets, arising, directly or indirectly, from the Trustee doing or refraining from doing any act (including the execution of a document), matter or thing pursuant to or in connection with the implementation of the Scheme.