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Gas Participant Trustee Deed Poll

By

[Name of Trustee] as trustee for the [Name of Trust]

In favour of

Australian Energy Market Operator Limited

Relating to an application for registration under the National Gas Law, the National Gas Rules, Gas Trading Exchange Agreement and/or a Capacity Auction Agreement.

Australian Energy Market Operator Ltd  
Level 22, 530 Collins Street  
MELBOURNE VIC 3000

Tel: 03 9609 8000

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# Details

This Deed is made on the date of its execution as recorded on this document

By: [Name of Trustee] (ACN xxx xxx xxx) (Trustee) of [Address], as trustee for the [Name of Trust] (ABN xx xxx xxx xxx) (Trust) (the Applicant)

In favour of: AUSTRALIAN ENERGY MARKET OPERATOR LIMITED (ABN 94 072 010 327)  
of Level 22, 530 Collins Street, Melbourne VIC 3000 (AEMO)

Relating to: The Applicant’s application for registration as a [insert registrable capacity/ participant category/ member role/auction participant capacity] in the [insert gas market] under the National Gas Law and the National Gas Rules, the Gas Trading Exchange Agreement and/or a Capacity Auction Agreement (as applicable)(**Application**).

# Operative Provisions

## Interpretation

In this Deed, unless the context otherwise requires:

* 1. Terms defined in the Detailshave the meanings set out there.
  2. If the Trustee consists of more than one person, the term “Trustee” means each of them individually and every two or more of them jointly.
  3. The following terms have the meanings set out below when used in this Deed, unless otherwise stated:

**Capacity Auction Agreement** has the meaning given in the NGL;

**Gas Trading Exchange Agreement** has the meaning given in the NGL;

**National Gas** means the Schedule to the *National Gas (South Australia) Act 2008* (SA);

**National Gas Rules** or **NGR** means the rules of that name made under the National Gas Law, and includes the exchange agreement(s) contemplated by these rules;

Term has the meaning given in clause 3;

Trust Deed means the trust deed of the Trust which, as at the date of this Deed, is in the form submitted to AEMO with the Application, and includes any amendments or replacements of that trust deed;

Trust Fund means the property and assets of the Trust held by the Trustee under the Trust Deed.

* 1. A reference to legislation (including the National Gas Law and the NGR) includes subordinate legislation and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them.

## Deed supports Application

* 1. The Trustee has made the Application in its capacity as trustee of the Trust and in no other capacity.
  2. In order to consider the Application, AEMO must be satisfied that the Applicant is, and will be, capable of meeting its obligations under the NGR, the Gas Trading Exchange Agreement and/or the Capacity Auction Agreement (as applicable).
  3. Because the recourse of any person to the Trustee in respect of its obligations properly incurred in that capacity is limited by the extent of its indemnity out of the Trust Fund, the Trustee gives the representations, warranties and covenants set out in this Deed in support of the Application and for the benefit of AEMO.

## Term

The representations, warranties and covenants in this Deed are effective on and from the date it is executed until the earlier of the date on which:

* 1. the Applicant ceases to be a registered participant under the NGR, the Gas Trading Exchange Agreement or the Capacity Auction Agreement in the capacity that is the subject of the Application, provided that it has discharged, satisfied or been released from any outstanding or contingent liabilities under the NGR, the Gas Trading Exchange Agreement and the Capacity Auction Agreement (as applicable); or
  2. where a replacement trustee is appointed in respect of the Trust, an executed deed has been delivered to AEMO pursuant to clause 5(c), and has come into effect.

## Representations and warranties

The Trustee represents and warrants, as at the date of this Deed and at all times during the Term that:

* 1. the Trust has been duly established;
  2. it is the only trustee of the Trust;
  3. it has been validly appointed as trustee of the Trust, and no action has been taken to remove it as a trustee of the Trust;
  4. no action to terminate the Trust has been taken and no proposed action to do so has been notified to the Trustee;
  5. it has the power under the Trust Deed to be bound by and comply with its obligations under or in connection with the NGR, the Gas Trading Exchange Agreement and the Capacity Auction Agreement (as applicable), any authorisations required for it to do so have been obtained and the exercise of that power is not limited in any way;
  6. it has a right to be indemnified out of, and has a lien over, the Trust Fund in respect of obligations incurred by it under the NGR, the Gas Trading Exchange Agreement and the Capacity Auction Agreement (as applicable); and
  7. it has not incurred any liability which may be set off against its right of indemnity out of the Trust Fund.

## Covenants

* 1. The Trustee must not, without AEMO’s prior written consent:
     1. amend or agree to amend the Trust Deed; or
     2. do or omit to do any other thing,

with the effect of limiting the Trustee’s right of indemnity out of, and lien over, the Trust Fund in any way.

* 1. The Trustee must notify AEMO promptly if any representation or warranty made under this Deed is found to be incorrect or misleading.
  2. In the event of a proposed change of the trustee of the Trust, the Trustee must procure that the replacement trustee(s) executes and delivers to AEMO a trustee deed in favour of AEMO, in the same form as this Deed, effective from the date of change of the trustee.

## General

* 1. This Deed is governed by the laws of Victoria.
  2. AEMO’s rights and remedies under this Deed are in addition to the rights and remedies provided by law or equity.

EXECUTED and DELIVERED as a Deed

|  |  |  |
| --- | --- | --- |
| **Executed** in accordance with section 127 of the Corporations Act 2001 by [Name of Trustee] as trustee for the [Name of Trust] | | |
| (Signed)……………………………………………...  Director  [Print name] Print Name |  | (Signed)……………………………………………  Director / Secretary  [Print name] Print Name |
| Date of execution: [Date] | | |