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COMMUNITY BENEFIT AGREEMENT

For

Marmadua Energy Park

Western Downs Regional Council
(ABN 91 2325 876 51)
(Council)

And

Cubico Sustainable Investments Australia Pty Ltd
(ABN 48 624 996 078)
(Proponent)

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Parties to this Agreement

Proponent	Name	**Cubico Sustainable Investments Australia Pty Ltd (ABN 48 624 996 078)**
	Address	Level 29, Aurora Place, 88 Phillip St, Sydney, 2000, Australia
	ABN	ABN 48 624 996 078
	Contact Name	Jacqui Niemand
	Contact Email	Legalnoticesaustralia@cubicoinvest.com
Council	Name	**Western Downs Regional Council**
	Address	PO Box 551, Dalby QLD 4405
	ABN	ABN 91 2325 876 51
	Contact Name	Jodie Taylor
	Contact Email	jodie.taylor@wdrc.qld.gov.au

Background & Context

1. The Proponent intends to lodge a Development Application for the proposed development described in Item 1 of Schedule 1 on the land described in Item 2 of Schedule 1.

2. The proposed development is a development requiring social impact assessment as defined in the *Planning Act 2016* (Qld) (**Act**).

3. The Proponent and the Council agree to enter into this Agreement as a community benefit agreement as defined in section 106Y of the Act.

4. The Proponent agrees that it will provide Financial Contributions for the purpose of delivering community benefits in the locality of the proposed development as set out in this Agreement.

5. The Parties agree to be bound by the terms set out in the Operative Provisions.

6. In parallel with this Agreement, the Proponent must enter into a separate Road Infrastructure Agreement with Council, which is not intended to operate in substitution for any part of this Agreement.

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Operative Provisions

Part 1 - Preliminary

1. Definitions and Interpretation

1.1. In this agreement the following words in bold have the meaning stated, unless it is otherwise defined by a specific provision:

Act means the *Planning Act 2016* (Qld) as amended from time to time, and if that Act is repealed, includes a reference to or any other Act that replaces that Act.

Additional Payment means a payment made under Clause 7.

Agreement means this community benefit agreement and any schedules, annexures, and appendices to this Agreement.

Authority means:
a) a government or government department or other body;
b) a governmental, semi-governmental or judicial person, including a statutory corporation; or
c) a person (whether autonomous or not) who is charged with the administration of a law.

Confidential Information means the terms of the Agreement and any information of a party, irrespective of how the information is stored or delivered:

a) which the party indicates or has indicated is confidential;

b) which by its nature might reasonably be understood to be confidential or to have been disclosed to the other party in confidence; or

c) which is commercially valuable or would be of commercial value to a competitor of the party to whom it belongs, that was or is provided by or on behalf of one party to the other before, on or after the date of this Agreement,

as well as all copies of the information referred to in paragraphs (a) to (c) above, but excludes information that:

d) was lawfully in the possession of the other party for reasons unrelated to the Agreement, and not subject to an obligation of confidentiality on that party, before the date of this Agreement; or

e) is or, after the date of this Agreement, becomes available in the public domain (other than as a result of a breach of the Agreement).

Connection Agreement means the agreement entered into between the Proponent and the relevant network service provider governing the connection of the relevant stage of the Development to the electricity network, as amended from time to time. It is acknowledged that there may be different Connection Agreements for the wind farm and the BESS components of the Development.

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Contribution Year means every 12-month period from 1 July each year, and in respect of the first Contribution Year, the period from the Development Approval Date to 30 June.

Construction Commencement Date means the date of commencement of construction of the Development, as authorised by the Development Approval and Other Approvals and notified in writing by the Proponent to Council. It is acknowledged that there may be a different Construction Commencement Date between the wind farm and the BESS components of the Development.

Costs means a cost, charge, expense, outgoing, payment, fee, and other expenditure of any nature, including (for indemnity purposes) loss and damages.

CPI means the Consumer Price Index in line with (Brisbane All Groups) Index (CPI) or, if that index ceases to have effect, that index or metric which replaces its function.

Default means a breach of this Agreement.

Development Application is the formal application to the relevant assessment manager to seek the Development Approval required for the Development.

Development means the proposed development described in Item 1 of Schedule 1, as may be amended or changed by the Proponent at any time for any reason.

Development Approval / DA Approval means the statutory approval granted under the Act, as modified, varied, or replaced for a minor change from time to time, which authorises the Proponent to undertake and operate the Development.

Dispute means a dispute or difference between the Parties under or in relation to this Agreement.

Financial Contribution means the monetary payment to be made by the Proponent as specified in Schedule 2, which is required to be made under this Agreement. The Financial Contribution will be separately calculated for the wind farm and BESS component of the Development.

Force Majeure means:

a) fire, earthquake, flood or other casualty or accident;

b) strikes or labour disputes;

c) inability (for reasons beyond the reasonable control of the Proponent) to procure or produce electricity from the Project at a commercially reasonable cost;

d) war, civil strife or other violence;

e) any law, order, proclamation, regulation, ordinance, action, demand or requirement of any Authority; or

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f) any other act or condition whatsoever (whether similar or dissimilar to the above specified causes) beyond the reasonable control of the Proponent.

Formation Date is the date upon which a Party last executes this Agreement.

Host Community means the Western Downs Regional Council local government area, with a specific focus on the community of Tara (postcode 4421) and the surrounding communities of Halliford, Kumbarilla and Weranga,

Land means the land identified in Item 2 Schedule 1 and subject of this Agreement, where the Project is to be located.

Other Approvals means any and all other approvals required by the Proponent in order to undertake their Development.

Party means a party to this Agreement, including their successors and assigns.

Project means the Marmadua Energy Park.

Regulation means the *Planning Regulation 2017* (Qld).

Social Impact Assessment Report means the document prepared and submitted as part of the Development Application for this Project.

Stream 1 Contributions means the Stream 1 funding allocated in accordance with Schedule 2.

Stream 2 Contributions means the Stream 2 funding allocated in accordance with Schedule 2.

Stream 3 Contributions means the Stream 3 funding allocated in accordance with Schedule 2.

Term means the period described in clause 4 of this Agreement.

Value means the $AUD amount agreed between the Parties as the value of a Financial Contribution made under this Agreement, as shown in Schedule 2, or as otherwise agreed between the Parties.

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1.1. Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

Bold Headings are inserted for convenience only and do not affect the interpretation of this Agreement.

1.1.1. A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Brisbane.

1.1.2. If the **day** on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter, or thing must be done on the next business day.

1.1.3. A reference in this Agreement to dollars or $ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.

1.1.4. A **reference** in this Agreement to a $ value relating to a Financial Contribution is a reference to the value exclusive of GST.

1.1.5. A **reference** in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or reenactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

1.1.6. A **reference** to a clause, part, schedule, or attachment is a reference to a clause, part, schedule, or attachment of or to this Agreement.

1.1.7. An **expression** importing a natural person includes any Proponent, trust, partnership, joint venture, association, body corporate or governmental agency.

1.1.8. Where a **word or phrase** is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

1.1.9. A **word** which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.

1.1.10. **References** to the word ‘include’ or ‘including’ are to be construed without limitation.

1.1.11. A **reference** to ‘dedicate’ or ‘dedication’ in relation to land is a reference to dedicate or dedication free of cost.

1.1.12. Any **schedules, appendices and attachments** form part of this Agreement.

1.1.13. **Notes** appearing in this Agreement are operative provisions of this Agreement.

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2. Community Benefit Agreement

2.1. The Development is a development requiring social impact assessment as defined in the Act and Regulation.

2.2. This Agreement is a community benefit agreement as defined by section 106Y of the Act.

2.3. The benefits proposed to be provided to the Host Community pursuant to this Agreement have been:

a) identified as appropriate and sufficient to address the social impact of the Development (as defined in section 106R of the Act), as informed by the Social Impact Assessment Report; or

b) otherwise identified by agreement between the parties as appropriate and sufficient to address the social impact of the Development.

3. Application of this Agreement

3.1. The Proponent expressly agrees that:

a) compliance with this Agreement may be a condition of a Development Approval, if granted in relation to the Development and that it agrees such a condition is both relevant and reasonably required in respect of the Development Approval; and

b) if it is the owner of the whole of the Land, the obligations of this Agreement shall attach to the Land.

3.2. This Agreement does not apply or operate in substitution for other obligations of the Proponent, including with respect to any conditions requiring contributions for or construction of infrastructure not contemplated by this Agreement.

3.3. Entry into this Agreement does not constitute approval of the Development to the extent that any such power is conferred on the Council.

4. Term of the Agreement

4.1. Subject to the remaining provisions of this clause 4, this Agreement shall be in full force and effect from the date the Development Application is approved until the Development is decommissioned in accordance with the Development Approval.

4.2. The obligation of the Proponent to make the Financial Contribution will be effective when the following events occur:

4.2.1. Stream 1 Contributions and Stream 2 Contributions from the relevant Construction Commencement Date;

4.2.2. Stream 3 Contributions from the date the Development Approval takes effect.

4.3. The Parties agree that the Financial Contributions payable under this Agreement will be paid in stages, with each stage calculated in accordance with this clause 4.3.

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4.3.1. The Financial Contribution for each stage is to be calculated by reference to the approved megawatt capacity for that stage of the Development as set out in the relevant Connection Agreement;

4.3.2. Prior to the Construction Commencement Date for each stage, the Proponent must notify Council of:

4.3.2.1. the approved megawatt capacity as set out in the Connection Agreement; and

4.3.2.2. the Financial Contribution calculated by reference to that capacity.;

4.4. Council may reasonably request information relating to the Proponent's Connection Agreement. The Proponent must provide the requested information, provided that:

4.4.1. any commercially or technically confidential information may be redacted;

4.4.2. disclosure remains subject to the confidentiality requirements of the National Electricity Rules; and

4.4.3. the Proponent is not required to disclose any information it is itself prohibited from disclosing to third parties under the Connection Agreement or otherwise.

4.5. The Proponent may terminate this Agreement, at any time:

4.5.1. prior to the first Construction Commencement Date, at its sole discretion, provided the Development Approval has first been cancelled under section 84 of the Act; or

4.5.2. following the Construction Commencement Date, if the Development is prevented or substantially restricted or interfered with by reason of an event of Force Majeure that renders the Project permanently incapable of proceeding or operating and the Development Approval has been cancelled under section 84 of the Act, by issuing a written notice to Council (**Termination Notice**).

4.6. The termination is taken to be effective from the date that is 30 business days from the date of the Termination Notice (the **Termination Date**).

4.7. The Parties agree that this Agreement automatically terminates on and from the date that the Proponent receives a notice of refusal of the Development Application for the Project and where no appeal or other legal proceeding is instituted against the refusal, or the date on which the Development Approval lapses prior to the carrying out of any aspect of the Development.

4.8. The Parties are released from all obligations under this Agreement from the date of termination.

4.9. If the requirement for a community benefit agreement as defined by section 106Y of the Act is repealed by legislation, the Proponent's obligation to make any further Financial Contributions will cease to reflect the legislative amendments on the date the amendments take effect.

5. Warranties

5.1. Each Party assures the other Party and warrants that:

5.1.1. it possesses the power and has full capacity to enter this Agreement;

5.1.2. it possesses the power to perform all of its obligations under the Agreement;

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5.1.3. all necessary authorising action has been taken to enable it to enter the Agreement and to perform its obligations (for example, the passage of any necessary resolutions);

5.1.4. entering the Agreement and performing its agreed obligations does not contravene any law.

5.2. Each Party acknowledges that the others enter this Agreement in reliance upon those assurances.

6. Further agreements

6.1. The Parties may, at any time and from time to time, enter into agreements relating to the subject matter of this Agreement that are not inconsistent with this Agreement for the purpose of implementing this Agreement.

Part 2 - Agreed Community Benefits

7. Benefits Agreed to be Provided

7.1. The Parties agree that the community benefits identified in this Agreement are an appropriate and reasonable response to the social impact of the Development.

7.2. The community benefits to be provided by the Proponent pursuant to this Agreement is the Financial Contribution set out in Schedule 2.

7.3. Schedule 2 provides:

a) the Financial Contribution to be provided;

b) the milestone of the Development which is intended to trigger the Financial Contribution;

c) how a Financial Contribution will be managed and applied.

7.4. The Financial Contribution to be provided by the Proponent under Stream 1 identified in Schedule 2 will be invoiced as follows:

For the initial year:

a) Within 30 days of the Construction Commencement date, Council will provide the Proponent:

i. A statement with the calculated Financial Contribution (pro-rata up to the end of the current financial year); and

ii. An invoice for the Stream 1 amount and any other amount payable.

Every subsequent year during the Term of the Agreement:

b) Within 45 days of the end of the financial year, Council will provide the Proponent:

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i. A statement with the calculated Community Benefit Contributions, including any adjustments for CPI;

ii. An invoice for the Stream 1 amount and any other amount payable.

c) Within 30 days of receiving the documents referred to above, the Proponent will:

i. Pay Council the Stream 1 amount and any other amount invoiced.

In the case of default by the Proponent in the payment of the Stream 1 amount or in the payment of any other money payable under this Community Benefit Agreement, the Proponent acknowledges and agrees that 30 days is a reasonable time to remedy the breach.

7.5. The Proponent may make an **Additional Payment** or contribution in excess of the payment required under this Agreement during a Financial Year. The Additional Payment must:

a) be a Financial Contribution which is consistent with the Financial Contributions identified in Schedule 2; and

b) be approved, acting reasonably, by Council within 10 business days of the Proponent issuing a written notice to Council outlining the proposed Additional Payment. The reasonableness may include factors such as whether the Additional Payment will be applied during the current Financial Year, whether the Additional Payment is related to a well-defined and specific initiative (as listed in Schedule 2), and to which Stream the Additional Payment is allocated.

7.6. If an Additional Payment is made by the Proponent subject to clause 7.4, the Proponent may offset the Additional Payment against the Financial Contribution in a subsequent Financial Year on a dollar for dollar and on the same real terms basis.

7.7. Any Financial Contribution associated with this Agreement expressly excludes and may not be set off against the following:

7.7.1. direct payments to landholders and adjoining properties

7.7.2. council rates or statutory levies or taxes required to be paid by law

7.7.3. infrastructure works or contributions pursuant to any agreement for road infrastructure contributions for the Project;

7.7.4. additional voluntary regional benefit-sharing arrangements beyond the scope of the Host Community not provided for in this Agreement.

7.8. Any Financial Contribution made under Stream 1, or made as an Additional Payment, cannot be re-couped by the Proponent or refunded by Council for any reason, including but not limited to the Project being abandoned, the Development Approval lapsing, the commercial operations ceasing, or for any other reason, regardless of whether or not the Financial Contributions or Additional Payment have been allocated or expended.

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8. Application of Financial Contributions

8.1. Council must use the Stream 1 Financial Contributions set out in Schedule 2 for the following purposes where applicable:

8.1.1. infrastructure and/or services for the Host Community;

8.1.2. another purpose identified in the Social Impact Assessment Report.

8.2. Council will apply Financial Contributions in accordance with Schedule 2, and in the absence of specific application of funds being identified, generally in accordance with Council's Policy: *Renewable Energy: Community Benefit System Policy.*

9. Indexation of Financial Contributions

9.1. All Financial Contributions (exclusive of Additional Payments) are to be indexed from the date of this Agreement to the date of payment in accordance with the following formula:

$$IA = A \times \frac{\text{Index Number (Later Period)}}{\text{Index Number (Base Period)}}$$

where:

IA is the indexed amount.

A is the amount to be indexed.

Index Number is the published Consumer Price Index (CPI).

Base Period is for the quarter preceding the Formation Date.

Later Period is the date of payment.

The failure on any occasion to apply indexation shall not act as a waiver or prevent recovery of any additional sum of money that ought to be paid had the indexation taken place.

Part 3 - Review and Monitoring

10. Review of Agreement & Generally

10.1. Council recognises that community needs and priorities may shift over the life of projects. If either Party is of the opinion that any change of circumstance has occurred, or is imminent, that materially affects the operation of this Agreement, the Party may request a review of the whole or any part of this Agreement, subject to the following clauses.

10.2. A Party to this Agreement may request a review of the Agreement by giving not less than 30 business days' written notice to the other Party.

10.3. A Party is not bound to review the Agreement, unless it is a formal review conducted once every three years, as noted in clause 10.7.

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10.4. If a review is requested in accordance with clause 10.2 and both parties have agreed to participate in the review, the Parties are to use all reasonable endeavours, in good faith, to agree on and implement appropriate amendments to this Agreement.

10.5. A failure by a Party to agree to take action as requested by the other Party as a consequence of a review referred to in clause 10.1 is not a Dispute for the purposes of this Agreement and is not a material breach of this Agreement.

10.6. If the Parties agree to amend this Agreement under this clause, any such amendment must be in writing and signed by the Parties and exhibited in accordance with the Act and Regulation.

10.7. In addition to any review rights set out above, the Parties agree that this Agreement shall be **formally reviewed every three (3) years** from the Formation Date. This review is intended to ensure that evolving community needs, priorities, and expectations are appropriately reflected in the Agreement.

10.8. Notwithstanding informal or formal reviews that may or do occur, reviews may include but are not limited to:

a. Amending the percentage allocation of the Streams; or

b. Amending, reviewing or replacing the initiatives listed in Schedule 2, but will not include increasing or decreasing the global Financial Contribution amount (which is only subject to indexation as listed in this Agreement).

10.9. Notwithstanding any other obligation under this clause 10, if the Parties commence a review of this Agreement but do not reach written agreement on the proposed amendments arising from that review, this Agreement shall continue in full force and effect on the terms and conditions that applied immediately prior to the commencement of the review, unchanged and without modification.

11. Monitoring and Reporting

11.1. The Proponent acknowledges that Council will actively monitor the Proponent's compliance with its obligations under this Agreement. Council's monitoring and reporting processes will include, but are not limited to, the following:

11.1.1. Inclusion of a dedicated update within Council's Annual Report outlining relevant activities, outcomes, and progress under this Agreement, including all relevant reporting obligations under *Local Government Regulation 2012* (Qld) section 189A.

11.1.2. Provision to the Proponent of an annual report by Council detailing the provision of the Stream 1 Contributions, including a summary of expenditure against Council infrastructure initiatives and projects.

11.1.3. Provision of an annual report by the Proponent detailing performance in relation to Stream 2 and Stream 3 Contributions, including a summary of expenditure against allocated projects and initiatives. This must be provided within 30 days of the end of the financial year.

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11.2. Council will require the Proponent's annual participation in the self-evaluation process aligned with the Communities Partnering Framework to support the Proponent's Monitoring and Reporting on their partnering contribution to the Western Downs region.

11.3. Council will require the Proponent to provide Council with half-yearly updates on the Social Impact Management Plan during the Construction Phase, and yearly updates during the Operational Phase.

Part 4 - Dispute Resolution

12. Mediation

12.1. This clause applies to any Dispute arising in connection with this Agreement.

12.2. A Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.

12.3. If a notice is given under clause 12.2, the Parties are to meet within 14 days of the notice to attempt to resolve the Dispute.

12.4. If the Dispute is not resolved within a further 20 business days, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of Queensland published from time to time;

12.5. The mediation is to be conducted by a mediator agreed between the Parties, and failing agreement within 14 days, the Parties are to request the President of the Law Society to appoint a mediator.

12.6. If the Dispute is not resolved by mediation within a further 20 business days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in Queensland.

12.7. Each party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.

12.8. The Parties are to share equally the costs of the President, the mediator, and the mediation.

Part 5 – Risk and Claims

13. Risk

13.1. The Proponent performs this Agreement at its own risk and its own cost.

14. Release

14.1. The Proponent releases the Council from any Claim it may have against the Council arising in connection with the performance of the Proponent’s obligations under this Agreement except if,

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and to the extent that, the Claim arises because of the Council's negligence, wilful misconduct, or default.

Part 6 - Other Provisions

15. Security

15.1. In this clause, each of the following expressions in bold to the left bears the meaning shown opposite:

Bank	A trading bank licensed to conduct banking business, and conducting banking business, under Commonwealth or Queensland legislation regulating banking.
Bankers Undertaking	An undertaking issued in favour of Council: given by a Bank: a) that holds a long-term credit rating not lower than the Minimum Strength Rating; b) that maintains a branch or office in Council's local government area that is open for business upon all Business Days; c) in the form of the instrument comprising Schedule 3; and d) otherwise compliant with the relevant requirements of this Agreement.
Issuing Bank	The Bank that issues the Bankers Undertaking.
Minimum Strength Rating	The minimum long-term credit rating prescribed under the *Financial and Performance Management Standard 2019* for an approved security provider of the type to which the Issuing Bank belongs. At the Formation Date, the prescribed rating is: a *Fitch Australia Pty Ltd* (*Fitch Ratings*) long-term financial strength rating not lower than A minus; or a *Moody's Investors Service Pty Limited* long-term strength rating not lower than A3; or a *Standard & Poor's Australian Ratings Pty Ltd* long-term strength rating not lower than A minus.
Parent Company	Cubico Sustainable Investment Limited (Registered number 09263711) 70 St Marys Axe, London, England, EC3A 8BE, England
Parent Company Undertaking	An undertaking issued in favour of Council given by the Parent Company that complies with the relevant requirements of this Agreement.

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Undertakings

15.2. To secure the Proponent's performance under Clause 7, the Proponent must deliver to Council within 30 Business Days of each Construction Commencement Date:

15.2.1. a Bankers Undertaking, in the amount of *no less than* the Stream 1 annual Financial Contribution (calculated in accordance with clause 4.3); and

15.2.2. A Parent Company Undertaking in the amount of no less than double the Stream 1 annual Financial Contribution (calculated in accordance with clause 4.3).

15.3. Council will hold the Bankers Undertaking and Parent Company Undertaking as security for meeting whatever Cost it incurs in exercising its default entitlements, to the extent those Costs are payable by the Proponent under the terms of this Agreement.

15.4. To note, Council must waive the requirement for a Bankers Undertaking and Parent Company Undertaking if the Agreement is tied to the land as noted in Clause 3.1(b) of this Agreement.

Drawing upon Security

15.5. Without prejudicing other entitlements that accrue to it because of the Proponent's failure to discharge the requirements of Clause 7, Council may draw upon the Parent Company Undertaking in the first instance, and then the Bankers Undertaking to meet whatever Cost it incurs in satisfying those requirements, to the extent any such Cost is payable by the Proponent under the terms of this Agreement.

15.6. If Council draws upon the Parent Company Undertaking and / or the Bankers Undertaking, and the money drawn is insufficient to meet the Costs incurred by Council and which are payable by the Proponent under this Agreement, Council may give the Applicant notice requiring the Applicant to replace that Parent Company Undertaking and / or Bankers Undertaking with a substitute Bankers Undertaking and / or Parent Company Undertaking securing payment of the lesser of:

15.6.1. the sum secured by the instrument to be replaced, before Council drew upon it; or

15.6.2. an amount equal to the aggregate of the obligations the Bankers Undertaking and Parent Company Undertaking is intended to secure.

15.7. Drawing upon the Parent Company Undertaking and / or Bankers Undertaking will not prejudice other entitlements that accrue to Council because of the default.

Nature and Extent of Securities

15.8. Subject to this Agreement, Council may draw upon the Bankers Undertaking and Parent Company Undertaking:

15.8.1. without the necessity to satisfy any precondition or to notify the Proponent of its intention to make the draw;

15.8.2. irrespective of any dispute under this Agreement;

15.8.3. irrespective of any setoff or other entitlement the Applicant possesses against it;

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The Council may not draw upon the Bankers' Undertaking and Parent Company Undertaking if the draw would be fraudulent.

Substitution of Security

15.9. Council may require the Proponent to replace the Bankers Undertaking that Council holds, with a substitute Bankers Undertaking issued by a different Bank, if:

15.9.1. the long-term credit rating of the Issuing Bank falls below the Minimum Strength Rating; or

15.9.2. Council considers (acting reasonably) that a change in control of the Issuing Bank will result in an undue concentration of financial risk with the Issuing Bank, having regard to other securities that that Bank has issued to Council concerning dealings (with any persons) to which Council is party; or

15.9.3. the Issuing Bank ceases to maintain an office or branch in Council's local government area that is open for business upon all Business Days.

15.10. The Proponent must comply as soon as reasonably practicable with a Council notice .

15.11. The Council notice must afford the Proponent a reasonable period within which to provide the substitute security.

Cancellation of Security

15.12. When the requirements of Clause 7 have been satisfied, and the Proponent has no further obligation to meet any Costs under the terms of this Agreement, Council must return the Bankers Undertaking and Parent Company Undertaking to the Proponent.

16. Confidentiality

16.1. This agreement is a public document, and its terms are not confidential.

16.2. The parties acknowledge that:

16.2.1. Confidential Information may have been supplied to some or all the Parties in negotiations leading up to the making of this agreement; and

16.2.2. the Parties may disclose to each other further Confidential Information in connection with the subject matter of this agreement.

16.3. Subject to clause 16.1, each Party agrees:

16.3.1. not to disclose any Confidential Information received before or after the making of this agreement to any person without the prior written consent of the Party who supplied the confidential information; and

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16.3.2. to take all reasonable steps to ensure all confidential information received before or after the making of this agreement is kept confidential and protected against unauthorised use and access.

16.4. A Party may disclose Confidential Information in the following circumstances:

16.4.1. to comply with the law, or the requirements of any Authority; or

16.4.2. to any of their employees, consultants, advisers, financiers, or contractors to whom it is considered necessary to disclose the information, if the employees, consultants, advisers, financiers, or contractors undertake to keep the Confidential Information confidential.

16.5. The obligations of confidentiality under this clause do not extend to information which is public knowledge other than because of a breach of this clause.

17. Disposal by the Proponent of its interest in the Development

17.1. The Council agrees that the Proponent may assign, transfer, or otherwise deal with the Proponent's rights, duties, or obligations under this agreement to:

17.1.1. a related body corporate of the Proponent (within the meaning of the *Corporations Act 2001* (Cth)) or a partnership comprised of related bodies corporate of the Proponent;

17.1.2. a joint venturer or partner of the Proponent in respect of the Development; or

17.1.3. any third party;

subject to the Proponent proving to the reasonable satisfaction of the Council that such party (**Assignee**) is able to comply with the Proponent's obligations pursuant to this agreement and which has sufficient industry experience in renewable energy projects or other similar infrastructure projects and further subject to the Assignee entering into a deed of novation of this agreement with the Council to ensure that the Assignee is bound by the terms of this Agreement, including providing the Security noted in this Agreement and replacing the current Bankers' Undertaking and Parent Company Undertaking with a substitute Bankers Undertaking and Parent Company Undertaking from the new Proponent.

17.2. In the event of the Proponent assigning the Proponent's rights and obligations under this agreement, the Proponent shall be released and discharged from any obligations under this agreement on and from the date of the assignment and the performance of the terms of this agreement from the date of the assignment and from all claims and demands in connection with this agreement that arise after the date of the assignment, provided always that the Proponent is responsible for any action claim or demand with respect of the performance of this agreement for any period prior to and including the date of the assignment.

17.3. Any consent given by the Council pursuant to this clause shall not entitle the Proponent to any refund or other payment of any money expended or paid pursuant to this Agreement.

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18. Notices

18.1. Any notice, consent, information, application, or request that is to or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

18.1.1. delivered or posted to that Party at its address, or

18.1.2. emailed to that Party at its email address.

18.2. For the purposes of this clause, a Party's address and email address are as noted under 'Parties to this Agreement'.

18.3. If a Party gives the other Party 5 business days' notice of a change of its address or email, any notice, consent, information, application, or request is only given or made by that other Party if it is delivered, posted, or emailed to the new address.

18.4. Any notice, consent, information, application, or request is to be treated as given or made if it is:

18.4.1. delivered, when it is left at the relevant address;

18.4.2. sent by post, 2 business days after it is posted; or

18.4.3. sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.

18.5. If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

19. Costs

19.1. The Proponent is to pay to the Council reasonable costs of preparing, negotiating, executing, and stamping and registering this Agreement, and any document related to this Agreement within 30 business days of Council providing an invoice for such payment. These costs are in accordance with Council's adopted fees and charges.

19.2. The Proponent is to pay an administrative charge equivalent to 1% of the value of the Financial Contribution for ongoing monitoring and reporting, which is payable annually within 30 days of receipt an invoice from Council.

20. Entire Agreement

20.1. This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with.

20.2. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent, or employee of that Party, before this Agreement was executed, except as permitted by law.

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21. Further Acts

21.1. Each Party must promptly execute all documents and do all things that another Party from time-to-time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.

22. Governing Law and Jurisdiction

22.1. This Agreement and any documents entered into pursuant to it (save as expressly referred to in them) and any non-contractual obligations or disputes arising out of or in connection with this Agreement and any such documents (save as expressly referred to in them) will be governed by and construed in accordance with the law in force in Queensland, Australia.

22.2. Each party to this Agreement irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in Queensland and courts of appeal from them in respect of any proceedings arising out of or in connection with this Agreement.

23. Joint and Individual Liability and Benefits

23.1. Except as otherwise set out in this Agreement:

23.1.1. any agreement, covenant, representation, or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually; and

23.1.2. any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

24. No Fetter

24.1. The Parties acknowledge that Council is a consent authority with statutory rights and obligations pursuant to the Act.

24.2. This Agreement is not intended to operate, and shall not be construed as operating to fetter, in any unlawful manner:

24.2.1. the power of Council to make any law; or

24.2.2. the exercise by Council of any statutory power, discretion, or duty.

24.3. Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law.

25. Severability

25.1. If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable, or invalid, but can also be read in a way that makes it legal, enforceable, and valid, it must be read in the latter way.

25.2. If any clause or part of a clause is illegal, unenforceable, or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

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25.3. If this Agreement becomes illegal, unenforceable, or invalid because of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Agreement is entered into.

26. Amendment

26.1. No amendment of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement in accordance with section 106ZA of the Act.

27. Waiver

27.1. The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.

27.2. A waiver by a Party is only effective if it:

27.2.1. is in writing;

27.2.2. is addressed to the Party whose obligation or breach of obligation is the subject of the waiver;

27.2.3. specifies the obligation or breach of obligation the subject of the waiver and the conditions, if any, of the waiver; and

27.2.4. is signed and dated by the Party giving the waiver.

27.3. Without limitation, a waiver may be expressed to be conditional on the happening of an event, including the doing of a thing by the Party to whom the waiver is given.

27.4. A waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given and is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

27.5. For the purposes of this Agreement, an obligation or breach of obligation the subject of a waiver is taken not to have been imposed on, or required to be complied with by, the Party to whom the waiver is given.

28. GST

28.1. In this clause:

28.1.1. Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice have the meaning given by GST Law.

28.1.2. GST Amount means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.

28.1.3. GST Law has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), including as amended from time to time, and if that act is repealed, includes a reference to or any other act that replaces that act.

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28.1.4. Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

28.1.5. Taxable Supply has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

28.2. If GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.

28.3. If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Agreement by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the parties agree;

28.3.1. to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies.

28.3.2. that any amounts payable by the Parties in accordance with clause 28.2 to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.

28.4. No payment of any amount pursuant to this clause 28, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note to the recipient.

28.5. Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense, or other liability.

28.6. This clause continues to apply after expiration or termination of this Agreement.

29. Force Majeure

29.1. The Proponent is not liable for any failure to perform an obligation under this Agreement to the extent its ability to do so is impacted by an event of Force Majeure, provided that the Force Majeure event:

29.1.1. is not caused or contributed to by the Proponent;

29.1.2. could not be prevented or mitigated by the Proponent taking reasonable precautions and alternative measures; and

29.1.3. is notified to Council as soon as reasonably practicable.

29.2. The Proponent may rely on an event of Force Majeure only to the extent it directly affects performance, and must resume performance as soon as reasonably practicable after it ceases.

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29.3. Without limitation, Force Majeure includes any circumstance where, for reasons beyond the Proponent's reasonable control, it is unable to procure, generate, store or supply electricity from the Project at a commercially reasonable cost.

29.4. The Proponent is not required to pay any Financial Contribution for the duration of any Force Majeure that results in the Proponent needing to suspend commercial operations.

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EXECUTED AS AN AGREEMENT

Signed for and on behalf of **Cubico Sustainable Investments Australia Pty Ltd** by its duly authorised representatives:

Signature: 

Name: Megan Richards

Position: Director

Date: 29-Sep-2026

Signature: 

Name: David Smith

Position: Director

Date: 30-Sep-2026

Signature for and on behalf of **Western Downs Regional Council** by the CEO, or their duly authorised representative:

Signature 

Name: Jodie Taylor

Position: Chief Executive Officer

Date: 14-Oct-2026

Witness Signature: 

Name of Witness: Bridget Donald

Date: 14-Oct-2026

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SCHEDULE 1 - AGREEMENT DETAILS

Item 1: Description of the Development

The Marmadua Energy Park is located approximately 23 km east of Tara and 41 km south-west of Dalby in the Western Downs Regional Council (WDRC) local government area. The Project consists of a wind farm development of up to 100 wind turbine generators with a generation capacity of up to 700 megawatts (MW) from wind energy and an associated 200 MW battery energy storage system with 4 hours of storage capacity (800 MWh).

Item 2: The Land

Real Property Description	Address
Lot 15 on DY982	17429 Surat Development Road, Weranga
Lot 16 on DY982	17429 Surat Development Road, Weranga
Lot 17 on DY982	17429 Surat Development Road, Weranga
Lot 18 on DY982	17429 Surat Development Road, Weranga
Lot 19 on DY982	17429 Surat Development Road, Weranga
Lot 12 on DY495	Surat Development Road, Weranga
Lot 13 on DY203	17495 Surat Development Road, Weranga
Lot 14 on DY935	Surat Development Road, Weranga
Lot 29 on DY490	1009 Martins Road, Weranga
Lot 10 on DY490	Martins Road, Weranga
Lot 28 on DY822	2686 Martings Road, Weranga
Lot 32 on DY225	2496 Kumbarilla Lane, Kumbarilla
Lot 22 on DY225	Daandine Kumbarilla Road, Kumbarilla
Lot 23 on DY225	2396 Kumbarilla Lane, Kumbarila
Lot 24 on DY226	2496 Kumbarilla Lane, Kumbarilla
Lot 25 on DY688	2686 Kumbarilla Lane, Kumbarilla
Lot 18 on DY1044	4623 Moonie Highway, Halliford
Lot 201 on CP827002 Lot 191 on CP827001	

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SCHEDULE 2: AGREED ANNUAL COMMUNITY BENEFIT FINANCIAL CONTRIBUTIONS[1]

This must contain a full detailed description of the benefits, including timing, triggers and relevant responsibilities.

Agreement calculations (Note: final Financial Contributions are calculated based on FY25/26 figures and to be calculated in accordance with the terms of the Agreement)

WIND	700MW x $1050	$735,000 per year
BESS	800MWh x $150	$120,000 per year
		Total per year: $855,000 to be adjusted year on year by CPI.

Stream	Description	Maximum Value (AUD)	Percentage	Commencement
Stream 1 ***Council Infrastructure*** Managed by Western Downs Regional Council. *Council Legacy Infrastructure: funding allocated to critical infrastructure in Council's 10-year capital program and other Council infrastructure strategies, delivering long-term, region-wide benefit in response to the broader impacts of the development.*	GAB Bore Tara *Noting that upon completion of the GAB Bore Tara, the contribution would be proposed to support the Tara Pipeline and Tara Desalination Plant Upgrade - Stage 1s *Impact addressed: Increase in demand on (council owned) physical infrastructure*	$171,000	20%	**Stream 1 (35%)** Upon Construction Commencement
	Improve local road infrastructure in line with Council's Rural Residential Road Strategy. Initially upgrades at Forestry Road will be supported, after which the following roads are proposed: 1. Weranga North Road Ch 6.54km - 10km 2. Rocky Crescent 3. McKee Drive 4. Ross Road 5. Redlands Court 6. Wattle Drive 7. Bulloak Drive 8. Cypress Road 9. Lewington Road 10. Bungybah Road 11. Webb Road *Impact addressed: increased road safety risks and disruptions*	$85,500	10%	
	Improve community facilities and services: Lions Park Upgrade in Tara. *Impact addressed: Increase in community division from perceived*	$42,750	5%	

[1] Project size to be based on the Connection Agreement in accordance with the terms of this Agreement, on the basis that the Development Application was lodged prior to the release of Council's '*Renewable Energy: Community Benefit System Policy*'.

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	unequal distribution of project impacts and benefits			
Total Value Stream 1		**$299,250**	**35%**	
Stream 2 ***Community Infrastructure* or *Initiative*** Managed by Cubico Investments, delivered in partnership with state government, industry and community organisations. *Community Legacy Infrastructure/ Initiatives: Funding allocated towards legacy initiatives as identified in community strategic plans or the Social Impact Assessment Report obtained by the Proponent that are outside of the realm of local government.*	Increase housing diversity: - Co-investment into mixed units, seniors housing and youth/transition rental options - Support for subsidised housing for trade instructors, apprentices, technicians and specialised education staff *Impact addressed: decrease in availability and accessibility of affordable housing*	$171,000	20%	**Stream 2 (55%)** Upon Construction Commencement
	Improve community infrastructure: - Provide a legacy benefit by contributing to improved telecommunication coverage *Impact addressed: Increase in demand on telecommunications networks reducing speeds and service*	$85,500	10%	
	Improve community facilities and services: - Community transport services – Weranga and Kumbarilla - Support for local wildlife carer, initiatives and programs - Improvements/ upgrades to Weranga fire station *Impact addressed: Increase in community division from perceived unequal distribution of project impacts and benefits*	$85,500	10%	
	Improve health service capacity and accessibility: - Funding towards improving access to general health checks - Funding towards visiting mobile clinics to school *Impact addressed: Increase demand on health and emergency services*	$42,750	5%	
	Improve training, education and career pathways: - Sponsor or co-fund trade instructors particularly in	$85,500	10%	

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	construction, civil trades, electrical and mechanical - Facilitate partnership with CUC and Tara High School to develop a renewables career pathways program - Support / advocate for the establishment of a localised apprenticeship block via TAFE/partner facility upgrades so students don't need to leave the region for training blocks. *Impact addressed: Decrease in skills and labour availability for businesses due to increased competition*			
Total Value Stream 2		**$470,250**	**55%**	
Stream 3 ***Sponsorships and Funding*** Managed by Cubico Investments Governed by representative committee, incl Cubico, Council and Community reps *Community Sponsorships: Funding dedicated to the community sponsorships and funding, providing support for grassroots initiatives delivered by local community groups, sporting clubs, schools, and not-for-profit organisations.*	Community Sponsorship Fund – local events and community projects within 40km of project *Impact addressed: Increase in community investment opportunities*	$42,750	5%	**Stream 3 (10%)** Upon Development Approval
	Education Fund – scholarships, educational support *Impact addressed: Decrease in skills and labour availability for businesses due to increased competition*	$42,750	5%	
Total Value Stream 3		**$85,500**	**10%**	
Total Community Benefits Year 1 Admin fee (1% total Agreement) **TOTAL AGREEMENT VALUE**		**$855,000** **$8,550** **$863,550**	**100%**	

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SCHEDULE 3: BANKERS UNDERTAKING FORM

Date:	, 20##.
Issuer:	##.
Delivery Address:	##.
Postal Address:	PO Box ##, ##.
Facsimile:	##.
Beneficiary:	Western Downs Regional Council.
Delivery Address:	##
Postal Address:	## ##
Facsimile:	##
Customer:	## (ABN ##).
Causal Agreement:	Community Benefit Agreement dated , 20##, made between the Beneficiary and the Customer: relating to a proposed renewable energy project, Beneficiary reference ##; in connection with proposed development of the Customer's property at ##.
Basis of **Undertaking**:	The Issuer gives the Beneficiary this Undertaking: at Customer request; ##; ##. ## in return for the Beneficiary's promise to pay the Issuer $1.00 if the Issuer demands payment (which promise the Beneficiary confirms by accepting receipt of this instrument).
Secured Sum:	$##.
Expiry Date:	Nil.

1. The Issuer irrevocably and unconditionally undertakes to pay the Beneficiary upon demand:
   (a) an amount not exceeding the Secured Sum; or
   (b) a series of amounts not exceeding, in aggregate, the Secured Sum.
2. This undertaking is not an obligation of suretyship.
3. The Issuer will make payment pursuant to the undertaking:
   (a) without seeking Customer permission;
   (b) irrespective of an instruction from the Customer that it not make the payment;
   (c) without requiring the Beneficiary to demonstrate its entitlement to demand or obtain the payment (whether under the Causal Agreement or otherwise); and
   (d) upon production of this instrument to the Issuer (for surrender, if paragraph 6 applies, or for verification, if paragraph 6 does not apply).
4. In particular (though without limitation), the undertaking is not conditional upon:
   (a) the satisfaction of a requirement in the Causal Agreement;
   (b) the satisfaction of a requirement in a security or agreement other than the Causal Agreement;
   (c) the satisfaction of any other obligation not specified in this instrument; or
   (d) the occurrence of an event other than a demand by the Beneficiary.
5. Further, the Issuer's liability upon the undertaking will not be qualified, diminished, or discharged by:
   (a) variation of the Causal Agreement;
   (b) a requirement in an agreement or security other than this instrument;

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(c) an indulgence the Beneficiary grants the Customer concerning discharge of the Customer's obligations, or enforcement of the Beneficiary's entitlements, under the Causal Agreement; or

(d) a compromise or release that the Beneficiary agrees with or grants to the Customer concerning the Causal Agreement.

6. If it demands an amount that, by itself or in aggregate with amounts previously paid pursuant to the undertaking, equals the Secured Sum, the Beneficiary will surrender this instrument to the Issuer in exchange for payment.

7. The Beneficiary may not transfer the benefit of this undertaking.

8. The undertaking will continue until whichever of the following events occurs first:

(a) in response to a demand by the Beneficiary, the Issuer pays the Beneficiary the Secured Sum;

(b) in response to a demand by the Beneficiary, the Issuer pays the Beneficiary a sum that, in aggregate with other sums paid to the Beneficiary pursuant to this undertaking, equals the Secured Sum;

(c) by deed, the Beneficiary releases the Issuer from the undertaking;

(d) the Beneficiary presents this instrument to the Issuer for surrender.

9. The Issuer may terminate or reduce its liability upon the undertaking, without Beneficiary concurrence, by paying the Beneficiary:

(a) all or part of the Secured Sum; or

(b) all or part of the difference between the Secured Sum and the aggregate of money previously paid to the Beneficiary pursuant to the undertaking.

10. A notice (including a demand) or an agreement given or made by the Beneficiary pursuant to the undertaking:

(a) must be in writing;

(b) must be signed by a person who possesses lawful authority to give the notice or make the agreement for the Beneficiary; and

(c) must be accompanied or supported by evidence, satisfactory to the Issuer (acting reasonably), of the signatory's authority to give the notice or make the agreement.

11. The Beneficiary may present at or post to any Issuer branch a demand for payment upon the undertaking.

12. If, when it is required to make a payment upon the undertaking, the Issuer has an office or offices within the ## region, the Issuer must make the money available for collection at that office or one of those offices.

13. A notice given by the Issuer concerning the undertaking:

(a) must be in writing; and

(b) must be executed by the Issuer, or signed on its behalf by a person, or persons, authorized to sign.

14. This instrument is a deed, irrespective of:

(a) its format;

(b) its terminology;

(c) whether it records anything passing from the Beneficiary in return for the undertaking; and

(d) whether it records the Issuer receiving anything from the Beneficiary in return for the undertaking.

15. Queensland law governs the undertaking.

16. Disputes upon the undertaking are to be adjudicated by:

(a) Queensland courts of competent jurisdiction; and

(b) the High Court of Australia (as the forum of final appeal).