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WEM 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 in the Wholesale Electricity Market.

Australian Energy Market Operator Ltd  
Level 45, 152 St Georges Terrace,  
Perth WA 6000

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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 45, 152 St Georges Terrace, Perth WA 6000 (AEMO)

Relating to: The Applicant’s application for registration as a [insert registration category] under the Wholesale Electricity Market Rules made on or about the date of this deed.

# 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:

**Business Days** means a day that is not a Saturday, Sunday, or a public holiday throughout Western Australia

**Electricity Industry Act** means the *Electricity Industry Act 2004* (WA);

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;

Wholesale Electricity Market Rulesor WEM Rules means the rules of that name made under the Electricity Industry Act and *Electricity Industry (Wholesale Electricity Market) Regulations 2004* (WA).

* 1. A reference to legislation (including the Electricity Industry Act and the Wholesale Electricity Market Rules) 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 can, and will, comply with the requirements for participation in the Wholesale Electricity Market or registration.
  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.
  4. The Trustee has annexed a copy of the Trust Deed to this Deed and undertakes to provide any updated version of the Trust Deed to AEMO within three Business Days of such updates taking effect.

## 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 Rule Participant under the WEM Rules 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 WEM Rules; 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 WEM Rules, 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 WEM Rules; 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 WEM Participant Trustee Deed Poll in favour of AEMO, in the same form as this Deed (or as updated by AEMO), effective from the date of change of the trustee.

## General

* 1. This Deed is governed by the laws of Western Australia.
  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] | | |