
Deed of Company Arrangement

Todae Solar Pty Ltd (Administrators Appointed) ACN 113 191 183 (**the Company**)

and

Andrew Peter Schwarz (**Schwarz**)

and

Matt John Adams (**Adams**)

and

National Solar Energy Group Pty Ltd ACN 620 155 571 (**NSEG**)

bridges

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THIS DEED OF COMPANY ARRANGEMENT is made on **26 August** 2020

- BETWEEN** Todae Solar Pty Ltd (Administrators Appointed) ACN 113 191 183 c/- Level 32, 101 Miller Street, North Sydney NSW 2060;
- AND** Andrew Peter Schwarz c/- AS Advisory Pty Ltd, Level 3, 90 William Street, Melbourne VIC 3000;
- AND** Matt John Adams c/- AS Advisory Pty Ltd, Level 32, 101 Miller Street, North Sydney NSW 2060;
- AND** National Solar Energy Group Pty Ltd ACN 620 155 571 of Level 1, Unit 1, 65 Doody Street Sydney Corporate Park Alexandria NSW 2015.

Recitals

- A. On the Commencement Date, the Voluntary Administrators were appointed as joint and several voluntary administrators of the Company pursuant to section 436A of the Corporations Act.
- B. At the second meeting of the Creditors of the Company held on 6 August 2020 pursuant to section 439A of the Corporations Act, the Creditors of the Company resolved that the Company execute this Deed.
- C. This Deed has been prepared in compliance with the Voluntary Administrators' obligations pursuant to section 444A(3) of the Corporations Act and to give effect to the resolution.
- D. The Company, NSEG and the Voluntary Administrators have agreed to execute this Deed to give effect to the resolution the Company execute this Deed and pursuant to section 444B of the Corporations Act.

Operative Part

1. Interpretation

1.1 Definitions

ACCC	means the Australian Competition and Consumer Commission.
Administration Account	means such bank or other account or accounts opened by the Voluntary Administrators or the Deed Administrators for the purpose of the administration of the Company or this Deed.
Administration Deed	means the deed titled Administration Deed between NSEG, the Company and the Voluntary Administrators dated on or about the date of this Deed.
Administration Period	means the period between the Commencement Date and the Execution Date.
Administrators' Disbursements	means all disbursements (both internal and external) incurred by the Voluntary Administrators and the Deed Administrators in connection with the implementation of the voluntary administration of the Company, and in acting as Deed Administrators under this Deed (as applicable) including but not limited to any action, suit, proceeding, account, claim or demand made on the Voluntary Administrators or the Deed Administrators or the Company by any person arising out of the appointment of the Voluntary Administrators to the Company,

	acting as Voluntary Administrators of the Company or any application to set aside this Deed including without limitation, all legal costs incurred by the Voluntary Administrators and Deed Administrators in respect of the foregoing.
Administrators' Remuneration	means the Voluntary Administrators' Remuneration and the Deed Administrators' Remuneration.
Arrangement Period	means the period commencing on the Execution Date and ending on the Termination Date.
ASIC	means the Australian Securities & Investments Commission.
Asset Sale Agreement	means the possible asset sale agreement between the Company and NSEG in substantially the same terms as Schedule 3 to this Deed, should the Deed be terminated (rather than through effectuation) pursuant to clause 11 of this Deed.
Associate	has the meaning given to it by section 9 of the Corporations Act.
Associated Entity	has the meaning given to it by section 9 of the Corporations Act.
Balance Amount	means the amount of \$900,000 held in the trust account of the solicitors for NSEG.
Bank Guarantees	means the bank guarantees in favour of the customers of the Company as at the Proposal Date, including without limitation, the Bank Guarantees set out in Annexure A to the Administration Deed.
Basic Consideration	means the consideration to be paid or provided by any party for any Taxable Supply made under this Deed, other than GST payable pursuant to clause 13 of this Deed.
Business Day	means a day on which banks are open for business in New South Wales, excluding a Saturday, Sunday or public holiday.
Claim	means a debt payable by, or a claim or cause of action against, the Company (whether present or future, certain or contingent, ascertained or sounding only in damages, and whether a penalty or fine) being debts, claims or causes of action the circumstances giving rise to which occurred before the Commencement Date and includes any Pre-Administration Contract that is breached after the Commencement Date but prior to the Termination Date.
COGS Form	means the proposed form to be completed by NSEG or the Company set out in Annexure F of the Administration Deed.
Commencement Date	means 2 July 2020.
Company	Todaye Solar Pty Ltd (Administrators Appointed) ACN 113 191 183 c/- Level 32, 101 Miller Street, North Sydney NSW 2060
Conditions Precedent	means the conditions precedent to this Deed coming into effect as set out in clause 2.9 of this Deed.
Consideration	has the meaning given by section 195-1 of the GST Act.
Confirmation Letter	means the letter set out in annexure G of the Administration Deed.

Corporations Act	means the <i>Corporations Act 2001</i> (Cth), as amended from time to time.
Corporations Regulations	means the <i>Corporations Regulations 2001</i> (Cth), as amended from time to time.
Court	means any court having jurisdiction to hear or determine matters under the Corporations Act.
Creditors	means all unsecured creditors of the Company that have a Claim against the Company (whether at law, in equity, whether present, prospective or contingent, whether liquidated or sounding only in damages and whether in contract, in tort or howsoever arising including without limitation any penalty or fine as against the Company) that arose prior to the Commencement Date.
Customer Retentions	means all customer retentions held by customers of the Company as at the Proposal Date, including without limitation, the customer retentions set out in Annexure D to the Administration Deed.
Debtors	means all the debtors of the Company as at the Proposal Date including, without limitation, the Debtors included in Annexure C to the Administration Deed.
Deed	means this Deed of Company Arrangement.
Deed Administrators	means Andrew Peter Schwarz and Matt John Adams of AS Advisory Pty Ltd c/- Level 32, 101 Miller Street, North Sydney NSW 2060.
Deed Administrators' Remuneration	means the remuneration of the Deed Administrators, their partners, staff and any contractors or agents, or other fees the Deed Administrators are lawfully entitled to, with respect to acting as Deed Administrators of this Deed, calculated at the rates of charge issued from time to time by AS Advisory Pty Ltd, to a cap of \$100,000 (excluding GST), together with such further remuneration as resolved by resolution of the Creditors or by order of the Court.
Deed Fund	means the fund comprising the monies to be paid to and/or collected and/or retained by the Voluntary Administrators or the Deed Administrators under clause 5.1 of this Deed.
Deferred Deed Contribution	means the amount calculated pursuant to clause 6 of this Deed.
Director Consent	means the consent to act as a director of the Company, executed by the Incoming Director as set out in schedule 4 to this Deed.
Eligible Employee	means a Creditor of the Company whose debt or Claim would, in the event of a winding up of the Company, be payable in priority to other unsecured debts and Claims in accordance with sub-sections 556(1)(e), (g) or (h), section 560 or section 561 of the Corporations Act.
Enforcement Costs	means all reasonable legal costs and expenses incurred by the Company in connection with the enforcement of or the preservation of any rights relating to the Operational Recoveries.
Enforcement Process	has the meaning given to that phrase in section 9 of the Corporations

	Act.
Execution Date	means the date of execution of this Deed of Company Arrangement.
Floor	means \$1,400,000 exclusive of GST.
Governmental Agency	means any governmental, semi-governmental, administrative, fiscal, municipal, local, judicial or regulatory agency, department, instrumentality, body, utility, authority, commission, court or tribunal
GST	means any tax imposed by or under the GST Act without regard to any input tax credit.
GST Act	means <i>A New Tax System (Goods & Services Tax) Act 1999</i> (Cth).
GST Law	has the meaning given by section 195-1 of the GST Act.
GST Rate	means 10% or such other percentage equal to the rate of tax imposed by the GST Law from time to time.
Incoming Director	means the director nominated by NSEG, being Kiran Bhavsar.
Interim Realisations	means the total of all realisations of WIP, Debtors, Bank Guarantees or Customer Retentions by the Voluntary Administrators during the period from the day after the Proposal Date to the Execution Date.
IPS	means the <i>Insolvency Practice Schedule (Corporations) 2016</i> (Cth) contained in Schedule 2 of the Corporations Act;
NSEG Group	means any Related Entity, Associate, Associated Entity or Related Body Corporate of NSEG or the Company.
Operational Recoveries	means all amounts received by the Company (exclusive of GST) from the Proposal Date to the last day of the Period in respect of: <ul style="list-style-type: none"> a) the Bank Guarantees; b) the WIP; c) the Customer Retentions; d) the Debtors. <p>less any Enforcement Costs.</p>
Operational Costs	means all costs incurred by the Voluntary Administrators in relation to realising the WIP, Debtors, Bank Guarantees or Customer Retentions during the period from the day after the Proposal Date to the Execution Date as set out in Annexure H of the Administration Deed,
OSR Refund	any refund received by the Company or the Deed Administrators from any Office of State Revenue in respect of the Company's activities up to and including the Execution Date.
Outgoing Director	means Danin Jed Kahn
Participating Creditors	means the Creditors who prove their claims against the Company in accordance with the provisions of sub-clauses 3.3 to 3.8 of this Deed.
Period	means the period from the Execution Date to the day that is 24 months after the Execution Date.

Period One Amount	means the greater of: <ul style="list-style-type: none"> 1) Zero; or 2) the accumulated Operational Recoveries minus the Floor.
Period Two Amount	means the greater of: <ul style="list-style-type: none"> 1) Zero; or 2) the accumulated Operational Recoveries minus: <ul style="list-style-type: none"> a) the Floor; and b) the Period One Amount.
Period Three Amount	means the greater of: <ul style="list-style-type: none"> 1) Zero; or 2) the accumulated Operational Recoveries minus: <ul style="list-style-type: none"> a) the Floor; b) the Period One Amount; and c) the Period Two Amount.
Period Four Amount	means the greater of: <ul style="list-style-type: none"> 3) Zero; or 4) the accumulated Operational Recoveries minus: <ul style="list-style-type: none"> d) the Floor; e) the Period One Amount; f) the Period Two Amount; g) the Period Three Amount.
PPSA	means the <i>Personal Property Securities Act 2009</i> (Cth), as amended from time to time.
Pre-Administration Contract	means any contract, arrangement, lease or understanding entered into by the Company prior to the Commencement Date.
Prescribed Provisions	means such of the provisions contained in Schedule 8A of the Corporations Act as are set out in Schedule 1 of this Deed.
Priority Creditor(s)	means those Creditors whose Claims against the Company would have priority pursuant to the provisions of Section 556(1)(e)-(h) of the Corporations Act were the Deed Fund being paid out by a liquidator in the winding up of the Company.
Property	has the same meaning as that word is given in Section 9 of the Corporations Act.

Proposal Date	means 29 July 2020.
Refunds	means any OSR Refund or Tax Refund.
Related Body Corporate	has the meaning set out in section 9 of the Corporations Act.
Related Entity	has the meaning set out in section 9 of the Corporations Act.
Releases	means the Deed Poll releases set out an annexure I of the Administration Deed.
Reporting Period	means, as relevant, either Reporting Period One, Reporting Period Two, Reporting Period Three and/or Reporting Period Four.
Reporting Period One	means the period from the Execution Date to the day that is 6 months after the Execution Date.
Reporting Period Two	means the period from the day after the last day of Period One to the date that is 6 months after the last day of Period One.
Reporting Period Three	means the period from the day after the last day of Period Two to the date that is 6 months after the last day of Period Two.
Reporting Period Four	means the period from the day after the last day of Period Three to the date that is 6 months after the last day of Period Three.
Retained Cash	<p>means the amount of money (if any) contained in the Administration Account as at the Execution Date or the amount of money (if any) contained in any Administration Account opened by the Deed Administrators, less:</p> <ul style="list-style-type: none"> a) the Voluntary Administrators' Liabilities unpaid as at the Execution Date; and b) if greater than zero, the Settlement Sum (if any). <p>For the avoidance of doubt, the Retained Cash includes the proceeds of sale of the assets of the Company as at the Execution Date.</p>
Sales Pipeline Customers	means the parties set out in Annexure E to the Administration Deed.
Section 444GA Application	means the application to the Court by the Deed Administrators to seek leave of the Court pursuant to section 444GA(1)(b) of the Act to transfer the Shares to NSEG.
Section 444GA Order	means a successful order in the Section 444GA Application granting leave to the Deed Administrators to transfer the Shares to NSEG.
Settlement Sum	<p>means the greater of:</p> <ul style="list-style-type: none"> a) zero; or b) the Interim Realisations less the Operational Costs.
Secured Creditors Amounts	means the amounts owed to the Secured Creditors pursuant to the following security interests registered on the Personal Properties

	Securities Register with the following registration numbers:
	<ul style="list-style-type: none"> a) Sara Kate Kahn, with registration number 201912200012560; and b) Claude Von Arx and Caridad Von Arx as trustee for the Empress Family Trust, with registration number 202006220074562.
Secured Creditors	means the following parties: <ul style="list-style-type: none"> a) Sara Kate Kahn; and b) Claude Von Arx and Caridad Von Arx as trustee for the Empress Family Trust.
Shareholders	mean those persons or entities that hold the Shares.
Shares	means the 3,677,780 ordinary shares in the Company.
Share Register	means the register of the shares held in the Company.
Share Transfer Form	means share transfer forms transferring the Shares in the Company to NSEG.
SPC Contract	means any of the following which occur during the Period: <ul style="list-style-type: none"> a) the Sales Pipeline Customer executing a contract for the provision of services or products by the Company; b) the Sales Pipeline Customer providing a purchase order to the Company; c) the Sales Pipeline Customer accepting, in writing or by any other means, any quote provided by the Company; d) the entry into of any other contract, agreement or arrangement with a Sales Pipeline Customer for the Company to provide goods or services to such Sales Pipeline Customer.
SPC COGS	means 85% of the SPC Revenue.
SPC Period	means the period from the Execution Date to the day that is 30 months after the Execution Date.
SPC Profit	means the total amount of the SPC Revenue minus the SPC COGS for a project with a respect to a Sales Pipeline Customer.
SPC Revenue	means all of the Company's revenue received in respect of a SPC Contract (exclusive of GST) (excluding any revenue that is required to be repaid to the Sales Pipeline Customer).
Subrogating Employee Creditor	means any Creditor or any other party who pays Priority Creditors money payable pursuant to section 556(1)(e)-(h) of the Corporations Act as if the Company were being wound up, and includes the Department of Jobs and Small Business.

Superannuation Contribution	has the same meaning as in section 556 of the Corporations Act.
Superannuation Guarantee Charge	has the same meaning as in the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth).
Tax Invoice	has the meaning given by section 195-1 of the GST Act.
Taxable Supply	has the meaning given by section 195-1 of the GST Act.
Tax Refund	means any amount received by the Deed Administrators or the Company from the Australian Taxation Office in respect of any lodgements for the Company (including, but not limited to, the lodgement of any income tax returns or business activity statements) for any period up to the Execution Date.
Termination Date	means, unless this Deed is terminated pursuant to clauses 11.2 or 11.3 of this Deed, the date this Deed terminates by effectuation pursuant to clause 11.5 of this Deed.
Trading Expenses	means all debts incurred by the Voluntary Administrators or the Deed Administrators, including any contingent liabilities and trading deficiencies in the performance or exercise, or purported performance or exercise, of any of the functions of the Voluntary Administrators or the Deed Administrators.
Undertaking	means the undertaking of the Incoming Director set out in Schedule 2 to this Deed.
Upfront Deposit	means the amount of \$850,000.00 held in the Voluntary Administrators' solicitors trust account as at the Execution Date which sum is non-refundable to NSEG.
Voluntary Administrators	means Andrew Peter Schwarz and Matt John Adams of AS Advisory Pty Ltd c/- Level 32, 101 Miller Street, North Sydney NSW 2060.
Voluntary Administrators' Liabilities	means any liabilities (including any contingent liabilities) incurred by the Voluntary Administrators during the Administration Period in the performance or exercise, or purported performance or exercise, of any functions of the Voluntary Administrators as voluntary administrators of the Company.
Voluntary Administrators' Remuneration	means the remuneration of the Voluntary Administrators, their partners, staff and any contractors or agents, or other fees the Voluntary Administrators are lawfully entitled to with respect to acting as Voluntary Administrators of the Company between the Commencement Date and the Execution Date, calculated at the rates of charge issued from time to time by AS Advisory Pty Ltd, to a cap of \$197,047 (exclusive of GST) together with such further remuneration as resolved by resolution of the Creditors or by order of the Court.
Website	means the ASIC Insolvency Notices webpage being www.insolvencynotices.asic.gov.au
WIP	means the work in progress of the Company as at the Proposal Date, including without limitation, the realisation of the work in progress set out in Annexure B to the Administration Deed less the WIP COGS.

WIP COGS

means the reasonable costs of the goods sold to the customers of the Company or the costs of the services provided to the customers of the Company in relation to the WIP including, without limitation, in accordance with clause 6.4 of this Deed.

1.2 Terms defined in the Corporations Act

When one corporation is referred to as a **related body corporate, subsidiary, holding company** or **ultimate holding company** of or in relation to another corporation, those expressions have the meanings respectively provided by Part 1.2 of the Corporations Act.

Interpretation

In this Deed:

- (a) a reference to any entity is a reference to that entity in its own right and in its capacity as trustee of any trust;
- (b) words importing the singular will (where appropriate) include the plural and the other way around;
- (c) words importing any one gender will (where appropriate) include the other gender and the other way around;
- (d) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) words importing natural persons will (where appropriate) include corporations, firms unincorporated associations, partnerships, trust and any other entities recognised by law and the other way around;
- (f) words "written" and "in writing" include any means of visible reproduction of words in a tangible and permanently visible form;
- (g) headings are for convenience of reference only and will not affect the meaning or interpretation of this Deed;
- (h) references to any statutory enactment or law will be construed as references to that enactment or law as amended or modified or re-enacted from time to time and to the corresponding provisions if any similar enactment or law of any other relevant jurisdiction;
- (i) references to clauses and schedules will be construed as references to the clauses and schedules of and to this Deed;
- (j) unless otherwise stated, references to sections will be construed as references to sections of the Corporations Act and references to regulations will be construed as references to the Corporations Regulations;
- (k) references to an "agreement" include any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing;
- (l) references to an agreement or document (including a reference to this Deed) are to the agreement or document as amended, substituted, novated, supplemented, varied or replaced;
- (m) references to the rights or obligations of two or more persons under this Deed will be interpreted as entitling or obliging them jointly and severally;

- (n) in the meaning of general words is not limited by specific examples introduced by “including”, “for example” or similar expressions;
- (o) a construction that would promote the purpose or object underlying this Deed (whether or not stated in this Deed) is to be preferred to a construction that would not promote that purpose or object;
- (p) no rule of construction applied to the disadvantage of a party to this Deed because that party was responsible for the preparation of this Deed or any part of it;
- (q) a reference to “\$” is to Australian currency;
- (r) a reference to time is a reference to the time in New South Wales; and
- (s) a period of time expressed to commence:
 - (i) before or after a given day, or before or after the day of an act or event, is to be calculated exclusive of that day; and
 - (ii) on a given day, or on the day of an act or event, is to be calculated inclusive of that day.

1.3 Inconsistency

If there is any inconsistency between the provisions of this Deed, the constitution/memorandum and articles of association (as the case may be) of the Company or any other obligation binding on the Company, the provisions of this Deed prevail to the extent of the inconsistency.

1.4 Business Days

Except where otherwise expressly provided, if the day on or by which any act, matter or thing is to be done as required by this Deed is a day other than a Business Day, that act, matter or thing will be done on the immediately succeeding Business Day.

2. Prescribed Provisions and Deed Administrators

2.1 Prescribed Provisions

The Prescribed Provisions are deemed to be included as operative parts of this Deed and are included as if the same were set out in this Deed.

2.2 Deed Administrators

This Deed shall be administered by the Deed Administrators who are hereby appointed as administrators of this Deed. The Deed Administrators by their execution of this Deed agree to act as administrators of this Deed.

2.3 Deed Administrators' powers, functions and duties

The Deed Administrators shall have the powers, functions and duties conferred on them by this Deed and the Corporations Act, including, but the limited to:

- (a) the Prescribed Provisions;
- (b) the power to transfer the Shares in the Company in accordance with section 444GA of the Corporations Act; and
- (c) the power of an administrator under section 442A of the Corporations Act.

2.4 Deed Administrators' not personally liable

In the performance of the Deed Administrators' functions and exercise of the Deed Administrators' powers under this Deed, the Deed Administrators shall not be personally liable for:

- (a) any debt, liability or other obligation which the Deed Administrators may incur on behalf of the Company pursuant to this Deed; or
- (b) any loss or damage caused by any act, default or omission by the Deed Administrators or on behalf of the Deed Administrators in the performance of the Deed Administrators' functions, powers or duties under this Deed.

2.5 Realisations up to Execution Date

- (a) If the Settlement Sum is greater than 0, the Deed Administrators must pay to the Company, within five Business Days of the receipt of the Balance Amount or as otherwise agreed between the Company and the Deed Administrators, the Settlement Sum;
- (b) If the Operational Costs are greater than the Interim Realisations, NSEG and the Company must pay to the Deed Administrators the difference between such amounts within 5 Business Days of written notice by the Deed Administrators.

2.6 Debts incurred prior to transfer of the Shares

NSEG and the Company undertake not to incur any debt, liability or other obligation on behalf of the Company until the earlier of either of the following occurring:

- (a) the Deed Administrators have provided the Company with a written consent to incur the reasonable debt, liability or other obligation, which consent is deemed to have been given if no response from the Deed Administrators to any request by NSEG or the Company is received within 2 Business Days of any written request being made by NSEG or the Company to the Deed Administrators; or
- (b) the Balance Amount has been paid to the Deed Fund in accordance with clause 5.2(b) of this Deed.

2.7 Approvals

NSEG and the Company warrant and represent to the Deed Administrators that if they are required to obtain any regulatory approvals in respect of the transfer of the Shares to NSEG from the ACCC or any other Governmental Agency, such regulatory approvals have been, or will be, obtained.

2.8 When Deed to take effect

This Deed shall take effect on the Execution Date.

2.9 Condition Precedent

This Deed is subject to the following conditions precedent being fulfilled, or waived in accordance with clause 2.10:

- (a) the Incoming Director must provide the Voluntary Administrators the Director Consent and the Undertaking;
- (b) the Voluntary Administrators must remove the Outgoing Director as director of the Company pursuant to section 442A of the Corporations Act;

- (c) the Voluntary Administrator must appoint the Incoming Director as director of the Company;
- (d) the Administration Deed must be executed and exchanged by the Parties;
- (e) the Voluntary Administrators must provide NSEG with the Confirmation Letter; and
- (f) the Secured Parties must provide the Voluntary Administrators with the duly executed Releases.
- (g) .

2.10 Waiver of Conditions Precedent

The Parties may agree in writing that the requirement to fulfil any Condition Precedent is waived.

2.11 Australian Taxation Office lodgements

The Deed Administrators must use their best endeavours to lodge all of the Company's outstanding tax returns and filings with the Australian Taxation Office and State Revenue Authorities up to and including the returns for the period ending 30 June 2020.

2.12 Terms of Deed to prevail

If there is any inconsistency between the Prescribed Provisions and this Deed, then to the extent permitted by law, the terms of this Deed shall prevail.

3. Participating Creditors

3.1 Claims by Creditors shall be determined in accordance with this clause 3.

3.2 Advertisement

The Deed Administrators, at the time of sending out the notices referred to in clause 3.3, shall place a notice on the Website to the effect that any person claiming to be a Creditor may within 14 days from the date of publication of that notice submit a claim to the Deed Administrators by way of proof of debt specifying in detail the nature and amount of the claim against the Company as at the Commencement Date.

3.3 Participating Creditors

The Deed Administrators, at a time as determined by them after the Execution Date, shall send out a notice to the last known physical or email address of each of those persons who appear from the records of the Company to be potential Participating Creditors, inviting each within 14 days of the date of publication of the advertisement referred to in clause 3.2 above to submit a claim to the Deed Administrators by way of proof of debt specifying in detail the nature and amount of the claim against the Company as at the Commencement Date.

3.4 Claims barred

All claims and rights of action and remedies in respect thereof by a potential Participating Creditor, not submitted in accordance with the provisions of either clause 3.2 or clause 3.3 or not proven in accordance with the provisions of clause 3.5 shall be forever absolutely barred and extinguished against the Company in accordance with this Deed.

3.5 Deed Administrators' discretion

If the Deed Administrators are satisfied that a potential Participating Creditor has a valid Claim, the Deed Administrators shall be entitled to admit the Creditor as a Participating

Creditor without requiring the Creditor to submit a proof of debt.

3.6 Adjudication

The Deed Administrators shall adjudicate upon all claims by potential Participating Creditors and, in any case where the Deed Administrators proposes to reject, in whole or in part, the amount claimed by any such claimant in the proof of debt, they shall notify their adjudication to that Creditor at the address shown on that creditor's proof of debt.

3.7 List of Participating Creditors

The Deed Administrators shall settle a list of Participating Creditors from those potential Participating Creditors, and subject to clause 3.5, each claimant who lodges a proof of debt shall be admitted as a Participating Creditor for such sum as upon an account fairly stated, after allowing for the amount of any debt or set-off owing by that party to the Company, as appears to be the balance due, a just estimate being made by the Deed Administrators as far as is possible of the value of such debts and claims as are subject to any contingencies or sound only in damages or which for some other reason do not bear a certain value.

3.8 Compromise claim

Notwithstanding the provisions of clause 3.7, the Deed Administrators may compromise the debt or claim of any potential Participating Creditor in such manner as they in their absolute and unfettered discretion shall think fit, whereupon they shall enter the name of such claimant and the amount of the claimant's claim upon the list of Participating Creditors.

3.9 General

Except where inconsistent with the provisions of this clause 3, Regulations 5.6.40 to 5.6.52 (inclusive) and 5.6.54 to 5.6.57 (inclusive) of the Corporations Regulations shall apply to claims of Creditors as if the Company were in liquidation and the Deed Administrators shall have regard to sections 554A, 554B and 554C of the Corporations Act.

3.10 Costs of proof of debt

Creditors must bear the costs of proving or amending their claims and such costs will not form part of their formal proof of debt or claim.

3.11 Employee entitlements

For the purposes of section 444DA of the Corporations Act, all Eligible Employees will be entitled to a priority from the Deed Fund the equivalent of which they would otherwise receive under sections 556, 560 and 561 of the Corporations Act as if the Company was in liquidation.

3.12 Superannuation Contribution debts not admissible to proof

The Deed Administrators must determine that the whole of a debt or a particular part of a debt by way of a Superannuation Contribution is not admissible to proof against the Company if:

- (a) a debt by way of a Superannuation Guarantee Charge:
 - (i) has been paid; or
 - (ii) is, or is to be, admissible to proof against the Company; and
- (b) the Deed Administrators are satisfied that the Superannuation Guarantee Charge is attributable to the whole of the first mentioned debt in the case of the whole of a debt or part of the first mentioned debt in the case of a part debt.

4. Share Transfer

4.1 Section 444GA Application

- (a) The Deed Administrators must use their reasonable endeavours to procure from the Shareholders the transfer of the Shares to NSEG as soon as reasonably practicable after the Execution Date. If the consent of all of the Shareholders to transfer all of the Shares cannot be obtained, within 10 Business Days of the Execution Date or such other date as agreed between NSEG and the Deed Administrators, the Deed Administrators shall make the Section 444GA Application.
- (b) NSEG must provide any assistance reasonably required by the Deed Administrators for the purposes of making the Section 444GA Application.

4.2 Share Transfer

- (a) Upon:
 - (i) either, the Section 444GA Order being made or the Deed Administrators receiving the Share Transfer Forms duly executed by the Shareholders; and
 - (ii) the Balance Amount being paid in accordance with clause 5.2(b) of this Deed,the Deed Administrators will transfer the Shares to NSEG by the Deed Administrators delivering to NSEG the duly executed Share Transfer Forms.
- (b) NSEG will, within 3 Business Days, of receipt of the executed Share Transfer Forms in accordance with clause 4.2(a):
 - (i) execute the Share Transfer Forms;
 - (ii) attend to any necessary stamping in respect the transfer of the Shares to NSEG;
 - (iii) procure the Incoming Director register the transfer of the Shares in the Share Register of the Company;
 - (iv) lodge all necessary forms with ASIC to record the transfer of the Shares to NSEG.

5. Deed Fund

5.1 The Deed Fund shall comprise the following amounts:

- (a) the Upfront Deposit less the Secured Creditors Amounts;
- (b) the Balance Amount;
- (c) the Deferred Deed Contribution;
- (d) any amount paid to the Deed Administrators in accordance with clause 2.5(b) of this Deed;
- (e) the Refunds; and
- (f) the Retained Cash.

5.2 Time for payment

The Deed Fund shall be paid as follows:

- (a) NSEG will authorise the release of the Upfront Deposit from the Administrators' solicitors trust account to the Deed Administrators on the Execution Date;

- (b) the Balance Amount shall be paid by NSEG to the Deed Administrators within two Business Days of:
 - (i) the Deed Administrators notifying NSEG that the Shareholders have executed the Share Transfer Forms with respect to the Shares; or
 - (ii) the Section 444GA Order;
- (c) the Deferred Deed Contribution shall be paid by NSEG to the Deed Administrators in accordance with clause 6 of this Deed;
- (d) the Refunds will be paid by the Administrators into the Deed Fund within 3 Business Days of receipt by the Deed Administrators; and
- (e) the Retained Cash shall be paid by the Company to the Deed Administrators on the Execution Date.

5.3 Deed Fund beneficiaries

To the extent permitted by the law, the Deed Administrators shall hold the Deed Fund for the benefit of the Voluntary Administrators, the Deed Administrators and Participating Creditors in accordance with the terms of this Deed.

5.4 Deed Fund not refundable

Except as provided for under this Deed, the Company and NSEG agree that any monies paid to the Deed Administrators by the Company, NSEG or by a third party under this Deed or ancillary documentation shall not be refundable to either the Company, NSEG or the third party, and the Deed Administrators shall be entitled to exercise a lien over such monies, and apply such monies in payment of the Administrators' Disbursements and the Administrators' Remuneration, notwithstanding that:

- (a) the Deed Administrators may not have distributed the monies in accordance with the terms of this Deed; or
- (b) the Creditors resolve at a meeting convened by the Deed Administrators pursuant to Division 75 of the IPS that the Deed terminate.

5.5 Payment by third parties

In the event that any moneys payable by the Company under this Deed are paid by a third party on behalf of the Company, the Company shall obtain an acknowledgment in writing in a form satisfactory to the Deed Administrators from the third party and in relation to the matters set out in sub-clause 5.4 above.

6. Deferred Deed Contribution

6.1 Payments

NSEG and the Company agree to pay into the Deed Fund the following amounts:

- (a) in respect of the Period, 50% of all Operational Recoveries received in excess of the Floor;
- (b) in respect of the SPC Period, 20% of the SPC Profit.

6.2 SPC Profit

- (a) Subject to clause 6.2(b) of this Deed, NSEG and the Company must, during the SPC Period:

- (i) ensure that no other member of the NSEG Group enters into a contract with the Sales Pipeline Customers for the supply of products or services substantially similar to the products or services provided by the Company as at the Commencement Date;
 - (ii) procure the members of the NSEG Group to undertake not to enter into a contract with the Sales Pipeline Customers for the supply of products or services substantially similar to the products or services provided by the Company as at the Commencement Date.
- (b) The SPC Revenue does not include any amounts attributable to a Sales Pipeline Customers who, prior to the Commencement Date, NSEG or any member of the NSEG Group had submitted a tender or expression of interest to such Sales Pipeline Customer.
- (c) In the event that NSEG or any member of the NSEG Group breaches clause 6.2(a) of this Deed, the revenue in respect of the contract entered into by NSEG or the NSEG Group member with the Sales Pipeline Customer will form part of the SPC Revenue.

6.3 Timing of Payment

- (a) The amount referred to in clause 6.1(a) must be paid by the Company and NSEG to the Deed Administrators as follows:
- (i) 50% of any Period One Amount must be paid to the Deed Administrators within 7 days of the last day of Reporting Period One.
 - (ii) 50% of the Period Two Amount must be paid to the Deed Administrators within 7 days of the last day of Reporting Period Two;
 - (iii) 50% of any Period Three Amount must be paid to the Deed Administrators within 7 days of the last day of Reporting Period Three;
 - (iv) 50% of any Period Four Amount within must be paid to the Deed Administrators within 7 days of the last day of Reporting Period Four.
- (b) The amount referred to in clause 6.1(b) must be paid to the Deed Administrators on the last Business Day before the end of the SPC Period.

6.4 WIP COGS

In respect of the calculation of the WIP COGS, NSEG and the Company agree and acknowledge the costs included in the calculation of the WIP COGS must:

- (a) not include any internal labour costs of the NSEG Group in respect of the projects included in the WIP;
- (b) only include costs in respect of any third-party experts engaged to complete the projects contained in the WIP if:
 - (i) the third-party experts are not a member of the NSEG Group;
 - (ii) the cost charged is at arm's length and on commercial terms.

6.5 Financial Information

- (a) Within 7 Business Days of the last day of Period One, Period Two, Period Three, Period Four, the Company and NSEG must provide the Deed Administrators with a statutory declaration confirming the payment made to the Deed Administrators in respect of clause 6.1(a) including details for the relevant period of the following:

- (i) each of the Customer Retentions received during the relevant period, including details of any amounts which reduce the Customer Retentions;
 - (ii) the Bank Guarantees returned or received during the relevant period;
 - (iii) the WIP billed and collected during the relevant period;
 - (iv) details of all calculations used to determine the WIP COGS (including a completed COGS Form to be annexed to the statutory declaration);
 - (v) the Debtors collected during the relevant period.
- (b) Within 7 Business Days of the last day of the SPC Period, the Company and NSEG must provide the Deed Administrators with a statutory declaration confirming the payments made to the Deed Administrators in respect of clause 6.1(b), including details of the SPC Revenue collected during the SPC Period.
- (c) Within 7 Business Days of any request by the Deed Administrators, the Company and NSEG must provide the following information, and any additional information reasonably requested by the Deed Administrators with respect to:
- (i) details of all quotes provided to Sales Pipeline Customers;
 - (ii) details of all purchase orders received by the Company or NSEG or any members of the NSEG Group from Sales Pipeline Customers or contracts, agreements or arrangements entered into with Sales Pipeline Customers;
 - (iii) details of all invoices provided to Sales Pipeline Customers;
 - (iv) profit and loss statements of the Company for the Reporting Period; and
 - (v) balance sheet of the Company for the Reporting Period.
- (d) During the Period and the SPC Period, at the cost of the Deed Administrators, the Company and NSEG must allow, on reasonable notice to the Company and NSEG and in any event not less than 5 Business Days' notice, and NSEG must procure the NSEG Group to allow the Deed Administrators or their authorised representatives access to the Company's, NSEG's or any member of the NSEG Group's records relating only to the SPC Customers, the SPC Revenue and the Operational Recoveries and, if necessary, facilitate an audit by the Deed Administrators and/or its authorised representatives of the account statements, financial statements, systems and processes for billing customers and issuing invoices in respect of SPC Customers, the SPC Revenue and the Operational Recoveries only, to be conducted upon reasonable notice to the Company and in any event not less than 5 Business Days' notice, NSEG or the NSEG Group by the Deed Administrators at any time during the Period or the SPC Period and continuing 6 months after the expiration of the SPC Period.

7. Distribution

7.1 Distribution of Deed Fund

The Deed Administrator shall distribute the Deed Fund in the following order of priority:

- (a) first, payment of the Administrators' Disbursements and the Administrators'

Remuneration;

- (b) second, payment of the Trading Expenses (if any);
- (c) third, payment of Priority Creditors; and
- (d) fourth, payment of the claims in respect of the Participating Creditors on a pro rata basis.

7.2 Subrogating Employee Creditors

- (a) Where monies have been paid to Priority Creditors by a Subrogating Employee Creditor, the Subrogating Employee Creditor shall have the same right of priority of payment in respect of the money so paid, but not exceeding the amount by which the payment in respect of which the person who received the payment would have been entitled to priority, as the person who received the payment and shall be subrogated to such Priority Creditors' position.
- (b) Subrogating Employee Creditors shall accept their entitlements (if any) out of the Deed Fund in full settlement of their claims.

8. Claims extinguished

8.1 Deed binds Creditors

This Deed binds all Creditors.

8.2 Entitlements accepted in full satisfaction of Claims

If the Deed Administrators have paid to the Participating Creditors their full entitlements under this Deed, all Claims of the Creditors are released in full and extinguished. Creditors must accept their entitlements under this Deed in full satisfaction and complete discharge of all Claims.

8.3 Execution of release

The Creditors, if called upon to do so, shall execute and deliver to the Company such forms of release of any claim against the Company up to the Commencement Date as the Deed Administrators require.

8.4 Unclaimed moneys to be paid to ASIC

In the event that the Deed Administrators, for any reason, are unable to locate a Participating Creditor, or if any cheque sent by the Deed Administrators to a Participating Creditor has not been presented within one month of the sending of the cheque to the Participating Creditor, then the Deed Administrators shall stop payment of such cheque and the monies represented by such cheque or held by the Deed Administrators on behalf of the Participating Creditor shall be paid to the ASIC. Monies paid to ASIC under this clause will then be dealt with by ASIC under Part 9.7 of the Corporations Act and such subsections of Section 544 of the Corporations Act will apply as necessary as if reference to "liquidator" were references to the Deed Administrators. A payment made by the Deed Administrators in accordance with this clause shall constitute a full and final discharge of the obligations of the Deed Administrators to the Participating Creditor, and full discharge of the Deed Administrators' obligations arising under this Deed.

8.5 Bar on actions by Creditors actions during Arrangement Period

During the Arrangement Period, Creditors shall not:

- (a) except for the purpose and to the extent provided in this Deed institute or prosecute any

legal proceedings in relation to any Claims or debt incurred or alleged to have been incurred by the Company or claims the circumstances giving rise to which occurred before the Commencement Date, including any step to wind up the Company; or

- (b) take any further step (including any step by way of legal or equitable execution) in any proceedings pending against or in relation to the Company at the Commencement Date; or
- (c) commence or take any further steps in any arbitration against the Company or to which the Company is a party;
- (d) bring or take any further step in any Enforcement Process in relation to the Property of the Company; or
- (e) exercise any right of set off or cross action to which the Creditor would not have been entitled had the Company been wound up on the Commencement Date,

except with the leave of the Court and in accordance with the terms (if any) imposed by the Court.

9. Continuing Contracts

9.1 For the avoidance of doubt, NSEG and the Company acknowledge and agree:

- (a) NSEG and the Company will not make any Claim against the Deed Administrators or the Voluntary Administrators in respect of a Pre-Administration Contract;
- (b) the Voluntary Administrators and the Deed Administrators are making no representations, warranties or assurances in respect of the Company's liability for Pre-Administration Contracts and whether they are the subject of this Deed, including, without limitation, clause 8 of this Deed.

9.2 Any contractual counterparty to a Pre-Administration Contract will be entitled to lodge a proof of debt (in accordance with clause 3 of this Deed), for any loss or damage that it alleges it has suffered in respect of any Pre-Administration Contract.

10. Variation to Deed

10.1 If NSEG proposes a variation to this Deed, the Deed Administrators must, at NSEG's costs, convene a meeting of the Creditors of the Company pursuant to Rule 75-10 of the IPS, within ten (10) Business Days of receipt of NSEG's written variation proposal, to decide whether:

- (a) the Company should be placed into liquidation; or
- (b) the variation proposed by NSEG to the Deed should be accepted.

11. Termination

11.1 In respect of any breach of this Deed by NSEG or the Company, the Deed Administrators must give NSEG seven (7) days written notice of the breach, and NSEG may elect to remedy any breach, if such breach is able to be remedied.

11.2 Subject to clause 11.3 of this Deed, in the event that:

- (a) the Company or NSEG is unable to comply with the fundamental provisions of this Deed, including, without limitation, the payment of monies required by this Deed;
- (b) NSEG does not rectify any breach of this Deed in accordance with clause 11.1;
- (c) the Deed Administrators do not obtain the Section 444GA Orders or the executed Share Transfer Forms for all of the Shares; and/or
- (d) the Deed Administrators determine or form the view, in their absolute discretion, that the Company is unlikely to be able to comply with the terms of this Deed or that it is no longer practicable or desirable to continue to implement this Deed,

then the Deed Administrators may, in their absolute discretion, convene a meeting of the Creditors pursuant to Division 75 of the IPS, at which Creditors may resolve to:

- (i) vary the terms of this Deed;
- (ii) terminate this Deed;
- (iii) terminate this Deed and wind up the Company appointing the Deed Administrators as its liquidators;
- (iv) enforce the terms of this Deed; or
- (v) approve any other proposal permitted under the Corporations Act,

provided that the Deed will not be capable of termination after the Deed Fund has been distributed in accordance with the Deed.

11.3 In the event that:

- (a) an application is made to a Court seeking orders that a receiver or receiver and manager, liquidator, provisional liquidator or special purpose liquidator be appointed over the Company; or
- (b) any meeting is called by the Company, the then Director(s) of the Company or the Creditors or any other party pursuant to which a voluntary administrator, liquidator, provisional liquidator or special purpose liquidator is to be appointed over the Company,

then at the time of that event occurring:

- (a) this Deed immediately terminates; and
- (b) the Company is immediately wound-up and the Deed Administrators are appointed the liquidators of the Company.

11.4 Upfront Deposit payment to Liquidators

- (a) In the event that the Creditors resolve at a meeting of Creditors convened pursuant to Division 75 of the IPS that this Deed is terminated and the Company be placed into liquidation prior to the Balance Amount being received by the Deed Administrators, the Upfront Deposit is to be paid to any liquidator(s) appointed to the Company to form a partial payment of the consideration owing to the Company pursuant to the proposed Asset Sale Agreement.
- (b) Subject to any lien they may have over the Upfront Deposit, the Deed Administrators are to pay the balance of the Upfront Deposit then held by the Deed Administrators (if any), to any liquidator(s) of the Company in accordance with clause 11.4(a) of this Deed within two Business Days of the Company being placed into liquidation.

11.5 Effectuation of Deed

If:

- (a) all the payments required to be made to the Deed Administrators pursuant to this Deed have been made; and
- (b) the Deed Administrators have distributed the Deed Fund pursuant to clause 7 of this Deed so that all payments due to be made from the Deed Fund to all parties entitled to receive such payments (including the Administrators' Remuneration and the Administrators' Disbursements) have been paid; and
- (c) the Deed Administrators have lodged final accounts with ASIC;

the Deed Administrators must certify to that effect in writing and must within 28 days lodge with the ASIC a notice of termination of this Deed in the following form:

**TODAE SOLAR PTY LTD (SUBJECT TO DEED OF COMPANY ARRANGMENT)
ACN 113 191 183**

"We, Andrew Peter Schwarz and Matt John Adams of AS Advisory Pty Ltd c/- Level 32, 101 Miller Street, North Sydney NSW 2060 as the Deed Administrators of the Deed of Company Arrangement executed on [] August 2020 CERTIFY that the Deed has been wholly effectuated".

The execution of the notice terminates this Deed.

12. Control and Director's covenants

- 12.1 The control and stewardship of the Company will revert to the Incoming Director upon the Execution Date.
- 12.2 The Deed Administrators are to have complete access to the books and records and Property of the Company for the purpose of administering this Deed.
- 12.3 The Company and NSEG hereby covenant and agree:
 - (a) until the Balance Amount has been paid to the Deed Administrators, not to sell any of the assets of the Company other than in the ordinary course of the business conducted by the Company as at the Commencement Date;
 - (b) to be bound by the terms of this Deed;
 - (c) to provide to the Deed Administrators all assistance that the Deed Administrators may require with respect to the affairs of the Company, this Deed and the administration of the Deed Fund, including, without limitation, notifying the Deed Administrators in writing of:
 - (i) any event that will or is likely to have an effect on the ability of the Company, NSEG or any other third party's ability to pay any monies to the Deed Administrators under this Deed; and
 - (ii) any event that will or is likely to have an effect on the Company's ability to trade following the execution of this Deed,
 - (d) to use their best endeavours to ensure the Company's obligations under this Deed are satisfied;

- (e) to use their best endeavours to ensure any liability of the Company incurred from the Execution Date is paid when such liability becomes due and payable by the Company;
- (f) should the Company or NSEG receive any amount of money representing the Refunds, NSEG or the Company will pay such amount to the Deed Administrators within 3 Business Days of receipt of any amount of the Refunds.

13. Tax Obligations

13.1 The Company must pay GST

If GST is payable on the Basic Consideration or any part thereof, or if any party is liable to pay GST in connection with any Taxable Supply made under this Deed, then the party may increase the Basic Consideration (or the relevant part thereof) by an amount which is equal to the GST Rate.

13.2 Tax Invoice

Where the Basic Consideration is increased to account for GST pursuant to clause 13.1, the relevant party shall, in the month in which the Basic Consideration is to be paid, issue a Tax Invoice or an adjustment note to the Company.

13.3 Indemnity

The Company and NSEG indemnifies the Deed Administrators for any payment of GST that the Deed Administrators may be required to pay as a result of entering into this Deed.

13.4 Clauses survive termination

Clauses 13.1, 13.2 and 13.3 shall survive termination of this Deed.

14. Voluntary Administrators' and Deed Administrators' indemnity

14.1 Subject to clause 14.3 of this Deed, the Voluntary Administrators and the Deed Administrators are entitled to be indemnified by the Company, and from its assets, and out of the Deed Fund for:

- (a) the Administrators' Remuneration, the Administrators' Disbursements and any Trading Expenses;
- (b) all liabilities (if any) incurred by the Voluntary Administrators or the Deed Administrators, whether incurred before or after the Execution Date;
- (c) all actions, suits, proceedings, accounts, claims and demands arising during the period of the voluntary administration of the Company;
- (d) all actions, suits, proceedings, accounts, claims and demands arising out of this Deed which may be commenced, incurred by or made on the Voluntary Administrators or the Deed Administrators by any person and against all costs, charges and expenses incurred by the Voluntary Administrators or the Deed Administrators in respect thereof including, without limitation, any application to set aside this Deed;
- (e) any warranty claim from any works carried out during the Arrangement Period;
- (f) any claim in relation to any interests arising under the PPSA, including retention of title on stock; and
- (g) any claim in relation to compliance with relevant occupation health and safety regulations,

and are hereby granted a lien over the Administration Account and the Deed Fund as security for this indemnity.

14.2 Conduct Indemnity

NSEG and the Company indemnify the Deed Administrators for any actions, suits, proceedings, accounts, claims and demands against the Deed Administrators arising out of the conduct of NSEG or the Company after the Execution Date.

14.3 Indemnity Ceases

The indemnity from the Company and from its assets included in clause 14.1 of this Deed ceases upon payment of the Balance Amount to the Deed Administrators. For the avoidance of doubt the indemnity from the Deed Fund and the lien over the Administration Account and Deed Fund survives termination of this Deed.

14.4 Indemnities without limitation

These indemnities shall take effect on and from the Commencement Date and be without limitation as to time and shall endure for the benefit of the Voluntary Administrators and the Deed Administrators and their respective legal personal representatives notwithstanding the removal of the Voluntary Administrators or the Deed Administrators and the appointment of a new Deed Administrator or the termination of this Deed for any reason whatsoever.

14.5 Operation of indemnity

The indemnities under clause 14.1 and 14.2 shall not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Voluntary Administrators or the Deed Administrators and shall extend to all actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Voluntary Administrators or the Deed Administrators, the approval and execution of this Deed or otherwise;
- (b) affect or prejudice all or any rights that the Voluntary Administrators or the Deed Administrators may have against the Deed Fund or any other person to be indemnified against the costs, charges, expenses and liabilities incurred by the Voluntary Administrators or the Deed Administrators of or incidental to the exercise or performance of any of the powers or authorities conferred on the Voluntary Administrators or the Deed Administrators by this Deed or otherwise; or
- (c) be in substitution for, and is in addition to, any other rights the Voluntary Administrators or the Deed Administrators may have.

14.6 Drawing upon funds

The Voluntary Administrators and the Deed Administrators are entitled to draw amounts on account of the Administrators' Remuneration and Administrators' Disbursements from time to time from the monies held pursuant to this Deed.

14.7 Clauses survive termination

Clauses 14.1 (subject to clause 14.3) , 14.2, 14.4 and 14.5 survive termination of this Deed.

15. General

15.1 Notices

- (a) All demands or notices to be served under this Deed shall be in writing and shall be given, subject to the technical facilities available to the parties hereto, by any of the

following means:

- (i) courier delivery to the address herein disclosed, the last known business address of that party or such other address as any party hereto shall notify the other party for the purposes of this clause; and
 - (ii) by being left at the other party's registered office (if a company), at the address disclosed herein, at the last known address of the other party or by being posted in a prepaid certified or registered letter addressed to that party at any one of the foregoing addresses.
- (b) Subject to clause 15.1(a)**Error! Reference source not found.**, all demands or notices served under this Deed may be emailed to the following addresses:
- (i) in the case of NSEG: glen.r@asdsolar.com.au; and
 - (ii) in the case of the Company or Voluntary Administrators: andrew@asadvisory.com.au and matt.adams@dcigroup.com.au.

15.2 Assignment

Rights arising out of or under this Deed are not assignable by a party without the prior written consent of the other parties.

15.3 Governing Law

The contents of this Deed, meanings and interpretation and the relationship of the parties are to be governed by the laws of New South Wales and the parties submit to the jurisdiction of the courts of that State.

15.4 Binding obligations

The obligations imposed and the benefits conferred by the agreements contained within this Deed are to be binding on the respective executors, voluntary administrators, deed administrators, successors and assigns of all the parties to this Deed.

15.5 Jurisdiction

- (a) Each party irrevocably submits to, and accepts generally and unconditionally, the non-exclusive jurisdiction of the courts of New South Wales with respect to any legal action or proceedings which may be brought at any time relating in any way to this Deed.
- (b) Each party irrevocably waives any objection it may have, either now or in the future, to the venue of any action or proceeding, and any claim it may have, either now or in the future, that the action or proceeding has been brought in an inconvenient forum.

15.6 Severability

Any provision of this Deed which is or becomes illegal, invalid, void or unenforceable in any respect shall be ineffective only to the extent of that illegality, voidness or unenforceability, and shall not affect the continued operation of the remaining provisions of this Deed. If a provision of this Deed would not be illegal, invalid, void or unenforceable if it were read down, and the provision is capable of being read down, it is to be read down.

15.7 Further acts

The parties shall promptly do and perform all further acts and execute and deliver all further documents required by law or reasonably requested by the other parties to carry out and effect

the intent and purpose of this Deed.

15.8 Variation

This Deed may not be amended, modified or otherwise varied in any way except in writing signed by the party or parties to be bound.

15.9 Waiver

- (a) No waiver or indulgence by any party to this Deed shall be binding on the parties unless it is in writing.
- (b) No waiver of a breach of any term or condition of this Deed shall operate as a waiver or another breach of the same or any other term or condition of this Deed.

15.10 Time of the essence

Time shall be of the essence of this Deed in all respects unless the parties agree in writing to any time requirement being extended, but in such event, time shall again be of the essence of this Deed in relation to such time requirement as so extended.

15.11 Counterparts

This Deed may be executed in any number of counterparts (whether an original or a copy transmitted by e-mail), all of which taken together shall constitute one and the same document.

15.12 Exchange Arrangements

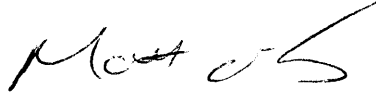
- (a) The parties to this Deed agree that for the purposes of effecting a binding exchange of this Deed, the delivery to a party or their solicitor of a counterpart of this Deed incorporating a copy of the execution provision signed by another party (the sending party) will be treated for all purposes as being valid and binding on the sending party despite any other provision of this Deed or any law relating to valid execution of documents.
- (b) Without affecting the validity of an exchange of counterparts of this Deed, following an exchange of counterparts on the basis set out in this clause, each party undertakes to the other to deliver the original signed counterpart to the other parties or their solicitors, within 5 Business Days after the Execution Date.

15.13 Inconsistency with constitution

To the extent of any inconsistency between the terms of this Deed and the constitution of the Company, the terms of this Deed prevail.

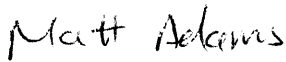
EXECUTED as a DEED

EXECUTED by TODAE SOLAR PTY LTD)
(ADMINISTRATORS APPOINTED) ACN 113)
191 183 with the consent of its Voluntary)
Administrators, in the presence of:)



~~Director~~ ~~Joint & Several Administrator~~)

Director/Secretary



Name)

Name

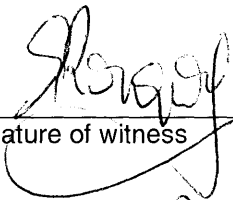
SIGNED SEALED AND DELIVERED by)
ANDREW PETER SCHWARZ in the)
presence of:)

Andrew Peter Schwarz

Signature of witness)

Name)

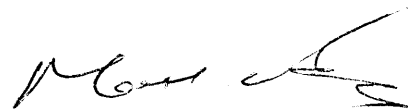
SIGNED SEALED AND DELIVERED by)
MATT JOHN ADAMS in the presence of:)



Signature of witness)



Name)



Matt John Adams

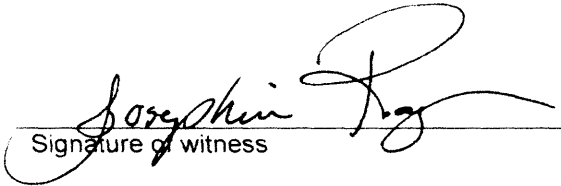
EXECUTED as a DEED

**EXECUTED by TODAE SOLAR PTY LTD
(ADMINISTRATORS APPOINTED) ACN 113
191 183 by its Voluntary Administrators:**

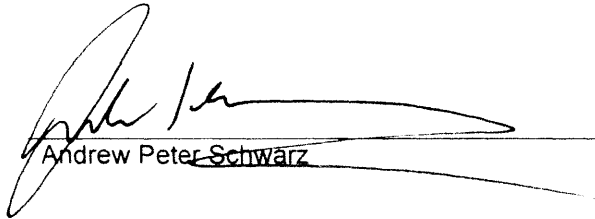
Andrew Peter Schwarz

Director/Secretary

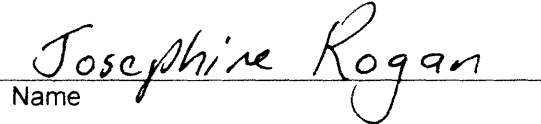
**SIGNED SEALED AND DELIVERED by
ANDREW PETER SCHWARZ in the
presence of:**



Signature of witness



Andrew Peter Schwarz



Name

**SIGNED SEALED AND DELIVERED by
MATT JOHN ADAMS in the presence of:**

Matt John Adams

Signature of witness

Name

EXECUTED by **NATIONAL SOLAR**
ENERGY GROUP PTY LTD ACN 620 155
571 in accordance with section 127 of the
Corporations Act 2001 (Cth):



Director)

Director/Secretary

KIRAN BHAVSAR

Name)

Name

SCHEDULE

Schedule 1

Prescribed Provisions - Schedule 8A

DEED OF COMPANY ARRANGEMENT - PRESCRIBED PROVISIONS

Deed Administrators deemed agent of Company

1. In exercising the powers conferred by this Deed and carrying out the duties arising under this Deed, the Deed Administrators are taken to act as agent for and on behalf of the Company.

Powers of Deed Administrators

2. For the purpose only of administering this Deed, the Deed Administrators have the following powers:
 - (a) to enter upon or take possession of the property of the Company;
 - (b) to lease or let on hire property of the Company;
 - (c) to grant options over property of the Company on such conditions as the Deed Administrators think fit;
 - (d) to insure property of the Company;
 - (e) to repair, renew or enlarge property of the Company;
 - (f) to call in, collect or convert into money the property of the Company;
 - (g) to administer the assets available for the payment of claims of Creditors in accordance with the provisions of this Deed;
 - (h) to purchase, hire, lease or otherwise acquire any property, or interest in property from any person or corporation;
 - (i) to borrow or raise money, whether secured upon any or all of the assets of the Company or unsecured, for any period on such terms as the Deed Administrators think fit and whether in substitution for any existing security or otherwise;
 - (j) to bring, prosecute and defend in the name and on behalf of the Company or in the name of the Deed Administrators any action, suits or proceedings;
 - (k) to refer to arbitration any question affecting the Company;
 - (l) to make payments to any secured creditor of the Company and any person who is the owner or lessor of property possessed, used or occupied by the Company;
 - (m) to convene and hold meetings of the members or creditors of the Company for any purpose the Deed Administrators think fit;
 - (n) to make interim or other distributions of the proceeds of the realisation of the assets available for the payment of claims of creditors as provided in this Deed;
 - (o) to appoint agents to do any business or to attend to any matter of affairs of the Company that the Deed Administrators are unable to do, or that it is unreasonable to expect the Deed Administrators to do in person;
 - (p) to engage or discharge employees on behalf of the Company;

- (q) to appoint a solicitor, accountant or other professionally qualified person to assist the Deed Administrators;
- (r) to permit any person authorised by the Deed Administrators to operate any account in the name of the Company;
- (s) to sell, call in or convert into money any of the property of the Company, to apply the money in accordance with this Deed and otherwise effectively and properly to carry out their duties as Deed Administrators;
- (t) to do all acts and execute in the name and on behalf of the Company all deeds, receipts and other documents, using the Company's common or official seal when necessary;
- (u) subject to the Bankruptcy Act 1966, to prove in the bankruptcy of any contributory or debtor of the Company or under any deed executed under that Act;
- (v) subject to the Corporations Act, to prove in the winding up of any contributory or debtor of the Company or under any scheme or arrangement entered into, or deed or Company arrangement executed, under the Corporations Act;
- (w) to draw, accept, make or endorse any bill of exchange or promissory note in the name and on behalf of the Company;
- (x) to take out letters of administration of estate of a deceased contributory or debtor, and do any other act necessary for obtaining payment of any money due from a contributory or debtor, or the estate of a contributory or debtor, that cannot be conveniently done in the name of the Company;
- (y) to bring or defend an application for the winding up of the Company or termination of this Deed;
- (z) to carry on the business of the Company on such terms and conditions and for such purposes and times and in such manner as the Deed Administrators think fit subject only to the limitations imposed by this Deed;
- (aa) to sell any or all of the property of the Company including the whole of the business or undertaking of the Company at any time the Deed Administrators think fit, either by public auction or by private contract and either for a lump sum payable by instalments or for a sum on account and to obtain a mortgage or encumbrance for the balance or otherwise;
- (ab) to close down the whole or any part of any business of the Company;
- (ac) to enter into and complete any contract for the sale of shares in the Company;
- (ad) to compromise any debts or claims brought by or against the Company on such terms as the Deed Administrators think fit and to take security for the discharge of any debt forming part of the property of the Company;
- (ae) to pay any class of creditors in full, subject to Subdivision D of Division 6 of Part 5.6 of the Corporations Act;
- (af) to do anything that is incidental to exercising a power set out in this clause;
- (ag) to do anything else that is necessary or convenient for the purpose of administering this Deed.

Making claims

3. Subdivisions A, B, C and E of Division 6 of Part 5.6 of the Corporations Act apply to claims made under this Deed as if the references to the Liquidator were references to the Deed Administrators of this Deed, and references to a “relevant date” were references to the Commencement Date.
4. For the purpose of clause 3 of this Schedule, the remainder of the Corporations Act, and the Corporations Regulations, are taken to apply, as far as practicable, as if:
 - (a) a reference that is relevant to the liquidator were a reference in a form that is applicable to the administrator; and
 - (b) a reference that is relevant to any other matter relating to liquidation were a reference in a form that is applicable to the administration of this deed; and
 - (c) a reference to a “relevant date” were a reference to the Commencement Date.

Schedule 2 – Director undertakings

To: Andrew Peter Schwarz and Matt John Adams in their capacity as Deed Administrators of Todae Solar Pty Ltd (subject to deed of company arrangement) ACN 113 191 183

Undertaking - Todae Solar Pty Ltd (subject to deed of company arrangement) ACN 113 191 183 (the Company)

I, Kiran Bhavsar, undertake not to incur any debt, liability or other obligation on behalf of the Company until the earlier of either of the following occurring:

- a) the Deed Administrators have provided the Company with a written consent to incur the debt, liability or other obligation; or
- b) the Balance Amount has been paid to the Deed Fund in accordance with clause 5.2(b) of the Deed of Company Arrangement in respect of the Company.

EXECUTED by **KIRAN BHAVSAR** in the presence of:)



) _____
) [INSERT]

Signature of witness)



Name)
Gwen Rothauel

Schedule 3 - Asset Sale Agreement – Terms

Parties

Definitions	Meaning
Parties	means NSEG, the Liquidators and the Company.
Assets	<p>a) Intellectual Property Rights; b) Goodwill; c) Debtors; d) Customer Retentions; e) O&M; f) Bank Guarantees; g) Work in progress; h) Assigned Contracts; and i) Plant and Equipment,</p> <p>but excluding the Excluded Assets.</p>
Assigned Contracts	means any contracts to which the Company has an interest in (if any) to be assigned to NSEG at its request.
Business Day	means any day other than a Saturday, Sunday, public holiday or bank holiday in Sydney, New South Wales.
Claim	includes a claim, demand, remedy, suit, injury, damage, loss, cost, order, notice, liability, action, proceeding or right of action.
Completion	<p>means the date that is the earlier of 5 Business Days after any of the following events occurring:</p> <p>a) the Section 444GA Application is unsuccessful or the consent of the Shareholders to transfer the Shares to NSEG cannot be obtained; and</p> <p>b) the DOCA is otherwise terminated not by way of effectuation</p>
Creditors	means all unsecured creditors of the Company that have a Claim against the Company (whether at law, in equity, whether present, prospective or contingent, whether liquidated or sounding only in damages and whether in contract, in tort or howsoever arising including without limitation any penalty or fine as against the Company) that arose prior to the date the Administrators were appointed as administrators of the Company

Excluded Assets	Any cash at bank held by the Liquidators at the date of Completion;
Law	includes any law (including common and criminal laws) directive, Act of Parliament, statute, enactment, legislation, order, ordinance, regulation, rule, by-law, proclamation, notice, authority approval, statutory instrument, proclamation or delegated or subordinate legislation of the Commonwealth or any State of Territory of Australia or any municipal government or of any Authority.
Loss	means any damage, loss, cost, liability or expense of any kind and however arising (including as a result of any Claim) including penalties, fines and interest and including any that are prospective or contingent and the amount of which for the time being are not ascertained or ascertainable.
Purchase Price	means \$850,000 (plus GST, if any) plus the Deferred Deed Contribution (as defined in the Deed), plus any applicable GST

Terms	
Purchase	The Company agrees to sell and NSEG agrees to purchase for the Purchase Price such rights, title and interest (including all Intellectual Property Rights) the Company has in the Assets (if any) at Completion, free of any and all encumbrances and on the terms of the Asset Sale Agreement.
Conditions Precedent	The obligations of the parties to complete the sale and purchase the Assets is subject to: <ul style="list-style-type: none"> a) the Secured Creditors releasing any security interest they hold in respect of any of the Assets of the Company; and b) the Liquidators obtaining the approval to enter into the Asset Sale Agreement pursuant to section 477(2B) of the <i>Corporations Act 2001</i> (Cth).
Debtors/Customer Retentions/Bank Guarantees	The Liquidators will account to NSEG for any Debtors, Customer Retentions and/or Bank Guarantees collected between the Proposal Date and Completion.
NSEG acknowledgments	NSEG acknowledges, inter alia: <ul style="list-style-type: none"> (a) to the maximum extent permitted by Law, the Company and the Liquidators make no statements or representations nor give any warranties in respect of the sale of the Assets or about the quality or condition of the Assets nor do they make or give any

	<p>other representations or warranties except those expressly set out in the Asset Sale Agreement;</p> <p>(b) without limiting (a), the Company and the Liquidators do not make any statements or representations nor give any warranties about:</p> <ul style="list-style-type: none"> (i) the physical state, quality or condition of any of the Assets; (ii) the standing or validity of, and compliance by the Company with any Intellectual Property Rights or the Assigned Contracts; (iii) any rights of the Company in respect of the Assets; (iv) the value of the Assets; (v) the accuracy of the description of the Assets; (vi) the purposes for which the Assets can legally and physically be used; (vii) the ability of NSEG to negotiate agreements with, or enter into arrangements, with any Third Party that owns or supplied: <ul style="list-style-type: none"> (A) items of plant and equipment; (B) any equipment leased to the Company; or (C) any customer contracts for electricity, gas, telephone or any other services or assets provided by Third Parties which are not stated to form part of the Assets; (viii) the ability of NSEG to negotiate agreements with, or enter into arrangements, with any Third Party that owns real property occupied by the Company; (ix) compliance of the Assets with any Laws; (x) whether all licences, approvals, permits, consents, certificates or authorities required for the use of the Assets are held by the Company; (xi) whether the Company has complied with all licences, approvals, permits, consents, certificates or authorities granted in respect of any of the Assets; (xii) the profitability or financial performance of
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	<p>any business from using the Assets;</p> <p>(xiii) the future viability or profitability of any business from using the Assets;</p> <p>(xiv) the truth, accuracy or completeness of any information or statements contained within any information memoranda, due diligence or other materials provided to NSEG in relation to the state, condition or sale of the Assets; or</p> <p>(xv) the fitness or suitability of the Assets for any purpose (including any purpose expressly or impliedly disclosed by NSEG to the Company);</p> <p>(c) except as expressly set out in the Asset Sale Agreement, to the maximum extent permitted by Law, all warranties, representations and statements which may have been made or given by the Company, the Liquidators, their Representatives or any person purporting to act on behalf of the Company or the Liquidators, whether express, implied, written or oral, are excluded and the Company and the Liquidators disclaim all liability in relation to these;</p> <p>(d) except as expressly set out in the Asset Sale Agreement, NSEG does not rely on any statement, representation, warranty, condition or other conduct in relation to the Assets which may have been made or given by the Company, the Liquidators, their Representatives or any person purporting to act on behalf of the Company or the Liquidators and declares that it would have entered into the Asset Sale Agreement on the same terms and conditions irrespective of any such statement, representation, warranty, condition or other conduct;</p> <p>(e) NSEG has agreed to purchase the Assets for a price calculated to take into account the risk to NSEG represented by the fact that all parties believe that the acknowledgments, exclusions and limitations contained in the Asset Sale Agreement would be recognised by the courts as fully effective;</p> <p>(f) NSEG has received independent professional advice in relation to the purchase of the Assets and has investigated all material matters that a reasonably prudent intending buyer of the Assets would investigate and has (to the extent it has had access to the Assets) satisfied itself about anything arising from its investigation;</p> <p>(g) NSEG relies on its own investigations and professional advice received and does not rely on any statement, representation, assurance, warranty, condition or other conduct in relation to the Assets</p>
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	<p>which may have:</p> <ul style="list-style-type: none"> (i) been made or given; or (ii) failed to have been made or given, <p>by the Company, the Liquidators or any person acting on behalf of the Company or the Liquidators other than those expressly set out in the Asset Sale Agreement;</p> <ul style="list-style-type: none"> (h) each Asset is purchased by NSEG as a result of the independent exercise of NSEG's own skill and judgment after due inspection and investigation; (i) each Asset is purchased by NSEG on an "as is where is" basis with all existing patent and latent defects and irregularities; and (j) the Liquidators have not: <ul style="list-style-type: none"> (i) conducted any due diligence investigation, other investigation or enquiries in relation to the Assets; or (ii) verified, audited, examined or reviewed any information provided by the Company to NSEG as to its truth, accuracy or completeness.
Liquidators acting as agent	<ul style="list-style-type: none"> (a) All references to the Liquidators in the Asset Sale Agreement are references to the Liquidators in their capacity as Liquidators of the Company. (b) NSEG acknowledges and agrees that: <ul style="list-style-type: none"> (i) NSEG is contracting with the Company for the purchase of the Assets under the Asset Sale Agreement and not the Liquidators; (ii) by entering into the Asset Sale Agreement, the Liquidators are acting not in a personal capacity but as administrators or liquidators of the Company and as agent of the Company; (iii) any information provided in connection with the Asset Sale Agreement to NSEG by the Liquidators or their Representatives is provided on behalf of the Company.
No personal liability of Liquidators	<p>For the avoidance of doubt, the parties agree that in connection with the negotiation, execution and completion of the Asset Sale Agreement, the Liquidators are acting as the agent of the Company and:</p> <ul style="list-style-type: none"> (a) neither the Liquidators nor their Representatives are

<p>No personal liability of Liquidators</p>	<p>For the avoidance of doubt, the parties agree that in connection with the negotiation, execution and completion of the Asset Sale Agreement, the Liquidators are acting as the agent of the Company and:</p> <ol style="list-style-type: none"> 1. neither the Liquidators nor their Representatives are personally liable under: <ol style="list-style-type: none"> 1. the Asset Sale Agreement; 2. the transactions contemplated by the Asset Sale Agreement; 3. any act, matter or thing arising out of or in connection with the Asset Sale Agreement; or 4. under any other deed, instrument or document entered into, under or in connection with the Asset Sale Agreement; 2. any Loss or Claim NSEG may have resulting from a breach of an implied or express term of the Asset Sale Agreement or in connection with the Assets must be made solely against the Company; and 3. NSEG releases the Liquidators (as applicable) and their Representatives from liability to NSEG for any Loss or Claim on any ground in connection with the Asset Sale Agreement, the Assets or under any other deed, instrument or document entered into, under or in connection with the Asset Sale Agreement.
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<p>GST - Supply of a going concern</p>	<ol style="list-style-type: none"> 1. Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with the Asset Sale Agreement are exclusive of GST. 2. The Company and NSEG agree that the supply of the Assets under the Asset Sale Agreement constitutes the supply of a going concern under which the Company: <ol style="list-style-type: none"> 1. is supplying to NSEG all of the things that are necessary for the continued operation of an enterprise; and 2. carries on and will carry on, the enterprise until the day of the Supply (whether or not as a part of a larger enterprise carried on by the Supplier). 3. If the supply made under the Asset Sale Agreement does not satisfy the requirements of section 38-325 of the GST Act, then: <ol style="list-style-type: none"> 1. NSEG must pay to Todae an additional amount equal to the GST payable on the Taxable Supply and any penalties or interest that may be imposed in respect of the GST payable; and 2. the additional amount is payable immediately after the Company provides a valid Tax Invoice to NSEG in respect of the Supply.
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Schedule 4 – Director Consent

**Director consent to act
Provided pursuant to the Corporations Act 2001**

1. Consent to Act

I, **Kiran Bhavsar**, consent to act as director of Todae Solar Pty Ltd (Administrators appointed) ACN 113 191 183 pursuant to section 201D of the Corporations Act 2001 (Cth) ("Act").

2. Personal Details

I give notice of the following particulars pursuant to section 205C of the Act:

Given name(s) and family name: **Kiran Bhavsar**

All former given and family names: **NA**

Date of Birth: **08th Sep 1977**

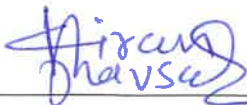
Place of Birth: **Vadnagar**

Residential Address: **45 Greengate Close, Northgate SA 5085**

3. Use of technology

I provide a standing consent, pursuant to section 248D of the Act, to directors' meetings being called or held using any form of technology. I understand that I can withdraw this consent within a reasonable period before a meeting.

Signature:



Print Name: Kiran Bhavsar

Date: 26th Aug 2020