

Use of this Annexure is not mandatory. OEH has provided the document as an example. OEH recommends that users exercise their own skill and care with respect to the material in this Annexure and that users carefully evaluate the suitability of the material for their purposes.

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Annexure 1– Agreed repayment arrangements

The following table outlines minimum information to be provided by the Finance Provider and Council. Additional information or alternative formats may be submitted, or requested by other parties. Please add or delete rows, and this explanatory text, as relevant to the loan terms.

Payment No.	Due Date of Payment	Fee Type (Name)	Fee Amount \$ (incl. GST)
TOTALS:			

Note: Council may charge additional administrative fees for amendment to this agreement or the Charge Payments; and Late Payment/Direct Debit Dishonour Fees. These fees as at the date of this agreement are set out below, as amended from time to time in accordance with Clause 6.1.

Amendment Fee (if applicable) _____

Late Payment / Direct Debit Dishonour Fee
(if applicable, penalty interest may apply) _____

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Annexure 2- Funding payment schedule

The following table outlines minimum information to be provided by the Finance Provider. Additional information or alternative formats may be used. Please add or delete rows as relevant to the loan terms as well as this explanatory text.

Funds advanced by finance provider to owner

Drawdown No.	Funding Payment Date	Funding Amount(s)

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Annexure 3 - Lessee cost savings estimation

The following table outlines an example of minimum information to be provided by the Owner and their representative. This Annexure only needs to be completed if the Owner intends to pass on upgrade costs to their Lessees(s). Additional information and/or alternative formats may be used. A Table would be allocated for each Lessee, with rows added depending on the term of the loan. Please add or delete rows as relevant to the loan terms as well as this explanatory text.

Lessee 1: (Insert Name, Address, Net Lettable Area)						
Charge No.	Year	Charge payment period	Type of cost saving (water, electricity, waste etc.)	Estimated savings per quarter (kWh, m ³) (a) Tenancy only (b) X% of house	Estimated savings per quarter (\$) (a) Tenancy only (b) X% of house	Maximum Lessee contribution in charge period
1						
2						
3						
4						
Total Annual Contribution by Lessee (\$):						
5						
6						
7						
8						
Total Annual Contribution by Lessee (\$):						
9						
10						
11						
12						
Total Annual Contribution by Lessee (\$):						

Calculation methodology(S):

Qualified professionals should describe all the relevant inputs used to calculate Lessee savings so that a Lessee can see how the contributions have been derived. An example is provided of how calculations may be displayed. Please delete the blue example entry when submitting the Agreement as well as this explanatory text.

1. Lessee energy saving is achieved by: T5 Lighting Upgrade to Lessee 1 and House Area (10% proportion)		
Current kWh p.a	Post Upgrade kWh p.a.	Cost Savings
(a) Lessee 1 = 200 lights x 2x (36W T8 lamps + 9W ballast) = 18000W x 2600hr/yr (10h x 5d) = 47 528kWh p.a. (b) Lessee 1 (10% of house) = 0.1 x 100 lights x 2x (36W T8 lamps + 9W ballast) = 2 340kWh p.a	(a) = 200 lights x 1x (28W T5 globes+6W ballasts) = 6800 x 2600hr/yr (10hr x 5d) = 17 680 kWh p.a. (b) = 0.1 x 100 lights x 1 (28W + 6W ballast) = 884kWh p.a.	(a) = (47 528 – 17 680kWh) x \$0.27 per kWh = \$8059 p.a. (b) (2 340 – 884kWh) x \$0.1per kWh = \$145.6 Max lessee contribution per charge period = (a) + (b) = \$8204.6

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Annexure 4 - Environmental upgrade works

The following table outlines the minimum information to be provided by the Owner and their representative. Additional information or alternative formats may be used. Please delete the blue example entry when submitting the Agreement as well as this explanatory text.

Upgrade Works	Schedule of Items / Equipment	Environmental Benefit
<i>For example: Install 100kW grid-connected solar photovoltaic system</i>	<ul style="list-style-type: none"> • 400 x 250W monocrystalline panels • 6 x XYZ Inverters • Metering supply and installation • PV framing and installation • Monitoring – Bluetooth smartweb box 	<i>Reduce fossil fuel electricity use by XXMWh, saving XX Tonnes of CO2 per annum</i>

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Annexure 5 – Environmental upgrade works budget

The following table outlines the minimum information to be provided by the Owner and their representative. Additional information or alternative formats may be used. Please delete this text when submitting the Agreement.

Budget Item	Inclusions	Budget Amount (incl. GST)

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Annexure 6 – Enforcement procedure

Insert relevant Council's Enforcement Procedure. Delete this text prior to submitting the agreement.

Annexure 7 – Accession deed poll

Accession Deed Poll dated []

By: [Insert full name of relevant transferee] [Insert ABN] (Transferee)

In favour of: Each other party to the Environmental Upgrade Agreement, as defined below (**Beneficiary**)

1 Definitions and interpretation

- (a) **Environmental Upgrade Agreement** means the agreement entitled "Environmental Upgrade Agreement (NSW)" dated on or about [] between the Council, [] and [].
- (b) Unless otherwise defined, expressions used in this deed poll have the meanings given to them in the Environmental Upgrade Agreement.
- (c) Clause 1.2 of the Environmental Upgrade Agreement applies in this deed poll as if it was set out in full in this deed poll and as if all references in that clause to "this agreement" were references to this deed poll.

2 Agreements, confirmations and representations

The Transferee:

- (d) enters this deed poll for valuable consideration, the receipt of which is acknowledged; and
- (e) agrees to:
 - (i) become, with effect on and from the date of this deed poll, [the Council /the Building Owner/the Finance Provider] under the Environmental Upgrade Agreement;
 - (ii) be bound by the Environmental Upgrade Agreement in that capacity with effect on and from the date of this deed poll; and
 - (iii) comply with and perform its obligations as [the Council /the Building Owner/the Finance Provider] under the Environmental Upgrade Agreement.

3 Governing law

This deed poll is governed by the law applying in New South Wales.

4 Deed Poll

This document is executed as a deed poll by the Transferee in favour of each Beneficiary. Each Beneficiary has the benefit of this deed poll and is entitled to enforce this deed poll,

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whether itself or with any one or more other Beneficiaries even though it is not a party to this deed poll.

5 Attorneys

Each person who executes this deed poll on behalf of the Transferee under a power of attorney warrants that he or she has no notice of the revocation of that power or of any fact or circumstance that might affect his or her authority to execute this deed poll under that power.

Executed as a deed poll.

[Insert signing panel]

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Annexure 8 - Representations and warranties

Please complete one of the following sub-annexures according to the building owner's ownership type:

Annexure 8a – Representations and warranties for trusts

Annexure 8b – Representations and warranties for managed investment schemes

Annexure 8c – Representations and warranties for partners

Annexure 8d - Representations and warranties for individuals

Delete all non-relevant sub-annexures prior to completing Annexure 8.

Annexure 8a - Representations and warranties for trusts

9 Representations and warranties

9.1 General representations and warranties

Each of the Building Owner and the Finance Provider represents and warrants that:

- (a) **(incorporation and existence):** it has been incorporated in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted; and
- (b) **(power):** it has power to enter into the Transaction Documents to which it is a party and comply with its obligations under them; and
- (c) **(no contravention or exceeding power):** the Transaction Documents to which it is a party and the transactions under them which involve it do not contravene its constituent documents (if any) or any law or obligation by which it is bound or to which any of its assets are subject, or cause a limitation on its powers or the powers of its directors to be exceeded; and
- (d) **(authorisations):** it has in full force and effect the authorisations (including any authorisations required under its constitution) necessary for it to enter into the Transaction Documents to which it is a party, to comply with its obligations and exercise its rights under them and to allow them to be enforced; and
- (e) **(validity of obligations):** its obligations under the Transaction Documents to which it is a party are valid and binding and are enforceable against it in accordance with their terms, subject to any equitable principles and laws generally affecting creditors' rights (including laws relating to bankruptcy, insolvency, liquidation, receivership, administration, reorganisation, reconstruction, fraudulent transfer or moratoria); and
- (f) **(arm's length terms):** it enters into the Transaction Documents to which it is a party in good faith and on reasonable and arm's length commercial terms.

9.2 Trust representations and warranties

The [Building Owner/Finance Provider] represents and warrants that:

- (a) **(existence):** the Trust has been duly established; and
- (b) **(sole trustee):** it is the only trustee of the Trust; and
- (c) **(appointment and no removal):** it has been validly appointed as trustee of the Trust and no action has been taken or proposed to remove it as trustee of the Trust; and
- (d) **(disclosure of terms):** true copies of the Trust Deed (including any amending documents) have been provided to the [Building Owner/Finance Provider] and the Council and disclose all terms of the Trust; and

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- (e) **(power):** it has power under the terms of the Trust to enter into the Transaction Documents to which it is a party and comply with its obligations under them; and
- (f) **(authorisations):** it has in full force and effect the authorisations (including any authorisation required under the Trust Deed) necessary for it to enter into the Transaction Documents to which it is a party, perform obligations under them and allow them to be enforced; and
- (g) **(indemnity):** it has a right to be fully indemnified out of the Trust Property in respect of obligations incurred by it under the Transaction Documents to which it is a party; and
- (h) **(adequacy of Trust Property):** the Trust Property is sufficient to satisfy the right of indemnity referred to in clause 9.2(g) and all other obligations in respect of which the [Building Owner/Finance Provider] has a right to be indemnified out of the Trust Property; and
- (i) **(no default):** [it is not in default under the Trust Deed (in the case of the Building Owner) and] no action has been taken or proposed to terminate the Trust Deed [(in the case of the Building Owner and the Finance Provider)]; and
- (j) **(exercise of powers):** it has not exercised its powers under the Trust Deed to release, abandon or restrict any power conferred on it by the Trust Deed; and
- (k) **(benefit):** entry into the Transaction Documents to which it is a party is a valid exercise of its powers under the Trust Deed for the benefit of beneficiaries of the Trust.

9.3 Further representations and warranties from Building Owner

The Building Owner represents and warrants that:

- (a) **(benefit):** it benefits by entering into the Transaction Documents to which it is a party; and
- (b) **(solvency):** there are no reasonable grounds to suspect that it or any of its Subsidiaries is unable to pay its debts as and when they become due and payable; and
- (c) **(no immunity):** neither it nor any of its Subsidiaries has immunity from the jurisdiction of a court or from legal process; and
- (d) **(existing Building):** the Building:
 - (i) is an existing building in [**Council jurisdiction to be inserted**]; and
 - (ii) is used entirely or predominantly for non-residential purposes; and
- (e) **(efficiency or sustainability):** the purpose of the Environmental Upgrade Works is to improve the energy, water or environmental efficiency or sustainability of the Building; and

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- (f) **(Environmental Upgrade Works Costs):** it will carry out the Environmental Upgrade Works and will use the financial accommodation provided to it on the terms set out in annexure 9 only for the purpose of paying the Environmental Upgrade Works Costs; and
- (g) **(no dealings):** without prior written consent from the Finance Provider and the Council (such consent not to be unreasonably withheld or delayed), it will not and will not agree to, either in a single transaction or a series of transactions, sell, transfer, lease or otherwise dispose of the Building or any part of the Building, or create or permit to exist any Encumbrance (other than any Permitted Encumbrance) over the Building or any part of the Building; and
- (h) **(Authorisations):**
 - (i) it holds all Authorisations which are required at the time for the conduct of the Environmental Upgrade Works; and
 - (ii) each such Authorisation is in full force and effect, and has not been revoked or suspended; and
 - (iii) it is not aware of any material breach of the terms of any such Authorisation; and
- (i) **(statutory requirements):** it has complied with all statutory requirements that apply to any Environmental Upgrade Works, including any conditions for major refurbishments; and
- (j) **(Existing Secured Financiers):** it is not in breach of the terms of any of its obligations in relation to the Existing Secured Financiers as a result of its entry into the Transaction Documents to which it is a party.

9.4 Further representations and warranties from Finance Provider

The Finance Provider represents and warrants that:

- (a) **(credit assessment):** it has prepared, or procured the preparation of, a credit assessment of the Building Owner for the purpose of the credit approval processes of the Finance Provider; and
- (b) **(Funding Limit):** it will provide financial accommodation to the Building Owner equal to the Funding Limit on the terms set out in annexure 9.

9.5 [Repetition of representations and warranties

The representations and warranties provided by the Building Owner in this clause 9 are taken to be made (by reference to the then current circumstances):

- (a) on each date on which the Finance Provider provides financial accommodation to the Building Owner; and
- (b) every three months after the date of this agreement.]

In this clause 9, these meanings apply:

Trust means [*to be inserted*].

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Trust Deed means [to be inserted].

Trust Property means all the [Building Owner's/Finance Provider's] rights, property and undertaking which are the subject of the Trust:

- (a) of whatever kind and wherever situated; and
- (b) whether present or future.

Annexure 8b - Representations and warranties for managed investment schemes

9 Representations and warranties

9.1 General representations and warranties

Each of the Building Owner and the Finance Provider represents and warrants that:

- (a) **(incorporation and existence):** it has been incorporated in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted; and
- (b) **(power):** it has power to enter into the Transaction Documents to which it is a party and comply with its obligations under them; and
- (c) **(no contravention or exceeding power):** the Transaction Documents to which it is a party and the transactions under them which involve it do not contravene its constituent documents (if any) or any law or obligation by which it is bound or to which any of its assets are subject, or cause a limitation on its powers or the powers of its directors to be exceeded; and
- (d) **(authorisations):** it has in full force and effect the authorisations (including any authorisations required under its constitution) necessary for it to enter into the Transaction Documents to which it is a party, to comply with its obligations and exercise its rights under them and to allow them to be enforced; and
- (e) **(validity of obligations):** its obligations under the Transaction Documents to which it is a party are valid and binding and are enforceable against it in accordance with their terms, subject to any equitable principles and laws generally affecting creditors' rights (including laws relating to bankruptcy, insolvency, liquidation, receivership, administration, reorganisation, reconstruction, fraudulent transfer or moratoria); and
- (f) **(arm's length terms):** it enters into the Transaction Documents to which it is a party in good faith and on reasonable and arm's length commercial terms.

9.2 Scheme representations and warranties

The [Building Owner/Finance Provider] represents and warrants that:

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- (a) **(existence):** the Scheme has been validly constituted as a Managed Investment Scheme; and
- (b) **(sole responsible entity):** it is the only responsible entity of the Scheme; and
- (c) **(appointment and no removal):** it has been validly appointed as the responsible entity of the Scheme and no action has been taken or proposed to remove it as responsible entity of the Scheme; and
- (d) **(disclosure of terms and compliance):**
 - (i) true copies of the Scheme Constitution (including any amending documents) have been provided to the [Building Owner/Finance Provider] and the Council and disclose all terms of the Scheme; and
 - (ii) the Scheme Constitution complies with the Corporations Act; and
- (e) **(power):** it has power under the terms of the Scheme Constitution to enter into the Transaction Documents to which it is a party and comply with its obligations under them; and
- (f) **(authorisations):** it has in full force and effect the authorisations (including any authorisation required under the Scheme Constitution) necessary for it to enter into the Transaction Documents to which it is a party, perform obligations under them and allow them to be enforced; and
- (g) **(Compliance Plan):**
 - (i) true copies of the Compliance Plan (including any amending documents) have been provided to the [Building Owner/Finance Provider] and the Council; and
 - (ii) the Compliance Plan complies with the Corporations Act; and
- (h) **(indemnity):** it has a right to be fully indemnified out of the Scheme Property in respect of obligations incurred by it under the Transaction Documents to which it is a party; and
- (i) **(adequacy of Scheme Property):** the Scheme Property is sufficient to satisfy the right of indemnity referred to in clause 9.2(h) and all other obligations in respect of which the [Building Owner/Finance Provider] has a right to be indemnified out of the Scheme Property; and
- (j) **(no default):** [it is not in default under the Scheme Constitution (in the case of the Building Owner) and] no action has been taken or proposed to terminate the Scheme [(in the case of the Building Owner and the Finance Provider)]; and
- (k) **(priority):** each of the Council's and the [Building Owner's/Finance Provider's] rights under the Transaction Documents it enters into with the [Building Owner/Finance Provider] rank in priority to the interests of the members of the Scheme; and

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- (l) **(exercise of powers):** it has not exercised its powers under the Scheme Constitution to release, abandon or restrict any power conferred on it by the Scheme Constitution; and
- (m) **(benefit):** entry into the Transaction Documents to which it is a party is a valid exercise of its powers under the Scheme Constitution for the benefit of the members of the Scheme.

9.3 Further representations and warranties from Building Owner

The Building Owner represents and warrants that:

- (a) **(benefit):** it benefits by entering into the Transaction Documents to which it is a party; and
- (b) **(solvency):** there are no reasonable grounds to suspect that it or any of its Subsidiaries is unable to pay its debts as and when they become due and payable; and
- (c) **(no immunity):** neither it nor any of its Subsidiaries has immunity from the jurisdiction of a court or from legal process; and
- (d) **(existing Building):** the Building:
 - (i) is an existing building in the [Council jurisdiction to be inserted]; and
 - (ii) is used entirely or predominantly for non-residential purposes; and
- (e) **(efficiency or sustainability):** the purpose of the Environmental Upgrade Works is to improve the energy, water or environmental efficiency or sustainability of the Building; and
- (f) **(Environmental Upgrade Works Costs):** it will carry out the Environmental Upgrade Works and will use the financial accommodation provided to it on the terms set out in annexure 9 only for the purpose of paying the Environmental Upgrade Works Costs; and
- (g) **(no dealings):** without prior written consent from the Finance Provider and the Council (such consent not to be unreasonably withheld or delayed), it will not and will not agree to, either in a single transaction or a series of transactions, sell, transfer, lease or otherwise dispose of the Building or any part of the Building, or create or permit to exist any Encumbrance (other than any Permitted Encumbrance) over the Building or any part of the Building; and
- (h) **(Authorisations):**
 - (i) it holds all Authorisations which are required at the time for the conduct of the Environmental Upgrade Works; and
 - (ii) each such Authorisation is in full force and effect, and has not been revoked or suspended; and
 - (iii) it is not aware of any material breach of the terms of any such Authorisation; and

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- (i) **(statutory requirements):** it has complied with all statutory requirements that apply to any Environmental Upgrade Works, including any conditions for major refurbishments; and
- (j) **(Existing Secured Financiers):** it is not in breach of the terms of any of its obligations in relation to the Existing Secured Financiers as a result of its entry into the Transaction Documents to which it is a party.

9.4 Further representations and warranties from Finance Provider

The Finance Provider represents and warrants that:

- (a) **(credit assessment):** it has prepared, or procured the preparation of, a credit assessment of the Building Owner for the purpose of the credit approval processes of the Finance Provider; and
- (b) **(Funding Limit):** it will provide financial accommodation to the Building Owner equal to the Funding Limit on the terms set out in annexure 9.

9.5 [Repetition of representations and warranties

The representations and warranties provided by the Building Owner in this clause 9 are taken to be made (by reference to the then current circumstances):

- (a) on each date on which the Finance Provider provides financial accommodation to the Building Owner; and
- (b) every three months after the date of this agreement.]

In this clause 9, these meanings apply:

Compliance Plan means the compliance plan of the Scheme established in accordance with part 5C.4 of the Corporations Act.

Managed Investment Scheme has the meaning it has in the Corporations Act.

Scheme means [to be inserted].

Scheme Constitution means [to be inserted].

Scheme Property means all the [Building Owner's/Finance Provider's] rights, property and undertaking which are the subject of the Scheme:

- (a) of whatever kind and wherever situated; and
- (b) whether present or future.

Annexure 8c - Representations and warranties for partnerships

9 Representations and warranties

9.1 General representations and warranties

Each of the Building Owner and the Finance Provider represents and warrants that:

- (a) **(incorporation and existence):** it has been incorporated in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted; and
- (b) **(power):** it has power to enter into the Transaction Documents to which it is a party and comply with its obligations under them; and
- (c) **(no contravention or exceeding power):** the Transaction Documents to which it is a party and the transactions under them which involve it do not contravene its constituent documents (if any) or any law or obligation by which it is bound or to which any of its assets are subject, or cause a limitation on its powers or the powers of its directors to be exceeded; and
- (d) **(authorisations):** it has in full force and effect the authorisations (including any authorisations required under its constitution) necessary for it to enter into the Transaction Documents to which it is a party, to comply with its obligations and exercise its rights under them and to allow them to be enforced; and
- (e) **(validity of obligations):** its obligations under the Transaction Documents to which it is a party are valid and binding and are enforceable against it in accordance with their terms, subject to any equitable principles and laws generally affecting creditors' rights (including laws relating to bankruptcy, insolvency, liquidation, receivership, administration, reorganisation, reconstruction, fraudulent transfer or moratoria); and
- (f) **(arm's length terms):** it enters into the Transaction Documents to which it is a party in good faith and on reasonable and arm's length commercial terms.

9.2 Partnership representations and warranties

The [Building Owner/Finance Provider] represents and warrants that:

- (a) **(disclosure of terms):** true copies of the Partnership Agreement (including any amending documents) have been provided to the [Building Owner/Finance Provider] and the Council and disclose all terms of the Partnership; and
- (b) **(power):** it has power under the terms of the Partnership Agreement to enter into the Transaction Documents to which it is a party and comply with its obligations under them; and
- (c) **(authorisations):** it has in full force and effect the authorisations (including any authorisation required under the Partnership Agreement) necessary for it to enter into the Transaction Documents to which it is a party, perform obligations under them and allow them to be enforced; and

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- (d) **(no default):** [it is not in default under the Partnership Agreement (in the case of the Building Owner) and] no action has been taken or proposed to terminate the Partnership [(in the case of the Building Owner and the Finance Provider)]; and
- (e) **(priority):** each of the Council and the [Building Owner's/Finance Provider's] rights under the Transaction Documents it enters into with the [Building Owner/Finance Provider] rank in priority to the interests of the members of the Partnership; and
- (f) **(benefit):** entry into the Transaction Documents to which it is a party is a valid exercise of its powers under the Partnership Agreement; and
- (g) **(no contravention):** the Transaction Documents to which it is a party and the transactions under them which involve it do not contravene the Partnership Agreement or any law or obligation by which it is bound; and
- (h) **(proper administration):** it enters into the Transaction Documents to which it is a party as part of the proper administration of the Partnership; and
- (i) **(internal management):** all acts of internal management of the Partnership in respect of into the Transaction Documents to which it is a party and the assumption by it of liability for the performance of its obligations under the Transaction Documents to which it is a party have been performed.

9.3 Further representations and warranties from Building Owner

The Building Owner represents and warrants that:

- (a) **(benefit):** it benefits by entering into the Transaction Documents to which it is a party; and
- (b) **(solvency):** there are no reasonable grounds to suspect that it or any of its Subsidiaries is unable to pay its debts as and when they become due and payable; and
- (c) **(not a trustee):** unless stated in the Details, it does not enter into any Transaction Document to which it is a party as trustee; and
- (d) **(no immunity):** neither it nor any of its Subsidiaries has immunity from the jurisdiction of a court or from legal process; and
- (e) **(existing Building):** the Building:
 - (i) is an existing building in [**Council jurisdiction to be inserted**]; and
 - (ii) is used entirely or predominantly for non-residential purposes; and
- (f) **(efficiency or sustainability):** the purpose of the Environmental Upgrade Works is to improve the energy, water or environmental efficiency or sustainability of the Building; and
- (g) **(Environmental Upgrade Works Costs):** it will carry out the Environmental Upgrade Works and will use the financial accommodation provided to it on the

terms set out in annexure 9 only for the purpose of paying the Environmental Upgrade Works Costs; and

- (h) **(no dealings):** without prior written consent from the Finance Provider and the Council (such consent not to be unreasonably withheld or delayed), it will not and will not agree to, either in a single transaction or a series of transactions, sell, transfer, lease or otherwise dispose of the Building or any part of the Building, or create or permit to exist any Encumbrance (other than any Permitted Encumbrance) over the Building or any part of the Building; and
- (i) **(Authorisations):**
 - (i) it holds all Authorisations which are required at the time for the conduct of the Environmental Upgrade Works; and
 - (ii) each such Authorisation is in full force and effect, and has not been revoked or suspended; and
 - (iii) it is not aware of any material breach of the terms of any such Authorisation; and
- (j) **(statutory requirements):** it has complied with all statutory requirements that apply to any Environmental Upgrade Works, including any conditions for major refurbishments; and
- (k) **(Existing Secured Financiers):** it is not in breach of the terms of any of its obligations in relation to the Existing Secured Financiers as a result of its entry into the Transaction Documents to which it is a party.

9.4 Further representations and warranties from Finance Provider

The Finance Provider represents and warrants that:

- (a) **(credit assessment):** it has prepared, or procured the preparation of, a credit assessment of the Building Owner for the purpose of the credit approval processes of the Finance Provider; and
- (b) **(Funding Limit):** it will provide financial accommodation to the Building Owner equal to the Funding Limit on the terms set out in annexure 9.

9.5 [Repetition of representations and warranties

The representations and warranties provided by the Building Owner in this clause 9 are taken to be made (by reference to the then current circumstances):

- (a) on each date on which the Finance Provider provides financial accommodation to the Building Owner; and
- (b) every three months after the date of this agreement.]

In this clause 9, these meanings apply:

Partnership means [to be inserted].

Partnership Agreement means [to be inserted].

Use of this Annexure is not mandatory. OEH has provided the document as an example. OEH recommends that users exercise their own skill and care with respect to the material in this Annexure and that users carefully evaluate the suitability of the material for their purposes.

Partnership Assets means all the [Building Owner's/Finance Provider's] rights, property and undertaking which are the subject of the Scheme:

- (a) of whatever kind and wherever situated; and
- (b) whether present or future.

Annexure 8d - Representations and warranties for individuals

9 Representations and warranties

9.1 Individual representations and warranties

The [Building Owner/Finance Provider] represents and warrants that:

- (a) **(power):** it has power to enter into the Transaction Documents to which it is a party and comply with its obligations under them; and
- (b) **(authorisations):** it has in full force and effect the authorisations necessary for it to enter into the Transaction Documents to which it is a party, perform obligations under them and allow them to be enforced; and
- (c) **(validity of obligations):** its obligations under the Transaction Documents to which it is a party are valid and binding and are enforceable against it in accordance with their terms; and
- (d) **(arm's length terms):** it enters into the Transaction Documents to which it is a party in good faith and on reasonable and arm's length commercial terms; and
- (e) **(no contravention):** the Transaction Documents to which it is a party and the transactions under them which involve it do not contravene any law or obligation by which it is bound or to which any of its assets are subject; and
- (f) **(litigation):** there is no pending or threatened proceeding affecting it or its assets before a court, authority, commission or arbitrator.

9.2 Further representations and warranties from Building Owner

The Building Owner represents and warrants that:

- (a) **(benefit):** it benefits by entering into the Transaction Documents to which it is a party; and
- (b) **(bankruptcy):** it is not bankrupt; and
- (c) **(not a trustee):** unless stated in the Details, it does not enter into any Transaction Document to which it is a party as trustee; and
- (d) **(no immunity):** it does not have immunity from the jurisdiction of a court or from legal process; and
- (e) **(existing Building):** the Building:
 - (i) is an existing building in the [**Council jurisdiction to be inserted**]; and
 - (ii) is used entirely or predominantly for non-residential purposes; and
- (f) **(efficiency or sustainability):** the purpose of the Environmental Upgrade Works is to improve the energy, water or environmental efficiency or sustainability of the Building; and

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- (g) **(Environmental Upgrade Works Costs):** it will carry out the Environmental Upgrade Works and will use the financial accommodation provided to it on the terms set out in annexure 9 only for the purpose of paying the Environmental Upgrade Works Costs; and
- (h) **(no dealings):** without prior written consent from the Finance Provider and the Council (such consent not to be unreasonably withheld or delayed), it will not and will not agree to, either in a single transaction or a series of transactions, sell, transfer, lease or otherwise dispose of the Building or any part of the Building, or create or permit to exist any Encumbrance (other than any Permitted Encumbrance) over the Building or any part of the Building; and
- (i) **(Authorisations):**
 - (i) it holds all Authorisations which are required at the time for the conduct of the Environmental Upgrade Works; and
 - (ii) each such Authorisation is in full force and effect, and has not been revoked or suspended; and
 - (iii) it is not aware of any material breach of the terms of any such Authorisation; and
- (j) **(statutory requirements):** it has complied with all statutory requirements that apply to proposed environmental upgrade works, including any conditions for major refurbishments; and
- (k) **(Existing Secured Financiers):** it is not in breach of the terms of any of its obligations in relation to the Existing Secured Financiers as a result of its entry into the Transaction Documents to which it is a party.

9.3 Further representations and warranties from Finance Provider

The Finance Provider represents and warrants that:

- (a) **(credit assessment):** it has prepared, or procured the preparation of, a credit assessment of the Building Owner for the purpose of the credit approval processes of the Finance Provider; and
- (b) **(Funding Limit):** it will provide financial accommodation to the Building Owner equal to the Funding Limit on the terms set out in annexure 9.

9.4 [Repetition of representations and warranties

The representations and warranties provided by the Building Owner in this clause 9 are taken to be made (by reference to the then current circumstances):

- (a) on each date on which the Finance Provider provides financial accommodation to the Building Owner; and
- (b) every three months after the date of this agreement.]

Use of this Annexure is not mandatory. OEH has provided the document as an example. OEH recommends that users exercise their own skill and care with respect to the material in this Annexure and that users carefully evaluate the suitability of the material for their purposes.

Annexure 9 – Terms for providing financial accommodation

Loan Terms			
Owner / Applicant	_____	Total Cash Funds Advanced	_____
Bank Interest Rate	_____	Total Interest	_____
Loan Terms (years)	_____	Funding Limit	_____
Bank Establishment Fee	_____	Due Date of Final Charge Payment	_____

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Annexure 10 – Annual reporting template

Reporting Year (Financial):

Section 1: Building Details

Council EUA Reference Number:	Council LGA:
Street Number:	Street Name:
Suburb:	Postcode
Primary Building Use:	<input type="checkbox"/> Office <input type="checkbox"/> Retail <input type="checkbox"/> Industrial <input type="checkbox"/> Accommodation <input type="checkbox"/> other (please specify).....

Section 2: Owner Details

Name:	Contact Number:
Address:	
Email:	

Section 3: Completion

Has the Project outlined in Annexure 4 been completed? ☐ yes ☐ no

Section 4: Environmental Upgrade Work (EUW) Performance

Report only work performed in the Reporting Year. If works undertaken had more than one environmental benefit, please duplicate following table for each type of environmental benefit.

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Anticipated savings are based on estimates in Annexure 3. Please report: energy savings in **kWh or Megajoules AND tonnes of CO₂-e**, water savings in **m³**, waste or material savings in **tonnes or m³** for each type of waste or material, transport savings in **tonnes of CO₂-e**, pollution savings in **ppm or mg/m³**, and monitoring or other savings in **tonnes of CO₂-e**, if relevant.

If all works have not been completed during the financial year, provide a summary of any works started and completed and/or started and not completed during the Reporting Year.

Environmental Benefit:

Description of Upgrade Work:			
Date Commenced:		Cost Incurred:	
Date Completed (or anticipated):			
Estimated Cost Savings:		Actual Cost Savings:	
Estimated Environmental Savings:		Actual Environmental Savings:	

Section 5: Lessee Pass Through

Were upgrade contributions collected from any lessees this financial year?	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> n/a Comment:
Were there any differences between the estimated lessee contribution amounts and the actual contribution amounts?	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> n/a Comment:
If the lessees were overcharged, has a reconciliation taken place?	<input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> n/a Comment:

If applicable, please document the annual estimated and actual savings for each Lessee:

Lessee	Estimated Annual Savings (kWh etc.) (Annexure 3)	Estimated Annual Cost Savings (Annexure 3)	Actual Annual Savings (kWh etc.)	Actual Annual Cost Saving

Section 6: Verification and Suitably Qualified Professional Details

Use of this Annexure is not mandatory. OEH has provided the document as an example. OEH recommends that users exercise their own skill and care with respect to the material in this Annexure and that users carefully evaluate the suitability of the material for their purposes.

What methodology was used to verify the savings?

- ☐ energy performance contract ☐ project impact assessment method ☐ deemed energy savings method
☐ other (please specify)

Please provide details of the suitably qualified professional that prepared this report:

Name:

Position:

Company:

Phone Number:

Company Address:

Email:

Credentials:

Section 7: NABERS Details (Note: Not a mandatory requirement)

Post-upgrade works, has the building achieved a NABERS accredited rating? ☐ yes ☐ no

If yes, please tick the relevant NABERS categories and note the number of stars achieved for that category:

Category	Type (please tick)	Star Rating (if applicable)
Energy (without GreenPower)	<input type="checkbox"/> Base <input type="checkbox"/> Tenant <input type="checkbox"/> Whole Building	
Energy (with GreenPower)	<input type="checkbox"/> Base <input type="checkbox"/> Tenant <input type="checkbox"/> Whole Building	
Water	<input type="checkbox"/> Base <input type="checkbox"/> Tenant <input type="checkbox"/> Whole Building	
Waste	<input type="checkbox"/> Base <input type="checkbox"/> Tenant <input type="checkbox"/> Whole Building	
Indoor Environment	<input type="checkbox"/> Base <input type="checkbox"/> Tenant <input type="checkbox"/> Whole Building	

Use of this Annexure is not mandatory. OEH has provided the document as an example. OEH recommends that users exercise their own skill and care with respect to the material in this Annexure and that users carefully evaluate the suitability of the material for their purposes.

Section 8: Summary and sign-off

Total cost incurred for all Environmental Upgrade Works carried out in the reporting year:
.....AUD

Total actual savings as a result of all Environmental Upgrade Works carried out in the reporting year:AUD

Signed by Owner: _____ Date: _____

Use of this Annexure is not mandatory. OEH has provided the document as an example. OEH recommends that users exercise their own skill and care with respect to the material in this Annexure and that users carefully evaluate the suitability of the material for their purposes.

Annexure 11 – Existing encumbrances

[To be inserted]