

Allens

Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia

T +61 2 9230 4000

F +61 2 9230 5333

www.allens.com.au

GPO Box 50
Sydney NSW 2001 Australia

ABN 47 702 595 758

Allens > < Linklaters

25 July 2022

Market Announcements Office
ASX Limited
Exchange Centre
20 Bridge Street
Sydney NSW 2000

Online lodgement

Dear Sir/Madam

Notice of initial substantial holder notice

We act for a consortium comprising Skip Enterprises Pty Ltd (ACN 108 337 113) as trustee for the Farquhar Trust (**Skip Essential Infrastructure Fund**) and Stonepeak Partners LLC (**Stonepeak**). Stonepeak and Skip Essential Infrastructure Fund together are the **Consortium**. On behalf of the Consortium, we attach a Form 603 (Notice of initial substantial holder) and a Co-operation and Process Agreement between Skip Essential Infrastructure Fund and Stonepeak dated 21 July 2022.

We are instructed that the Consortium holds a relevant interest in 19.99% of Genex comprising:

- (a) a relevant interest in 150,000,000 fully paid ordinary shares in Genex (**Shares**) representing 10.83% of the Shares on issue held by Skip EIF Enterprises Pty Ltd (ACN 660 952 465) (a wholly-owned subsidiary of Skip Essential Infrastructure Fund) as trustee for the Skip EIF Trust (**Skip EIF Enterprises**) and transferred from Skip Essential Infrastructure Fund on 22 July 2022; and
- (b) a relevant interest in 126,896,318 Shares representing 9.16% of the Shares on issue, acquired by Skip EIF Enterprises pursuant to special crossings on 21 July 2022 and 22 July 2022.

Yours sincerely



Charles Ashton
Partner
Allens
Charles.Ashton@allens.com.au



Tom Story
Partner
Allens
Tom.Story@allens.com.au

Attach

Form 603

Corporations Act 2001
Section 671B

Notice of initial substantial holder

To Company Name/Scheme Genex Power Limited (**Genex**)

ACN/ARSN ABN 18 152 098 854

1. Details of substantial holder (1)

Name

ACN/ARSN (if applicable)

The holder became a substantial holder on (d/m/y)

Skip EIF Enterprises Pty Ltd (ACN 660 952 465) as trustee for the Skip EIF Trust (**Skip EIF Enterprises**), Skip Enterprises Pty Ltd (ACN 108 337 113) as trustee for the Farquhar Trust (**Skip Essential Infrastructure Fund**) and Stonepeak Partners LLC (**Stonepeak**).

28 February 2022 (Skip Essential Infrastructure Fund) and 21 July 2022 (Stonepeak and Skip EIF Enterprises)

2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
Fully paid ordinary Genex shares (Shares)	276,896,318	276,896,318	19.99%

3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
Skip Essential Infrastructure Fund	Relevant interest in Shares under section 608(2) and 608(3) of the Corporations Act 2001, being a relevant interest arising through Skip EIF Enterprises Pty Ltd as trustee for Skip EIF Trust (Skip EIF) being the registered holder of the Shares.	276,896,318 Shares
Skip EIF Enterprises Pty Ltd	Relevant interest in Shares under section 608(1) of the Corporations Act 2001, being a relevant interest arising through Skip Essential Infrastructure Fund being the registered holder of the Shares.	276,896,318 Shares
Stonepeak	Relevant interest in Shares under s608(1)(c) of the Corporations Act 2001 (Cth) (Corporations Act) pursuant to the Co-operation and Process Agreement dated 21 July 2022 (Co-operation Agreement), a copy of which is attached to this notice as ANNEXURE A.	276,896,318 Shares

4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
Skip Essential Infrastructure Fund	Skip EIF Enterprises	N/A	276,896,318 Shares
Skip EIF Enterprises	Skip EIF Enterprises	N/A	276,896,318 Shares
Stonepeak	Skip EIF Enterprises	N/A	276,896,318 Shares

5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition (d/m/y)	Consideration (9)		Class and number of securities
		Cash	Non-cash	
Skip Essential Infrastructure Fund	N/A	N/A – relevant interest arose by virtue of 608(2) and 608 (3) of the Corporations Act	N/A – relevant interest arose by virtue of 608(2) and 608 (3) of the Corporations Act	276,896,318 Shares
Skip EIF Enterprises	21 July 2022	\$5,054,289.75	N/A	40,434,318 Shares
Skip EIF Enterprises	22 July 2022	\$19,886,260.00	N/A	86,462,000 Shares
Skip EIF Enterprises	22 July 2022	\$19,125,000.00	N/A	150,000,000 Shares
Stonepeak	21 July 2022	N/A – relevant interest arose by virtue of the Co-operation Agreement	N/A – relevant interest arose by virtue of the Co-operation Agreement	190,434,318 Shares
Stonepeak	22 July 2022	N/A – relevant interest arose by virtue of the Co-operation Agreement	N/A – relevant interest arose by virtue of the Co-operation Agreement	86,462,000 Shares

6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
Stonepeak and Skip Essential Infrastructure Fund	Stonepeak and Skip Essential Infrastructure Fund entered into the Co-operation Agreement in relation to Genex
Skip EIF Enterprises and Skip Essential Infrastructure Fund	Skip EIF and Skip Essential Infrastructure Fund are related bodies corporate and are therefore associates under section 11(b) of the Corporations Act

7. Addresses

The addresses of persons named in this form are as follows:

Name	Address
Stonepeak	55 Hudson Yards, 550 W 34th Street, 48th Floor, New York, NY 10001, United States
Skip Essential Infrastructure Fund	Level 6, 341 George Street Sydney NSW 2000, Australia
Skip EIF Enterprises	Level 4, Deutsche Bank Place, 126 Phillip Street, Sydney NSW 2000, Australia

Signature

print name Sebastian Tringali

capacity
Authorised Representative

sign here



Date 25 July 2022

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg, a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of 'associate' in section 9 of the Corporations Act 2001.
- (3) See the definition of 'relevant interest' in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
 - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).See the definition of 'relevant agreement' in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg, if the relevant interest arises because of an option) write 'unknown'.
- (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

Annexure "A" to Form 603

This is Annexure "A" of 17 pages referred to in Form 603 signed by me and dated 25 July 2022. This Annexure contains a true copy of the original agreement.



Authorised Representative

Co-operation and Process Deed

This Deed is made on **21 July 2022**

Parties

- 1 **Skip Enterprises Pty Ltd** (ACN 108 337 113) as trustee for the Farquhar Trust of Level 6, 341 George Street Sydney NSW 2000, Australia (***Skip Essential Infrastructure Fund***).
- 2 **Stonepeak Partner LLC** incorporated in Delaware of 55 Hudson Yards, 550 W 34th Street, 48th Floor, New York, NY 10001, United States (***Stonepeak***).

Recitals

- A. The Skip Essential Infrastructure Fund and Stonepeak agree to work together on an exclusive basis to pursue and implement the acquisition of 100% of the shares in Genex Power Limited.
- B. This Deed governs the relationship between the parties for the purposes of making, pursuing and implementing the Potential Transaction.
- C. The Skip Essential Infrastructure Fund is an existing substantial shareholder in Genex Power Limited and part of Skip Capital. The Skip Essential Infrastructure Fund and Stonepeak are infrastructure investors with significant experience in renewables.
- D. The transaction rationale is underpinned by our belief that the best outcome for Genex Power Limited is to be private and supported by long-term partners prioritising a stable Australian energy transition.

It is agreed as follows.

1 Definitions and interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Affiliate means in relation to a person, a related body corporate of the person or any other person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or under common control with, such person and "control" (including the terms "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management or financial and operating policies of a person, whether through the ownership of voting securities, by contract or otherwise.

Affiliate Fund means in relation to a person, each trust, partnership, fund, equity investor, co-investor, other investment vehicle and investment mandate from time to time managed or advised by the person or Affiliate of the person.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given to that term in sections 12(2)(b) and 12(2)(c) of the Corporations Act, where for the purposes of section 12, the 'designated body' is Genex.

Business Day is a day that banks are open for business in Sydney, Australia.

Competing Proposal means an offer, proposal, expression of interest, transaction or arrangement, whether existing before or after the date of this Deed, which is proposed by a Third Party pursuant to which a Third Party (together with its Associates, if any) will, if the offer, proposal, expression of interest, proposed transaction or arrangement is implemented:

- (a) acquire control of Genex or the Genex Group within the meaning of section 50AA of the Corporations Act;
- (b) have a Relevant Interest in 10% or more of the Genex Shares; or
- (c) otherwise directly or indirectly acquire, merge with, or acquire (or have the right to so merge with or acquire) an economic interest in Genex or the Genex Group or all or a substantial part of the business of the Genex Group, whether by way of takeover offer, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back, sale or purchase of a significant or material part of the assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding company for the Genex Group or other synthetic merger or any other transaction or arrangement,

or would otherwise cause the Potential Transaction not to proceed or become incapable of being implemented.

Confidential Information means this Deed, any Transaction Documents, the status of negotiations (and any other agreements) with Genex and between the parties and any confidential information provided by one party to another or to any person, but excludes any information that:

- (a) at the time it was provided to the other party, was lawfully in the possession of the party and without breach of any duty or obligation;

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- (b) has been provided to the party but subsequently, through no act or omission of the party (or any person to whom it discloses that information) becomes available from another source and is not subject to any duty or obligation as to confidence; or
- (c) has been or is independently developed by a party without reference to or use of confidential information provided by the other party.

Corporations Act means the *Corporations Act 2001* (Cth), as modified by any applicable ASIC class order, ASIC legislative instrument or ASIC relief.

Exclusivity Period means the period from the date of this Deed to the earliest of:

- (a) the date on which both of the parties have agreed in writing to cease to pursue the Potential Transaction;
- (b) if an Implementation Deed is entered into with Genex, the date on which the Implementation Deed has been lawfully terminated;
- (c) if an Implementation Deed has not been entered into with Genex:
 - (i) if Genex enters into an implementation agreement (or equivalent document) with a Third Party to implement a Superior Proposal, the date on which a party gives notice to the other party stating that it is immediately withdrawing from continuing with the Potential Transaction as a result of the Superior Proposal (provided that the parties have held good faith discussions over not less than a 5 Business Day period and cannot reach agreement that they are prepared to continue to collectively pursue the Potential Transaction at a price or value in excess of the Superior Proposal); or
 - (ii) the date that is 130 days after the date of this Deed,

in each case, unless otherwise agreed in writing between Stonepeak and Skip Essential Infrastructure Fund.

FATA means the Foreign Acquisitions and Takeovers Act 1975 (Cth).

FIRB Approval is taken to be received for an acquisition for an interest, right or entitlement upon the occurrence of either of the following:

- (a) the Treasurer of the Commonwealth of Australia (or his or her delegate) provides written notice under the FATA stating that, or to the effect that, the Commonwealth Government has no objection to the relevant acquisition, either on an unconditional basis or subject only to conditions acceptable to the acquirer acting reasonably; or
- (b) following the acquirer giving notice under the FATA of the relevant acquisition, the Treasurer of the Commonwealth of Australia becomes precluded by passage of time from making any order or decision under Division 2 of Part 3 of the FATA in respect of the relevant acquisition, and the 10 day period referred to in section 82(2)(a) of the FATA has ended or the period referred to in section 82(2)(b) of the FATA has ended (whichever is applicable).

Genex means Genex Power Limited (ACN 152 098 854).

Genex Group means Genex and each of its Subsidiaries.

Genex Shares means fully paid ordinary shares in the capital of Genex.

Implementation Deed means the agreement or deed (as the case may be) between Genex, and the parties (and/or one or more special purpose vehicles established by the parties) pursuant to

Co-operation and Process Deed

which Genex will be acquired (whether by way of a takeover bid, scheme of arrangement or other transaction or arrangement agreed by the parties).

Joint Costs means any out-of-pocket costs, fees or expenses reasonably incurred by a party or any of its Related Entities in relation to the making or pursuit of the Potential Transaction for the benefit of both parties and/or SPV (including but not limited to costs payable to external legal, tax, accounting or financial or other professional advisers (**Advisers**) for work undertaken, or services provided for the benefit of both parties) which have been approved by both parties in advance, but will not include any Own Costs.

Own Costs means, in respect of a party, the costs, fees and expenses of the party which:

- (a) relate to work undertaken, or services provided, by an Adviser for the benefit of that party only and not for the benefit of the other party or SPV (including, without limitation, advice in relation to how that individual party may structure its participation in the Potential Transaction or its individual funding arrangements);
- (b) relate to matters where the party requires separate representation or advice in connection with specific issues arising out of the Potential Transaction or the transaction documentation;
- (c) relate to regulatory or other approvals specific to, and required only by, the party and not the other party nor SPV; and
- (d) costs related to internal resources and personnel.

Potential Transaction means a joint proposal or transaction involving an acquisition of, or offer to acquire, all or substantially all of the securities in, or assets or business of, Genex or its Related Entities by one or more entities associated with the parties (whether by way of a takeover bid, scheme of arrangement or other transaction or arrangement agreed by the parties).

Related Entity mean in relation to a party:

- (a) each Affiliate of the party;
- (b) each Affiliate Fund of the party;
- (c) each entity which between them one or both of the parties, their Affiliates and Affiliate Funds from time to time control (disregarding for these purposes section 50AA(3) in relation to control exercised by such parties jointly); and
- (d) each entity established by any entity referred to in subparagraphs (a), (b) and (c) for the purposes of the Potential Transaction,

excluding any investee or portfolio entity (each a **Portfolio Company**), being a business in which a party or their Affiliate Funds invests in the ordinary course of its private equity investment operations, that are not provided, or do not obtain access to, Confidential Information. The parties acknowledge and agree that a party or a party's Related Entity's directors, officers or employees may serve as directors of the Portfolio Companies, and each party agrees that such Portfolio Companies will not be deemed to have received Confidential Information solely because any such individual serves on the board of such Portfolio Company, provided that the individual has not provided such Portfolio Company or any other director, officer or employee of such Portfolio Company with Confidential Information.

Relevant Interest has the meaning given to that term in the Corporations Act.

Relevant Person has the meaning given to such term in clause 4.2.

Representatives means in relation to a party:

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- (a) the directors and employees of that party and its Related Entities; and
- (b) the agents and advisers of that party (or its Related Entities), but only to the extent acting in that capacity and on the instruction of that party (or Related Entities) in accordance with its engagement terms, in connection with the Potential Transaction (other than common consortium advisers or agents engaged by the parties in connection with the Potential Transaction),

provided that, where Representatives is used in clauses 3(c), 3(d) and 4.1 it shall only have the meaning in paragraph (b) above and not paragraph (a).

Respective Proportion means, unless otherwise agreed by the parties in writing:

- (a) in respect of Skip, 50%; and
- (b) in respect of Stonepeak, 50%.

SPV has the meaning given in clause 4.1(b)(iii).

Subsidiary has the meaning given to that term in the Corporations Act, amended as necessary such that:

- (a) a body corporate or a trust will also be taken to be a Subsidiary of an entity if it is controlled by that entity (as defined in section 50AA of the Corporations Act);
- (b) a trust may be a Subsidiary, for the purpose of which a unit or other beneficial interest in the trust will be regarded as a share (ignoring the operation of section 48(2) of the Corporations Act); and
- (c) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a body corporate.

Superior Proposal means a bona fide written proposal, offer, expression of interest, agreement, arrangement or transaction, which, if entered into or completed substantially in accordance with its terms, would result in the Potential Transaction being abandoned or otherwise failing to proceed because, in the opinion of either party (acting reasonably and in good faith), such proposal if completed substantially in accordance with its terms would be more favourable to Genex shareholders (as a whole) than the Potential Transaction.

Third Party means a person other than a party or any of its Related Entities or Associates.

Transaction Document means any Implementation Deed, shareholders agreement among the parties in relation to Genex (and one or more special purpose vehicles to be incorporated by the parties for the purposes of the Potential Transaction) or financing agreements in relation to the Potential Transaction.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.

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- (e) A reference to an agreement or document (including a reference to this Deed) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Deed or that other agreement or document, and includes the recitals, schedules and annexures to that agreement or document.
- (f) A reference to a party to this Deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (g) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (h) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (i) A reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (j) A reference to *dollars* and \$ is to Australian currency.
- (k) All references to time are to Sydney, Australia time.
- (l) Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
- (m) Nothing in this Deed is to be interpreted against a party solely on the ground that the party put forward this Deed or a relevant part of it.

2 Conduct of the Potential Transaction

2.1 Cooperation obligations

- (a) During the Exclusivity Period, Stonepeak and Skip Essential Infrastructure Fund agree to:
 - (i) use reasonable endeavours to negotiate with each other in good faith in respect of the terms on which they would be willing to pursue a Potential Transaction;
 - (ii) work together on an exclusive basis to pursue and implement any such Potential Transaction on the terms of this Deed; and
 - (iii) devote appropriate resources as required to progress a Potential Transaction in an expeditious manner.
- (b) Except to the extent otherwise agreed each party will:
 - (i) regularly and promptly update and consult with the other party in respect of the status of any discussions with Genex and due diligence in relation to Genex;
 - (ii) instruct its advisers to provide its advice to both Stonepeak (or its nominated Related Entity) and Skip Essential Infrastructure Fund (or its nominated Related Entity) in relation to any Potential Transaction, and to take its instructions from both Stonepeak (or its nominated Related Entity) and Skip Essential Infrastructure Fund (or its nominated Related Entity) in respect of any agreements with Genex to implement any Potential Transaction;
 - (iii) keep the other party promptly informed of any information received from Genex that is material to the negotiations in relation to any Potential Transaction, due

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- diligence in respect of Genex or otherwise material to any Potential Transaction generally;
- (iv) to the extent permissible and facilitated by Genex, negotiate in good faith with Genex in relation to the terms of a Potential Transaction and any agreements or other documents to give effect to the Potential Transaction;
 - (v) not unreasonably delay any action or decision necessary or desirable to progress any Potential Transaction;
 - (vi) use reasonable endeavours to obtain any required internal approvals or other regulatory or external approvals to progress, propose, implement or carry out the Potential Transaction; and
 - (vii) negotiate in good faith a shareholders' agreement in relation to SPV relating to any Potential Transaction and any other transaction documentation required to implement that Potential Transaction.
- (c) The parties will convene regular steering committee meetings at which key decisions in relation to any Proposed Transaction will be jointly made by the parties.
 - (d) Any negotiations with Genex in relation to the Potential Transaction are to be conducted by the parties jointly and each party must be given a reasonable opportunity to participate in any such negotiations.
 - (e) No party may legally bind any other party. The content of any binding agreement (including any Implementation Deed) in relation to the Potential Transaction is to be agreed in writing by both parties.
 - (f) The parties acknowledge and agree that nothing in this Deed obliges a party to pursue or agree to pursue a Potential Transaction on terms (including as to price) that the party considers not to be in its commercial interest.

2.2 Day-to-day communications

- (a) The parties will each nominate executives and advisers to be responsible for day-to-day operational and organisational decisions in respect of the Potential Transaction.
- (b) The parties will engage in regular and comprehensive communication in relation to the day-to-day conduct, status and prospects of the Potential Transaction.

2.3 SPV

The parties intend that, should the Potential Transaction proceed:

- (a) any SPV would be the acquirer under the Potential Transaction; and
- (b) any SPV will ultimately be owned by the parties in their Respective Proportions, provided that the acquisition by Stonepeak of its Respective Proportion of the equity interests in any SPV, and the acquisition otherwise of any 'interest' (within the meaning of the FATA) in any SPV, is subject to the following conditions being satisfied:
 - (i) Stonepeak having received FIRB Approval for that acquisition; and
 - (ii) the parties reaching agreement on the terms and manner by which Stonepeak will acquire its Respective Proportion in any SPV or otherwise of any 'interest' (within the meaning of the FATA) in any SPV,

and the parties have no obligation to acquire, dispose of, or procure the issuance of, interests in any SPV unless and until these conditions have been satisfied.

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3 Exclusivity

- (a) Subject to clause 4.2, during the Exclusivity Period, each party must not, and must ensure that its Related Entities and Representatives do not directly or indirectly, except with the prior written consent of the other party:
- (i) propose, encourage, initiate, solicit or invite any Competing Proposal to or from Genex (or its shareholders) or any Third Party or initiate discussions with Genex (or its shareholders) or any Third Party with a view to obtaining any expressions of interest, offer or proposal from Genex or any other person in relation to a Competing Proposal or which may reasonably be expected to lead to a Competing Proposal;
 - (ii) participate in any negotiations or discussions with Genex (or its shareholders) or a Third Party in relation to a Competing Proposal or which may reasonably be expected to lead to a Competing Proposal;
 - (iii) provide any information to Genex (or its shareholders) or a Third Party for the purposes of enabling or which may reasonably be expected to enable any Third Party to make a Competing Proposal; or
 - (iv) communicate its willingness or intention to do any of the things listed in clauses (i), (ii) or (iii).
- (b) Each party must promptly notify the other of any approach or proposal made to, or any attempt to initiate negotiations or discussions with, that party (or any of its Related Entities and Representatives) in connection with a potential Competing Proposal during the Exclusivity Period, whether unsolicited or otherwise, and must, in providing that notice, provide full details of the approach, inquiry or proposal or attempt, including:
- (i) the identity of the person making the approach, proposal or attempt; and
 - (ii) the content and any terms disclosed in the approach, proposal or attempt (including, without limitation, the price, conditions precedent, timetable and any break fee).
- (c) Subject to clause 4.2, during the Exclusivity Period, each party must not, and must ensure that its Related Entities and Representatives (alone or acting in concert with any Third Party) do not directly or indirectly, except with the prior written consent of the other party:
- (i) enter into any agreement, arrangement or understanding (including but not limited to participating in any consortium, joint bidding structure and other structure), whether not binding or enforceable, in relation to an actual, proposed or potential Competing Proposal;
 - (ii) subject to clause 3(e), accept or vote in favour of a Competing Proposal in respect of any Genex Shares held or controlled by it or by any of its Related Entities, or sell or agree to sell any such Genex Share to a Third Party proposing or making a Competing Proposal; or
 - (iii) make any public announcement that it will accept or propose to accept, vote in favour of or otherwise support a Competing Proposal.
- (d) During the Exclusivity Period, subject to clauses 3(e) and 4.2, Skip Essential Infrastructure Fund also agrees it will, and must ensure that its Related Entities and

Co-operation and Process Deed

Representatives (alone or acting in concert with any Third Party), vote against any Competing Proposal except with the prior written consent of Stonepeak.

- (e) The right or entitlement of Stonepeak to exercise or control the exercise of any rights attaching to any Genex Shares (such as rights to vote) in which Skip Essential Infrastructure Fund (or its Related Entities or Associates) has an 'interest' (within the meaning of the FATA) under clause 3(c)(ii) or 3(d) (or any other provision of this Deed) does not come into existence and is not binding unless or until Stonepeak has received FIRB Approval for the acquisition of that right or entitlement.

4 Standstill and other dealings

4.1 Standstill

- (a) Subject to clauses 4.1(b) and 4.2, each party must not, and must ensure that its Related Entities and their Representatives (alone or acting in concert with any Third Party) do not, during the Exclusivity Period:
 - (i) directly or indirectly sell or otherwise dispose of a Relevant Interest in any Genex Shares;
 - (ii) acquire a Relevant Interest in any Genex Shares;
 - (iii) enter into any derivative, swap or synthetic agreement, deed or other arrangement under which payments may be made that are referable (in whole or part) to the trading price, or the economic value, of Genex Shares which would require disclosure under the Australian Takeovers Panel's Guidance Note 20: Equity Derivatives;
 - (iv) solicit proxies from shareholders of Genex or solicit support from shareholder of Genex for any proposal relating to Genex, or otherwise seek to influence or control the management or policies of Genex; or
 - (v) aid, abet, counsel, assist, facilitate or induce any other person in doing, or publicly announce that it will do, any of the things mentioned in this clause 4.1(a).
- (b) Nothing in clause 4.1(a) prevents:
 - (i) any party (or any of their Related Entities or Representatives) from taking any steps to implement the Potential Transaction;
 - (ii) any party (or any of their Related Entities or Representatives) acquiring or disposing of a Relevant Interest in Genex Shares as a result of:
 - (A) implementation of the Potential Transaction;
 - (B) a compulsory buy-out of securities in accordance with Chapter 6A.1 of the Corporations Act; or
 - (C) the terms of this Deed or any Transaction Document;
 - (iii) an Australian proprietary company or Australian unit trust that is a wholly-owned Subsidiary of Skip Essential Infrastructure Fund (**SPV**) doing any of the things in clause 4.1(a)(ii) or 4.1(a)(iii), with the prior written consent of StonePeak; or
 - (iv) any action taken with prior written consent of each other party.

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4.2 Exceptions

Nothing in clauses 3 and 4.1 shall in any way restrict or prohibit any activities of a party, its Related Entities or Representatives (each a **Relevant Person**), or require the party or any other Relevant Person to take any action (including procuring any restriction on any person in connection with):

- (a) where the investment in an index fund (or other similar investment) which invests in a broad basket of securities;
- (b) where the investment is made on the party's (or Related Entity's or Representative's) behalf by third-party investment managers with discretionary authority, or made by investment funds or other pooled investment vehicles in which the party (or such Related Entity or Representative) has invested as a passive investor with no power to direct the investments of such passive investments, and such investments are managed by third parties; provided that the individuals or entities performing such activities shall not be in possession of Confidential Information and the performing of such activities shall not result from the breach by the party of this Deed; or
- (c) where the decision to acquire or dispose of any interest in Genex Shares on the party's (or Related Entity's) behalf is undertaken by an individual in the ordinary course of business of that person as a market-maker, broker or provider of trustee or nominee services, who are themselves not in possession of Confidential Information,

provided that a party does not take or omit to take any action and procures that its Related Entities do not take or omit to take any action which breaches or is likely to breach section 606(1) or 606(2) of the Corporations Act.

The parties acknowledge and agree that a party or a party's Related Entities' directors, officers or employees may serve on advisory, investment and equivalent committees in relation to the funds and vehicles described in clause 4.2(b), and each party agrees that such funds and vehicles will not be deemed to have received Confidential Information solely because any such individual serves on any such committee, provided that the individual has not provided such fund or vehicle with Confidential Information.

5 Disclosure obligations

The parties will use all reasonable endeavours to co-operate with each other to make the disclosures required by, and within the time limits prescribed by, Part 6C.1 of the Corporations Act, and any other disclosure required by law.

6 Transaction costs and expenses

Each party will bear and be solely liable for its Own Costs. The parties agree that all Joint Costs will be shared by the parties (and to the extent on party or such other entities have paid such costs, reimbursed by the other party) on the following basis:

- (a) if an Implementation Deed is not signed with Genex during the Exclusivity Period, each party will contribute towards the Joint Costs on an equal basis;
- (b) if an Implementation Deed is signed with Genex during the Exclusivity Period and Stonepeak and Skip Essential Infrastructure Fund both participate in the Potential Transaction, the parties intend that all Joint Costs be novated to and paid by SPV. To the extent Joint Costs are not paid by SPV, the parties will contribute towards the Joint Costs in the same proportion as the equity respectively contributed towards SPV in respect of the Proposed Transaction; and

Co-operation and Process Deed

- (c) if an Implementation Deed is signed with Genex during the Exclusivity Period and one party participates in the Potential Transaction but the other does not, the non-participating party will only be liable to contribute to any of the Joint Costs incurred up to the earlier of:
 - (i) the date of that party's withdrawal; and
 - (ii) the date that the Scheme Implementation Deed is signed with Genex,on an equal basis, and to the extent they have paid any amounts in excess of their apportioned Joint Costs, the participating party will reimburse the excess amounts already paid by the non-participating party.

7 Withdrawal and termination

- (a) This Deed terminates on the date on which the Exclusivity Period ends.
- (b) On termination of this Deed, this Deed will become void and of no further effect, other than as set out in clause 7(c).
- (c) The following rights and obligations survive the termination or withdrawal of this Deed under clause 7(a):
 - (i) any claim that either party has against the other party or its related entity at the time of termination, including any claim for expenses under clause 6; and
 - (ii) any rights or obligations which have accrued at the time of termination, including clause 10.

8 Warranties

Each party represents and warrants to the other that, as at the date of this Deed:

- (a) it is duly incorporated under the laws of the place of its incorporation;
- (b) it has the power and authority to execute and deliver this Deed and perform and observe all its terms;
- (c) the execution and delivery of this Deed has been properly authorised by all necessary corporate action;
- (d) subject to laws generally affecting creditors' rights and the principles of equity, this Deed has been duly executed and is a legal valid and binding agreement enforceable against it in accordance with its terms;
- (e) it is not bound by any contract which may restrict its right or ability to enter into or perform this Deed;
- (f) this Deed does not conflict with or result in the breach of or a default under any provision of its constitution (if applicable) or any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it is bound; and
- (g) it and its Related Entities do not hold any Genex Shares, rights to acquire Genex Shares, any economic interest in Genex Shares (through a cash settled equity swap, derivative or otherwise which would require disclosure under the Australian Takeovers Panel's Guidance Note 20 Equity Derivatives) or otherwise have an Interest In any Genex Shares, other than Skip Essential Infrastructure Fund which owns 150,000,000 Genex Shares.

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9 Relationship between the parties**9.1 No authority to bind**

- (a) The parties agree that this Deed is not to be interpreted as constituting:
 - (i) the relationship of the parties as a partnership, quasi-partnership, fiduciary, association or any other relationship in which one or more of the parties may (except as specifically provided for in this Deed) be liable generally for the acts or omissions of any other party; or
 - (ii) any party as the general agent or representative of any other party with the exception of any powers of attorney specifically granted or contemplated by this Deed.
- (b) Without limitation to clause 9.1(a), no party has the authority to pledge or purport to pledge the credit of any other party or to make or give (or purport to make or give) any representations, warranties or undertakings for or on behalf of any other party.

9.2 Separate tax and accounting obligations

- (a) Each party is responsible for its own tax, accounting and record keeping obligations.
- (b) No party is responsible for the obligations of the other party under the tax laws of any relevant jurisdiction, unless otherwise specifically provided for in a Transaction Document.

9.3 Limitation of liability

- (a) Each party that is a trustee of a trust or fund (each a **Trustee**) and each party enters into this document only in its capacity as a trustee of the trust or fund of which it is a trustee (in each case, the **Trust**) and in no other capacity. Subject to clause 9.3(a)(iv):
 - (i) a liability arising under or in connection with this Deed is limited to and can be enforced against the Trustee only to the extent to which it can be satisfied out of property of the Trust out of which the Trustee is actually indemnified for the liability;
 - (ii) no other party to this Deed may sue the Trustee in any capacity other than as trustee of the Trust, including seeking the appointment of a receiver (except in relation to property of the Trust), trustee in bankruptcy, a liquidator, an administrator or any similar person to the Trustee or prove in bankruptcy, liquidation, administration or arrangement of or affecting the Trustee (except in relation to property of the Trust);
 - (iii) the limitation of the Trustee's liability applies despite any other provision of this Deed and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement, or transaction related to this Deed; and
 - (iv) the limitations in clauses 9.3(a)(i)-(iii) do not apply to any obligation or liability of the Trustee to the extent that it is not satisfied because under the trust deed establishing the Trust or by operation of law there is a reduction in the extent of the Trustee's indemnification out of the assets of the Trust as a result of the Trustee's fraud, negligence, or breach of trust.

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- (b) No attorney, agent, receiver or manager appointed in accordance with this Deed has authority to act on behalf of the Trustee in a way which exposes the Trustee to any personal liability.

10 Confidentiality

10.1 Confidentiality

- (a) Each party must keep confidential and must not disclose, and must procure that its Related Entities and its Representatives keep confidential and do not disclose the Confidential Information, except:
 - (i) with the prior written consent of the other party;
 - (ii) where the information is or has come into the public domain other than due to a breach of any obligation of confidentiality owed by that party;
 - (iii) to the extent required by any applicable law, order or rule of any court or government agency or the rules of a recognised stock exchange provided that before a party makes any disclosure under this clause 10.1(a)(iii), it must, to the extent practicable having regard to the required timing of the disclosure, consult in good faith with the other party as to the need for and form of that disclosure; or
 - (iv) to a Representative of that party and its Related Entities or an Affiliate Fund of that party and its Related Entities, on a need to know basis and where those persons undertake to keep information disclosed confidential or are otherwise bound by or subject to a similar confidentiality obligation.
- (b) Each party undertakes that they will not disclose, and will use their best endeavours to ensure that their Representatives do not disclose, the identity or any details of the other party (being either of Skip Essential Infrastructure Fund or Stonepeak) or any of their respective Representatives at any stage, without the relevant party's permission.

10.2 Survival of confidentiality obligations

This clause 10 survives the termination of this Deed.

11 General

11.1 Amendment

Any amendment or variation of this Deed must be agreed in writing by all parties.

11.2 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Deed:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender (or in the case of email, set out the full name and position or title of the sender or person duly authorised by the sender);
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the address or email address below or the address or email address last notified by the intended recipient to the sender:

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- (i) to Stonepeak Address: 55 Hudson Yards, 550 W 34th Street, 48th Floor, New York, NY 10001, United States
Email: Jackman@stonepeak.com; Han@stonepeak.com; and legalandcompliance@stonepeakpartners.com
Attention: John Jackman, Peter Han and General Counsel, Stonepeak
- (ii) to Skip Essential Infrastructure Fund Address: Level 6, 341 George Street Sydney NSW 2000, Australia
Email: reporting@skipcapital.com
Attention: Sebastian Tringali

in each case with a copy sent to Tom.Story@allens.com.au, Charles.Ashton@allens.com.au and Adrian.Amer@allens.com.au

- (c) will be conclusively taken to be duly given or made and received:
 - (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by express post, to an address in the same country, two Business Days after the date of posting;
 - (iii) in the case of delivery by any other method of post, six Business Days after the date of posting (if posted to an address in the same country) or 10 Business Days after the date of posting (if posted to an address in another country); and
 - (iv) in the case of email, at the earliest of:
 - (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (B) the time that the intended recipient confirms receipt of the email by reply email; and
 - (C) three hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, within that three hour period, an automated message that the email has not been delivered,

but if the result is that a Notice would be taken to be given or made and received:

- (v) in the case of delivery by hand or post, at a time that is later than 5pm;
- (vi) in the case of delivery by email, at a time that is later than 7pm; or
- (vii) on a day that is not a business day,

in the place specified by the intended recipient as its postal address under clause 11.2(b), it will be conclusively taken to have been duly given or made and received at the start of business on the next business day in that place

11.3 Further assurance

Each party must do anything necessary (including executing agreements and documents) to give full effect to this Deed and the transactions contemplated by it.

Co-operation and Process Deed

11.4 Governing law and jurisdiction

This Deed is governed by the laws of New South Wales, Australia. In relation to it and related non contractual matters each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

11.5 Severability of provisions

Any provision of this Deed that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Deed nor affect the validity or enforceability of that provision in any other jurisdiction.

11.6 No waiver

A failure to exercise or a delay in exercising any right, power or remedy under this Deed does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

11.7 No merger

The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this Deed. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

11.8 Duty

All duty (including stamp duty and any fines, penalties and interest) payable on or in connection with this Deed and any instrument executed under or any transaction evidenced by this Deed must be borne equally by the parties.

11.9 Counterparts

This Deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

Co-operation and Process Deed

Executed and delivered as a Deed

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **Skip Enterprises Pty Ltd** as trustee for the **Farquhar Trust:**



Director Signature

Kim Jackson

Print Name



Director/Secretary Signature

Sebastian Tringali

Print Name

Co-operation and Process Deed

Executed and delivered as a Deed

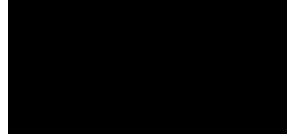
Signed Sealed and Delivered by Stonepeak Partners LLC by its authorised signatory in the presence of:



Signature of Witness

John Jackman

Name of Witness



Signature of Authorised Signatory

Darren Keogh

Name of Authorised Signatory