

## DEED OF ASSIGNMENT

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**Richtech Pty Limited  
Tweed Shire Council  
Claybar Pty Ltd as trustee of the Ian Barclay Trust**

Our Ref: PAJ:RWU:251706

**DATE:** 10 March 2025

**PARTIES:**

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<b>Richtech:</b>	<b>Richtech Pty Limited</b> of PO Box 515, Coorparoo DC Qld 4151
<b>Tweed Council:</b>	<b>Tweed Shire Council ABN 90 178 732 496</b> of PO Box 816, Murwillumbah NSW 2484
<b>Claybar:</b>	<b>Claybar Pty Ltd ACN 010 584 817</b> <b>as trustee of the Ian Barclay Trust</b> of PO Box 515, Coorparoo DC Qld 4151

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## BACKGROUND

- A. Richtech and Tweed Council have entered into the Planning Agreement, pursuant to which those parties agreed on the development of the Seaside City precinct and for the ongoing reimbursement of Richtech.
- B. Clause 13 of the Planning Agreement permits either party to assign its rights under the Planning Agreement with the written consent of the other party.
- C. Richtech wishes to assign its Interest to Claybar, with effect on and from the Assignment Date.
- D. Tweed Council has agreed to the assignment on the terms and conditions of this Deed.

## AGREED TERMS

It is agreed as follows:

### 1. DEFINITIONS & INTERPRETATION

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#### 1.1 Definitions

In this Deed, unless the context indicates otherwise:

<b>Assignment Date</b>	means the date of this Deed.
<b>Business Day</b>	means a day other than a Saturday, Sunday or public holiday in Brisbane, Queensland or the Tweed Shire, New South Wales.
<b>Deed</b>	means this deed of assignment.
<b>Planning Agreement</b>	means the Seaside City Planning Agreement dated 9 January 2007, between Richtech and Tweed Council.
<b>Duty</b>	means any transfer, transaction or registration duty or similar charge imposed by any government agency and includes, but is not limited to, any interest, fine, penalty, charge or other amount imposed in respect of the above.
<b>Interest</b>	means the rights and obligations of Richtech under the Planning Agreement.

## 1.2 Interpretation

In this Deed, unless the context indicates otherwise:

- (a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision;
- (b) the singular includes the plural and vice versa;
- (c) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (d) a reference to any gender includes all genders;
- (e) a reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure, or exhibit of or to this Deed;
- (f) a recital, schedule, annexure or a description of the parties forms part of this Deed;
- (g) a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (h) a reference to any party to this Deed, or any other document or arrangement, includes that party's executors, administrators, substitutes, successors and permitted assigns;
- (i) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (j) a reference to a "subsidiary" of a body corporate is to a subsidiary of that body corporate in accordance with the Corporations Act 2001 (Cth);
- (k) a reference to a "related body corporate" of a body corporate is to another body corporate which is related to that body corporate within the meaning of the Corporations Act 2001 (Cth);
- (l) a reference to a bankruptcy or winding up includes bankruptcy, winding up, liquidation, dissolution, becoming an insolvent under administration (as defined in the Corporations Act), being subject to administration and the occurrence of anything analogous or having a substantially similar effect to any of those conditions or matters under the law of any applicable jurisdiction, and to the procedures, circumstances and events which constitute any of those conditions or matters;
- (m) where an expression is defined anywhere in this Deed, it has the same meaning throughout;
- (n) a reference to "dollars" or "\$" is to an amount in Australian currency; and
- (o) headings are for convenience of reference only and do not affect the interpretation of this Deed.

## 2. ASSIGNMENT

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### 2.1 Assignment of Interest

Richtech transfers and assigns to Claybar absolutely:

- (a) all of Richtech's right, title and interest in the Interest, to be held by Claybar absolutely;
  - (b) the right to receive any monies which are payable to the Developer under the Planning Agreement; and
  - (c) the right (so far as may be necessary) to demand performance of or to sue for and enforce the Interest,
- with effect on and from the Assignment Date.

## 2.2 Acceptance of Assignment

Claybar accepts the transfer and assignment from Richtech.

## 2.3 Warranties

### (a) Richtech

Richtech warrants to Claybar as follows:

- (i) Richtech has observed, complied with and performed all the terms, covenants and conditions of the Planning Agreement on the part of Richtech to be observed up to and including the Assignment Date;
- (ii) Richtech's interest in the Interest is the absolute property of Richtech and is not subject to any mortgage, charge or other encumbrance;
- (iii) Richtech has good right, title and interest in the Interest and can assign the Interest to Claybar; and
- (iv) Claybar will take and receive the Interest without any interruption or disturbance by Richtech or any person claiming by, through, under or in trust for Richtech.

### (b) Claybar

Claybar warrants to Richtech that Claybar will, on and from the Assignment Date, strictly observe and perform the provisions of the Planning Agreement as if Claybar had been named in the Planning Agreement as the "developer".

## 2.4 Notice to Tweed Council

- (a) Richtech hereby notifies Tweed Council that the right, title and interest in the Interest has been assigned from Richtech to Claybar, with effect on and from the Assignment Date.
- (b) By signing this Deed, Tweed Council acknowledges having received the notification in **clause 2.4(a)**.

## 3. CONSENT TO ASSIGNMENT

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### 3.1 Consent of Tweed Council

Tweed Council consents to the assignment of the Interest to Claybar, with effect on and from the Assignment Date.

### 3.2 Restriction Remains in Effect

The restriction in the Planning Agreement on the assignment of the Planning Agreement remains in effect.

### 3.3 Release of Richtech

On and from the Assignment Date, Tweed Council releases Richtech from any liability under the Planning Agreement to which Richtech would otherwise be subject, regardless of whether that liability arose before or after the Assignment Date.

### 3.4 Release of Tweed Council

On and from the Assignment Date, Richtech irrevocably releases Tweed Council from any liability Tweed Council may have to Richtech, irrespective of whether such liability arose before or arises after the Assignment Date.

### 3.5 Claybar Accepted

Tweed Council accepts Claybar as the developer under the Planning Agreement with effect on and from the Assignment Date.

### 3.6 Tweed Council to Observe Obligations

Tweed Council must observe its obligations under the Planning Agreement from the Assignment Date as if Claybar were named in the Planning Agreement as the developer.

### 3.7 Warranty

Claybar warrants to Tweed Council that Claybar will, on and from the Assignment Date, strictly observe and perform the provisions of the Planning Agreement.

### 3.8 Indemnities

Claybar indemnifies Tweed Council and shall keep Tweed Council indemnified:

- (a) from any loss incurred by Tweed Council as a result of any breach of the warranty contained in **clause 3.7** of this Deed;
- (b) in respect of any liability incurred by Richtech to the Tweed Council under the Planning Agreement before the Assignment Date and which has not been fully discharged by Richtech; and
- (c) against any and all loss or claims incurred by Tweed Council (and any associated costs, charges or expenses including legal costs on a solicitor and own client basis) by reason of any third party claim which arises from Claybar's obligations under the Planning Agreement on and from the Assignment Date (including without limitation failure to comply with any applicable law or other form of governmental or semi-governmental regulation).

## 4. REGISTRATION

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Tweed Council must lodge this Deed for registration in any place where the Planning Agreement has been registered pursuant to clause 8 of the Planning Agreement.

## 5. COSTS & DUTY

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### 5.1 Costs

Each party shall pay its own costs of and incidental to the negotiations for and the preparation, execution and stamping of this Deed.

### 5.2 Duty

Claybar must pay any Duty on or arising from this Deed or any transaction contemplated under this Deed.

## 6. PARTY AS TRUSTEE

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### 6.1 Application of Clause

This clause applies:

- (a) if a party to this Deed (**Trustee Party**) is the trustee of a trust (**Trust**); and
- (b) irrespective of whether the Trust is disclosed in this Deed.

### 6.2 Acknowledgement of Trustee Party

The Trustee Party acknowledges that it enters into this Deed personally and in its capacity as trustee of the Trust.

### 6.3 Representations & Warranties of Trustee Party

The Trustee Party represents to each other party that each of the following statements is correct and not misleading as at the date of this Deed and will remain correct and not misleading:

- (a) the Trust is duly constituted and has not been terminated, nor has the date passed or any event occurred for the vesting of the Trust assets;
- (b) it is the sole trustee of the Trust, it has not given any notice of resignation and no action has been taken to remove it or to appoint an additional trustee of the Trust;
- (c) it has full legal capacity and power under the trust agreement for the Trust to:
  - (i) own the Trust assets and carry on the business of the Trust as it is now being conducted; and
  - (ii) enter into this Deed and to carry out the transactions that this Deed contemplates, as trustee of the Trust;
- (d) all action that is necessary or desirable under the trust agreement for the Trust or at law has been taken to:
  - (i) authorise entry into this Deed and the carrying out by the Trustee Party of the transactions that this Deed contemplates;
  - (ii) ensure that this Deed is legal, valid and binding on the Trustee Party as trustee of the Trust and admissible in evidence against it in that capacity; and
  - (iii) enable the Trustee Party to properly carry on the business of the Trust;
- (e) it has carefully considered the purpose of this Deed and considers that entering into this Deed is part of the proper administration of the Trust, for the commercial benefit of the Trust and for the benefit of the beneficiaries of the Trust, and considers that the terms of this Deed are fair and reasonable;
- (f) the Trustee Party:
  - (i) has the right to be fully indemnified out of the Trust assets in relation to the obligations and liabilities incurred by it under this Deed, that right has not been modified, released or diminished in any way, and the Trust assets are sufficient to satisfy that right of indemnity and all other obligations and liabilities in respect of which the Trustee Party has a right to be indemnified out of the Trust assets; and
  - (ii) has not released or disposed of its equitable lien over the Trust assets.

## 7. NOTICES

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### 7.1 Form of Notice

A notice or other communication connected with this Deed (**Notice**) has no legal effect unless it is in writing.

### 7.2 Service

A Notice may be:

- (a) sent by prepaid post to the address of the addressee;
- (b) sent by email to the email address of the addressee; or
- (c) delivered at the address of the addressee.

### 7.3 Address for Service

The particulars for delivery of Notices are initially as set out in this Deed. Each party may change these particulars by notice to each other party provided such notice is given before delivery.

### 7.4 Delivery

A Notice sent or delivered in a manner provided by **clause 7.2** it must be treated as given to and received by the party to which it is addressed:

- (a) if sent by post, on the 2<sup>nd</sup> Business Day (at the address to which it is posted) after posting;
- (b) if sent by email before 5.00pm on a Business Day at the place sent, at the time and on the day it was sent (if sent on a Business Day) and otherwise at 9.00am on the next Business Day; or
- (c) if otherwise delivered before 5.00pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery.

#### **7.5 Email**

- (a) An email is not treated as given or received if the sender's computer reports that the message has not been delivered.
- (b) An email is not treated as given or received if it is not received in full and in legible form and the addressee notifies the sender of that fact within 3 hours after the transmission ends or by 12 noon on the Business Day on which it would otherwise be treated as given and received, whichever is later.

#### **7.6 Valid Notice**

A Notice sent or delivered in a manner provided by **clause 7.2** must be treated as validly given to and received by the party to which it is addressed even if the addressee has become insolvent or is deregistered or is absent from the place at which the Notice is delivered or to which it is sent, or if the Notice is returned unclaimed.

#### **7.7 Execution of Notice**

Any Notice by a party may be given and signed, or received, by a party's solicitor.

### **8. MISCELLANEOUS**

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#### **8.1 Business Days**

- (a) If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day after the date in question.
- (b) If a date under this Deed falls on a day that is not a Business Day, then the date falls on the next Business Day after the date in question.

#### **8.2 Assignment**

A party to this Deed may only dispose of, deal with, declare a trust over or otherwise create an interest in, its rights under this Deed with the prior consent of the other parties.

#### **8.3 Remedies Cumulative**

The rights and remedies provided in this Deed are in addition to other rights and remedies given by law independently of this Deed, except to the extent that those other rights and remedies are expressly excluded in this Deed.

#### **8.4 Exclusion of Contrary Legislation**

Any legislation that diminishes the obligation of a party, or adversely affects the exercise by a party of a right or remedy, under or relating to this Deed is excluded to the full extent permitted by law.

#### **8.5 Variation**

- (a) An amendment or variation to this Deed is not effective unless it is in writing and signed by the parties or their respective solicitors (and may be effected by exchange of correspondence).
- (b) Any variation to this Deed which is agreed to in writing by a solicitor representing a party is immediately binding on the party who is represented by that solicitor as if the party had personally agreed to the variation in writing. On each occasion that a party's solicitor agrees in writing to a variation to this Deed, the relevant party warrants that the solicitor was duly authorised to agree to that variation on behalf of the party.

## **8.6 No Merger**

None of the rights and obligations of a party under this Deed merge:

- (a) on completion of any transaction contemplated by this Deed;
- (b) with any security interest, guarantee, judgement or other right or remedy that a party may hold at any time; or
- (c) as a consequence of anything done under this Deed,

and those rights and obligations at all times remain in full force and effect.

## **8.7 Survival of Rights & Obligations**

The following survive termination or expiration of this Deed:

- (a) rights accrued to a party up to the date of termination or expiration of this Deed; and
- (b) indemnities and obligations of confidence given by a party under this Deed.

## **8.8 Giving Effect to this Deed**

Each party agrees, at its own expense, to do anything (including ensuring that its employees and agents do anything) that any other party reasonably requires (such as obtaining consents, signing and producing documents) as may be necessary or desirable to give full effect to the provisions of this Deed and the transactions contemplated by it.

## **8.9 Entire Agreement**

This Deed embodies the entire agreement between the parties and supersedes all previous agreements, understandings, negotiations, warranties and representations in respect of the subject matter of this Deed. If this Deed is inconsistent with any other agreement between any of the parties, this Deed prevails to the extent of the inconsistency.

## **8.10 Severability**

If the whole, or any part, of a provision of this Deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of this Deed has full force and effect, and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance materially alters the nature or intended effect of this Deed.

## **8.11 Execution under Power of Attorney or Agency**

Each person who executes this Deed as:

- (a) attorney for a party, or
- (b) agent of a party,

warrants that he or she has authority to do so, and will produce written evidence of that authority to any party who requests it.

## **8.12 Governing Law**

This Deed is governed by the law in force in New South Wales, Australia. Each party irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts for any proceeding in connection with this Deed and waives any right it may have to claim that those courts are an inconvenient forum.

## **8.13 Counterparts & Copies**

This Deed may be executed in counterparts. A counterpart may be a copy of this Deed printed from an email transmission. All counterparts together are taken to constitute one instrument. A copy of this Deed which has been executed by a party (**Signatory**) may be relied upon by a party to the same extent as if it was an original of this Agreement executed by the Signatory.



**8.14 Payments under this Deed**

Payments under this Deed must be made by way of bank cheque or EFT paid into the bank account nominated in writing by the party receiving the payment.

**8.15 Time**

Time is of the essence of this Deed in all respects.

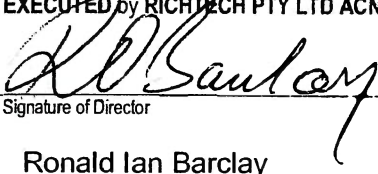
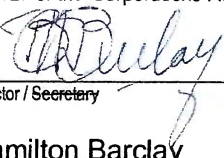
**8.16 Electronic Signature**

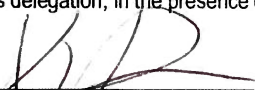

If this Deed is signed by any party using an Electronic Signature, the parties:

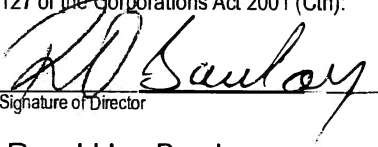
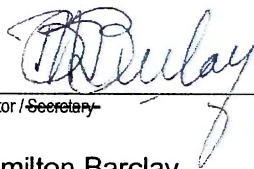
- (a) agree to enter into this Deed in electronic form; and
- (b) consent to one or all parties signing this Deed using an Electronic Signature.

## Signing Page

Executed as a Deed.

<b>EXECUTED</b> by <b>RICHTECH PTY LTD ACN 010 977 535</b> in accordance with section 127 of the Corporations Act 2001 (Cth):	
	
Signature of Director	Signature of Director / Secretary
<b>Ronald Ian Barclay</b>	<b>Bruce Hamilton Barclay</b>
Name of Director (BLOCK LETTERS)	Name of Director / Secretary (BLOCK LETTERS)
<b>26 February 2025</b>	<b>26 February 2025</b>
Date	Date

<b>EXECUTED</b> by me as delegate of <b>TWEED SHIRE COUNCIL</b> and I certify that I have had no notification or revocation of this delegation, in the presence of:	
	
Signature of Witness	Signature of Delegate
<b>Kareen Smith</b>	<b>Kinoy Green FSM</b>
Name of Witness (BLOCK LETTERS)	Name of Delegate (BLOCK LETTERS)
<b>10-14 Tumbalgun Rd Murrumbidgee</b>	<b>10 MARCH 2025</b>
Address of Witness	Date

<b>EXECUTED</b> by <b>CLAYBAR PTY LTD ACN 010 584 817 AS TRUSTEE OF THE IAN BARCLAY TRUST</b> in accordance with section 127 of the Corporations Act 2001 (Cth):	
	
Signature of Director	Signature of Director / Secretary
<b>Ronald Ian Barclay</b>	<b>Bruce Hamilton Barclay</b>
Name of Director (BLOCK LETTERS)	Name of Director / Secretary (BLOCK LETTERS)
<b>26 February 2025</b>	<b>26 February 2025</b>
Date	Date