

# Think Tank Residential Series 2023-3 Trust Standby Servicing Deed

Dated 20 October 2023

BNY Trust Company of Australia Limited (ABN 49 050 294 052) in its capacity as trustee of the Think Tank Residential Series 2023-3 Trust ("**Trustee**")

Think Tank Group Pty Ltd (ACN 117 819 084) ("**Servicer**" and "**Trust Manager**")

AMAL Asset Management Limited (ABN 31 065 914 918) ("**Standby Servicer**")

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# Think Tank Residential Series 2023-3 Trust Standby Servicing Deed Details

**Interpretation** – definitions are set out in clause 1 (“Definitions and Interpretation”)

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## Parties

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<b>Trustee</b>	Name	<b>BNY Trust Company of Australia Limited</b>
	ABN	49 050 294 052
	Capacity	as trustee of the Think Tank Residential Series 2023-3 Trust
	Address	Level 2 1 Bligh Street Sydney NSW 2000
	Telephone	(02) 9260 6000
	Fax	(02) 9260 6009
	Attention	Global Client Services

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<b>Servicer and Trust Manager</b>	Name	<b>Think Tank Group Pty Ltd</b>
	ABN	75 117 819 084
	Address	Level 24 101 Miller Street North Sydney NSW 2060
	Facsimile	+61 2 8669 5599
	Attention	Director

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<b>Standby Servicer</b>	Name	<b>AMAL Asset Management Limited</b>
	ABN	31 065 914 918
	Address	Level 13 20 Bond Street Sydney NSW 2000
	Email	mail@amal.com.au
	Attention	The Directors

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<b>Governing law</b>	New South Wales
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<b>Date of deed</b>	See Signing page
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# General terms

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## 1 Definitions and interpretation

### 1.1 Terms defined in Master Trust Deed, Security Trust Deed and Servicing Deed

A term which has a defined meaning in the:

- (a) Master Trust Deed;
- (b) Security Trust Deed;
- (c) Servicing Deed; or
- (d) Issue Supplement,

has the same meaning when used in this document unless it is expressly defined in this document, in which case the meaning in this document prevails. If the definition of a term in the Security Trust Deed, the Master Trust Deed or the Servicing Deed is amended in the Issue Supplement, the definition in the Security Trust Deed, the Master Trust Deed or the Servicing Deed applies to the extent amended by the Issue Supplement.

In the event of any inconsistency between a definition in the Issue Supplement and a definition in the Security Trust Deed, the Master Trust Deed or the Servicing Deed, the definitions in the Issue Supplement will prevail.

A term defined in the Security Trust Deed, the Master Trust Deed or the Servicing Deed by reference to a Trust (as defined in the Security Trust Deed) will, when used in this document, be taken to be defined by reference to the Trust (as defined in this document), unless the contrary intention appears.

### 1.2 Definitions

These meanings apply unless the contrary intention appears:

**Appointment Date** has the meaning set out in clause 2.3 (“Standby Servicer to act as Servicer”).

**Appointment Period** has the meaning set out in clause 2.3 (“Standby Servicer to act as Servicer”).

**Issue Supplement** means the document entitled “Think Tank Residential Series 2023-3 Trust - Issue Supplement” dated on or about the date of this document between the Trustee and others.

**Licensed Software** means all intellectual property rights (excluding any Software) licensed by the Servicer which relate to the performance by the Servicer of its servicing obligations under the Servicing Deed.

**Master Trust Deed** means the document entitled “Think Tank Master Trust Deed” dated 22 March 2013 between BNY Trust Company of Australia Limited and others.

**Secure Transfer Method** means a method of transferring information that minimises the risk of information being accessed by an unauthorised party. This may include, but is not limited to, password protection, encryption and use of a secure file transfer protocol (SFTP) network. For the avoidance of doubt, it does not include an unencrypted email attachment.

**Security Trust Deed** means the document entitled “Think Tank Master Security Trust Deed” dated 22 March 2013 between BNY Trust Company of Australia Limited and others.

**Servicing Deed** means the deed entitled “Think Tank Master Servicing Deed” dated 22 March 2013 between the Manager, BNY Trust Company of Australia Limited, the Servicer and others (as amended).

**Software** means all intellectual property rights owned or licensed (except where the Servicer has not obtained the right to grant sub-licences of such rights) by the Servicer which relate to the performance by the Servicer of its servicing obligations under the Servicing Deed.

**Standby Servicing Plan** means the plan agreed as such by the Trust Manager, the Servicer and the Standby Servicer.

**Trust** means the Think Tank Residential Series 2023-3 Trust.

### 1.3 Other interpretation provisions

Clauses 1.2 (“References to certain general terms”) to 1.5 (“Schedules”) (inclusive) and clause 6.1 (“Awareness of certain events”) of the Security Trust Deed apply to this document.

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## 2 Appointment

### 2.1 Appointment of Standby Servicer

The Trustee (acting at the direction of the Trust Manager) appoints the Standby Servicer as standby servicer in respect of the Trust on the terms and conditions set out in this document. The Standby Servicer accepts that appointment in respect of the Trust.

### 2.2 Notice to Standby Servicer

Each of the Trustee and the Servicer agree to immediately notify the Standby Servicer if it becomes aware of the occurrence of any of the following events:

- (a) notice is provided by the Trustee under clause 11.2 (“Removal by Trustee”) of the Servicing Deed to remove the Servicer as Servicer of the Trust;
- (b) the Servicer is obliged under clause 11.3 (“Mandatory retirement”) of the Servicing Deed to retire as Servicer of Trust; or
- (c) notice is provided by the Servicer under clause 11.4 (“Voluntary retirement”) of the Servicing Deed to retire as the Servicer of the Trust.

### 2.3 Standby Servicer to act as Servicer

Subject to clause 2.4 (“Appointment conditional”), if at any time the Servicer is removed or retires as the servicer of the Trust in accordance with clause 11

(“Change of Servicer”) of the Servicing Deed, the Standby Servicer agrees to act as Servicer of the Trust with effect from:

- (a) In the case of a removal under clause 11.2 (“Removal by Trustee”) of the Servicing Deed, the expiry of the relevant notice period under that clause 11.2;
- (b) in the case of a retirement under clause 11.3 (“Mandatory retirement”) of the Servicing Deed, on receipt of notice from either the Trustee or the Servicer under clause 2.2 (“Notice to Standby Servicer”); or
- (c) in the case of a retirement under clause 11.4 (“Voluntary retirement”) of the Servicing Deed, the expiry of the relevant notice period under that clause 11.4,

(the “**Appointment Date**”) until the earlier of:

- (i) the appointment of a replacement Servicer in respect of the Trust, who assumes all of the obligations of the Servicer under the Servicing Deed; or
- (ii) the retirement or removal of the Standby Servicer in accordance with clause 10 (“Retirement and Removal of Standby Servicer”),

(the “**Appointment Period**”).

## **2.4 Appointment conditional**

The Standby Servicer is not obliged to act as Servicer of the Trust until it is notified in writing of the retirement or removal of the Servicer by the Trustee or the Servicer in accordance with clause 2.2 (“Notice to Standby Servicer”).

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# **3 Role**

## **3.1 Independent contractor**

It is acknowledged and agreed that the Standby Servicer is an independent contractor and not the agent of the Trustee in the exercise and performance of its duties under this document.

## **3.2 Excluded roles and duties**

The appointment as standby servicer does not mean that the Standby Servicer:

- (a) is a trustee for the benefit of; or
- (b) is a partner of; or
- (c) has a fiduciary duty to, or other fiduciary relationship with,

the Trustee or any other person.

## **3.3 Dealings with third parties**

The Standby Servicer must not:

- (a) expressly or by implication hold itself out as, or permit anyone else to hold it out as, an agent, a partner, officer or employee of the Trustee; or

- (b) do anything else which may lead any person to believe that it is an agent, a partner, officer or employee of the Trustee.

The Standby Servicer must ensure that none of its officers or employees does anything which the Standby Servicer is prohibited from doing under this clause.

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## **4 Duties**

### **4.1 Duties**

On and from the Appointment Date, the Standby Servicer agrees that it will comply with the Standby Servicing Plan and it will assume all of the obligations and liabilities of the Servicer under the Servicing Deed and the Issue Supplement as if it were a party to those documents.

### **4.2 Standard of care**

The Standby Servicer agrees to exercise its rights and comply with its servicing obligations under this document with the same degree of diligence and care expected of an appropriately qualified and prudent servicer of receivables similar to the Purchased Receivables.

### **4.3 Exoneration**

Despite any other provision of this document, the Standby Servicer is not responsible or liable to any person for any inability to perform, or any deficiency in performing, its duties and obligations under this document to the extent the Standby Servicer is unable to perform those duties and obligations:

- (a) due to the state of affairs of:
  - (i) the Servicer;
  - (ii) the books and records of the Servicer;
  - (iii) the business, data collection, storage or retrieval systems of the Servicer; or
  - (iv) the computer equipment or software of the Servicer,at the time of the removal or retirement of the Servicer under the Servicing Deed;
- (b) due to the inaccuracy, incompleteness or lack of currency of any data, information, documents or records on which it is entitled to rely under clause 4.4 ("Reliance on existing data"), unless the Standby Servicer is actually aware that such data, information, documents or records are incorrect or inaccurate; or
- (c) because the Standby Servicer, after using reasonable endeavours, is unable to obtain sufficient access to the Servicer's books and records, business, data collection, storage or retrieval systems or use or access the Servicer's computer equipment or software; or
- (d) because any person other than the Standby Servicer does not comply with its obligations under the Transaction Documents.



#### 4.4 Reliance on existing data

The Standby Servicer is entitled to rely conclusively on all data, information, documents and records:

- (a) provided to it by the Servicer;
- (b) contained in the Servicer's systems; or
- (c) generated by the Servicer's systems,

unless it becomes actually aware that such data, information, documents or records are incorrect or inaccurate.

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## 5 Representations, warranties and undertakings

### 5.1 Representations and warranties

Each party represents and warrants that in respect of itself only:

- (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 do not contravene:
  - (i) its constituent documents (if any), or cause a limitation on its powers or, if applicable, the powers of its directors to be exceeded; or
  - (ii) any law or obligation by which it is bound or to which any of its assets are subject; and
- (d) **(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, to exercise its rights and comply with its obligations 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 necessary stamping and registration requirements, and laws relating to insolvency and affecting creditors' rights generally; and
- (f) **(benefit)** it benefits by entering into the Transaction Documents to which it is a party; and
- (g) **(solvency)** there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable; and
- (h) **(not a trustee)** except in the case of the Trustee, it does not enter into any Transaction Documents as a trustee; and
- (i) **(no immunity)** it has no immunity from the jurisdiction of a court or from legal process.

## **5.2 Repetition of representations and warranties**

The representations and warranties in this clause 5 (“Representations, warranties and undertakings”) are taken to be also made (by reference to the then current circumstances) on:

- (a) each date on which financial accommodation is provided under the Transaction Documents to or at the request of the Trustee; and
- (b) each Payment Date.

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## **6 Indemnity**

Subject to clause 4.3 (“Exoneration”), the Standby Servicer indemnifies the Trustee against any Loss which the Trustee incurs directly or indirectly as a consequence of:

- (a) a representation or warranty given by it to the Trustee under this document being incorrect; or
- (b) a failure by the Standby Servicer to comply with its obligations under this document,

but excluding any such amounts which are due to the Trustee’s own negligence, fraud or wilful misconduct.

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## **7 Powers of Standby Servicer**

### **7.1 General Powers**

On and from the Appointment Date, the Standby Servicer shall have all the rights and powers of the Servicer under the Transaction Document which it may or may not exercise at its discretion.

### **7.2 Power to delegate**

The Standby Servicer may employ agents and attorneys and may delegate any of its rights and obligations in its capacity as Standby Servicer.

### **7.3 Duties when delegating**

The Standby Servicer agrees to exercise reasonable care in selecting delegates.

### **7.4 Responsibility for delegates**

The Standby Servicer is responsible for any loss arising due to any acts or omissions of any person appointed under clause 7.2 (“Power to delegate”) and for the payment of any fees of that person. The Standby Servicer remains responsible for its obligations under the Transaction Documents of the Trust notwithstanding any delegation by it.

### **7.5 Reliance on communications and opinions**

In relation to any Transaction Document, the Standby Servicer may rely:

- (a) on any communication or document it believes to be genuine and correct and to have been signed or sent by the appropriate person; and

- (b) as to legal, accounting, taxation or other professional matters, on opinions and statements of any legal, accounting, taxation or professional advisers used by it.

## **7.6 Dispute or ambiguity**

If there is any dispute or ambiguity in relation to any matter connected with the Transaction Documents, the Standby Servicer may (but need not) obtain and rely on advice from any person referred to in clause 7.5(b) (“Reliance on communications and opinions”).

As long as the Standby Servicer is using reasonable endeavours to resolve any dispute or ambiguity, the Standby Servicer may (but need not) refuse to do anything in relation to matters affected by the dispute or ambiguity.

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## **8 Fees**

The Trustee agrees to pay fees to the Standby Servicer in respect of the Trust. The fee is payable at the times and in the amounts set out in the Issue Supplement.

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## **9 Payments**

- (a) Despite any other provision of a Transaction Document, each party agrees to make payments (including by way of reimbursement):
  - (i) on the due date (or, if that is not a Business Day, on the next Business Day); and
  - (ii) not later than close of business in the place for payment; and
  - (iii) in Australian dollars in immediately available funds; and
  - (iv) in full without set-off or counterclaim, and without any withholding or deduction in respect of Taxes unless such withholding or deduction is made under or in connection with, or in order to ensure compliance with, FATCA or is required by law.

If a party directs the other party to pay a particular party or in a particular manner, the payer is taken to have satisfied its obligation to the payee by paying in accordance with the direction.

- (b) If a law requires a party to withhold or deduct an amount in respect of Taxes (including, without limitation, FATCA Withholding Tax) from a payment under this document such that the recipient would not actually receive on the due date the full amount provided for under this document, then the party required to make the payment agrees to:
  - (i) withhold or deduct the amount for the Taxes; and
  - (ii) pay the amount deducted to the relevant authority in accordance with applicable law.

The party required to make the payment is not obliged to pay an amount to the recipient so as to result in it receiving a total amount equal to the amount it would have received but for the withholding or deduction.

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## **10 Retirement and Removal of Standby Servicer**

### **10.1 Retirement**

The Standby Servicer may retire as Standby Servicer (whether before or after the Appointment Date) by giving 90 days written notice to the Trustee and the Trust Manager.

### **10.2 Removal**

The Trustee may terminate the Standby Servicer's appointment as Standby Servicer (whether before or after the Appointment Date) by giving 90 days written notice to the Standby Servicer and the Trust Manager.

### **10.3 Costs of retirement or removal**

If the Standby Servicer:

- (a) retires under clause 10.1 ("Retirement"); or
- (b) is removed under clause 10.2 ("Removal") following the Standby Servicer becoming Insolvent, failing to comply with any of its obligations under this document or breaching any of the representations or warranties made by it under this document,

everything it is required to do under this clause 10 ("Retirement and Removal of Standby Servicer") is at the Standby Servicer's own expense.

If the Standby Servicer is removed under clause 10.2 ("Removal") (except as contemplated by paragraph (b) above), everything it is required to do under this clause 10 ("Retirement and Removal of Standby Servicer") is at the expense of the Trust.

### **10.4 Standby Servicer to deliver documents**

If the Standby Servicer retires or is removed as standby servicer in respect of the Trust, it agrees to promptly deliver to the successor servicer (or as the Trustee or Trust Manager may direct) all original documents in its possession relating to the Trust and the Purchased Receivables and any other documents and information in its possession relating to the Trust and the Purchased Receivables as are reasonably requested by the successor servicer.

### **10.5 Further steps**

Without limiting clause 10.4 ("Standby Servicer to deliver documents"), if the Standby Servicer retires or is removed as servicer of the Trust, it agrees to do anything the successor standby servicer reasonably asks (such as obtaining consents, and signing, producing and delivering documents including a retirement and appointment document) to give effect to the retirement or removal and the appointment of the successor standby servicer.

### **10.6 Limit on disclosure obligations**

Despite any other provision in the Transaction Documents, the Standby Servicer is not obliged to disclose information or provide documents relating to any person if the Standby Servicer reasonably believes that to do so would constitute a breach of law or duty of confidentiality.

## **10.7 Notice to Designated Rating Agency**

The Trust Manager agrees to notify each Designated Rating Agency if the Standby Servicer retires or it is proposed that the Standby Servicer be removed or that a successor standby servicer be appointed.

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## **11 Servicer undertakings**

### **11.1 Servicer to deliver documents**

Promptly following the Appointment Date, the Servicer agrees to deliver to the Standby Servicer all original documents in its possession relating to the Trust and the Trust Assets and any other documents and information in its possession relating to the Trust and the Trust Assets as are reasonably requested by the Standby Servicer.

### **11.2 Software**

The Servicer grants to the Standby Servicer, for the Appointment Period only, a non-exclusive, royalty-free, irrevocable licence to use the Software, but only to the extent necessary for the purposes of the Standby Servicer complying with its servicing obligations under this document.

### **11.3 Licensed Software**

Promptly following the Appointment Date, the Servicer agrees to use its reasonable endeavours to procure the consent of the relevant third party licensor to the Standby Servicer using the Licensed Software, provided that nothing in this clause 11.3 will oblige the Servicer to pay any additional fee (or similar amount) to the relevant third party licensor or any other person.

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## **12 Limited recourse**

Clause 18 ("Indemnity and limitation of liability") of the Master Trust Deed applies to the liability of the Trustee to the Standby Servicer and the Servicer under this document as if it were set out in full in this document with any necessary amendments to clause references and references to applicable documents.

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## **13 Privacy**

### **13.1 Exchange of information**

Each party:

- (a) acknowledges that Personal Information may be exchanged between the parties under this document and the other Transaction Documents; and
- (b) agrees to use best endeavours to transfer Personal Information using a Secure Transfer Method.

In this clause 13 ("Privacy"), "Provider" means a party disclosing Personal Information and "Recipient" means a party receiving Personal Information.

### **13.2 Consents and disclosures**

If Personal Information is exchanged between the parties, the Provider agrees to obtain the consents and make the disclosures required by Privacy Laws to ensure that:

- (a) it is able to disclose the Personal Information to the Recipient; and
- (b) the Recipient can collect the Personal Information, and use and disclose it as permitted under clause 13.3 (“Use and disclosure of Personal Information”).

### **13.3 Use and disclosure of Personal Information**

If Personal Information is exchanged between the parties, the Recipient undertakes:

- (a) not to use any Personal Information it receives except in connection with exercising its rights or complying with its obligations under the Transaction Documents; and
- (b) not to disclose any Personal Information it receives except:
  - (i) in connection with exercising its rights or complying with its obligations under the Transaction Documents; or
  - (ii) as required or authorised by law.

### **13.4 Compliance with Privacy Laws, requests and directions**

Without limiting clauses 13.2 (“Consent and disclosures”) and 13.3 (“Use and disclosure of Personal Information”), if Personal Information is exchanged between the parties, the Provider and the Recipient each undertake to comply with:

- (a) all Privacy Laws binding on the Provider in relation to that Personal Information; and
- (b) any request or direction made by the Privacy Commissioner in relation to that Personal Information which is not disallowed or withdrawn.

### **13.5 Notice of breach**

If a Provider or a Recipient becomes aware of a breach of this clause 13 (“Privacy”), or if a Recipient becomes aware that it is, or may be, required by law to disclose Personal Information received from the Provider, it must immediately notify the other party.

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## **14 GST**

### **14.1 Construction**

For the purposes of this clause 14 (“GST”):

- (a) words and phrases which are not defined in this document but which have a defined meaning in the GST Act have the same meaning when used in this clause 14 (“GST”);
- (b) GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

- (c) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply; and
- (d) unless otherwise expressly stated in this document, all consideration to be provided under this document is exclusive of GST.

## **14.2 Payment of GST**

- (a) If GST is payable on a supply made under or in connection with this document, the party providing the consideration for the supply must pay to the supplier an additional amount equal to the amount of GST payable on the supply ("**GST Amount**").
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided under this document.
- (c) This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse charge.

## **14.3 Adjustment events**

If an adjustment event arises for a supply made under or in connection with this document, the GST Amount must be recalculated to reflect that adjustment, the supplier or the recipient (as the case may be) must make any payments necessary to reflect the adjustment and the supplier must issue an adjustment note.

## **14.4 Reimbursements**

Any payment, reimbursement, indemnity or similar payment that is required to be made under this document which is calculated by reference to an amount paid by another party shall be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled to. If the reduced payment is consideration for a taxable supply, clause 14.2 ("Payment of GST") will apply to the reduced payment.

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# **15 General**

## **15.1 Counterparts**

This document may consist of a number of copies, each signed by one or more parties to the deed. If so, the signed copies are treated as making up the one document.

## **15.2 Governing law and jurisdiction**

This document is governed by the law in force in New South Wales. Each party submits to the non-exclusive jurisdiction of the courts of that place.

## **15.3 Serving documents**

Without preventing any other method of service, any document in a court action in connection with this document may be served on a party by being delivered to or left at that party's address for service of notices in accordance with clause 23 ("Notices and other communications") of the Security Trust Deed.

#### **15.4 Rights and obligations**

The rights and obligations of the parties under this document end on the termination of this document. However, this does not affect any accrued rights or obligations of the parties under this document.

#### **15.5 Waiver**

Any failure to exercise or delay by any party in exercising any right under the terms of this document shall not constitute a waiver of that right and any single or partial exercise of any right shall not preclude any further exercise of that or any other right.

#### **15.6 Variation**

A provision of or a right created under this document may not be waived or varied except in writing signed by the party or parties to be bound.

#### **15.7 Rights cumulative**

The rights and remedies provided in this document are cumulative and not exclusive of any rights or remedies provided by law independently of this document.

#### **15.8 Consents**

The Standby Servicer agrees to comply with all conditions in any consent the Trustee gives in connection with this document. The Trustee may give conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless this document expressly provides otherwise.

#### **15.9 Discretion in exercising rights**

The Trustee may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless a Transaction Document expressly states otherwise.

**EXECUTED** as a deed



# Think Tank Residential Series 2023-3 Trust Standby Servicing Deed

Signing page

**DATED:** 20 October 2023

**Trustee**

**SIGNED, SEALED AND DELIVERED** )  
by )  
 )  
as attorney for **BNY TRUST** )  
**COMPANY OF AUSTRALIA LIMITED** )  
in its capacity as trustee of the Think )  
Tank Residential Series 2023-3 Trust )  
under power of attorney dated 1 )  
September 2007 )



Digitally signed  
by Luke Ashby  
Date:  
2023-10-20  
11:17+11:00

.....  
By executing this document the attorney  
states that the attorney has received no  
notice of revocation of the power of  
attorney

**Servicer and Trust Manager**

**EXECUTED** by **THINK TANK GROUP** )  
**PTY LIMITED** in accordance with )  
section 127(1) of the *Corporations Act* )  
2001 (Cth) by authority of its directors: )

*Jonathan Street* )  
..... )  
Signature of director )

**JONATHAN STREET** )  
..... )  
Name of director (block letters) )

*Cullen Hughes* )  
..... )  
Signature of ~~director~~/company secretary\* )  
\*delete whichever is not applicable )

**CULLEN HUGHES** )  
..... )  
Name of ~~director~~/company secretary\* )  
(block letters) )  
\*delete whichever is not applicable )

