
Exchanging Security Trust Deed

PM CAPITAL GO 2025 LIMITED

**PM CAPITAL GLOBAL OPPORTUNITIES
FUND LIMITED**

EQUITY TRUSTEES LIMITED

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Title	Exchanging Security Trust Deed
Date	2018
Parties	<p>PM Capital GO 2025 Limited (ACN 623 887 825) of Level 27, 420 George Street, Sydney NSW 2000 (Company)</p> <p>PM Capital Global Opportunities Fund Limited (ACN 166 064 875) of Level 27, 420 George Street, Sydney NSW 2000 (Parent Company)</p> <p>Equity Trustees Limited (ABN 46 004 031 298) of Level 1, 575 Bourke Street, Melbourne VIC 3000 (Trustee)</p>

Recitals

- (A) The Parent Company wishes to issue Notes through its subsidiary, the Company. Securityholders will have the option to exchange the Notes for Shares in the Parent Company by way of an automatic exchange of Notes for Shares on the terms and conditions set out in this deed and in Annexure 1.
- (B) The Trustee has agreed to act as the trustee of the Notes for the benefit of the Securityholders.
- (C) The Parent Company has agreed to be subject to this Deed and Annexure 1 only to the extent necessary to guarantee its obligations to issue to Securityholders the Shares in accordance with a Securityholder's Exchange Rights.
- (D) The intention of the Notes is to function, in economic terms, as if Securityholders collectively were the holders of all the ordinary shares in the Company.

Operative provisions

1. Definitions and interpretation

Definitions

- 1.1 In this Deed, unless the context requires another meaning:

ASIC means Australian Securities & Investments Commission.

ASX means ASX Limited or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.

ASX Settlement means ASX Settlement Pty Ltd, the body which administers the CHESS system in Australia.

ASX Settlement Operating Rules means the settlement operating rules of ASX Settlement.

Authorised Officer means:

- (a) for the Company, a director or a secretary of the Company or any other person nominated by the Company by notice to the Trustee to be an Authorised Officer, the notice to be accompanied by a certified copy of the signature of any person nominated; and

- (b) for the Trustee, a director or a secretary of the Trustee, or any employee of the Trustee whose title includes the word "Manager", "Executive" or "Head of" or any other person nominated by the Trustee, and includes any person acting in any of those capacities.

Bank means:

- (a) an authorised deposit-taking institution authorised by the Australian Prudential Regulation Authority to carry on banking business under the *Banking Act 1959* (Cth); or
- (b) a bank authorised to carry on banking business under the laws of a state of Australia.

Business Day means a day on which Banks are open for business in Sydney other than a Saturday, a Sunday or a public holiday.

Claim means any claim, cost, damages, debt, expense, liability, loss, allegation, judgment, suit, action, demand, cause of action or proceeding of any kind irrespective of:

- (a) how or when it arises;
- (b) whether it is actual or contingent;
- (c) whether or not it is in respect of legal or other costs, damages, expenses, fees or losses;
- (d) whether or not it is in respect of a breach of trust or of a fiduciary or other duty or obligation; and
- (e) whether or not it arises at law or in any other way.

Conditions of Issue means the conditions of issue for a Note.

Controller has the meaning given to "controller" in section 9 of the Corporations Act.

Corporations Act means the *Corporations Act 2001* (Cth).

CPI means:

- (a) the Australian Consumer Price Index (All Groups) published by the Australian Bureau of Statistics; or
- (b) if the Australian Consumer Price Index (All Groups) published by the Australian Bureau of Statistics is suspended or discontinued or the basis of calculating that index is changed substantially, the index published by the Australian Bureau of Statistics that reflects fluctuations of the cost of living in Australia.

Directors means the Board of Directors of the Company.

Dollars and **\$** means the lawful currency of Australia.

Event of Default means an event of default (however described) under any Transaction Document, including:

- (a) a failure by the Company to make a payment as and when required under a Transaction Document;
- (b) if the Company becomes Insolvent; or

(c) if the Company does not comply with any provision of the Transaction Documents.

Exchange Date has the meaning given in Annexure 1.

GST means GST as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guarantee means a guarantee, indemnity, letter of credit, performance bond, letter of comfort or other assurance or assumption of responsibility, however it is described, given for a debt or liability of another person or the solvency or financial condition of another person.

Insolvent means the happening of any of these events:

- (a) an order is made that a person be wound up, or an application is made to a court for such an order (other than an application which is frivolous or vexatious, or which is refused, withdrawn, dismissed or stayed indefinitely within 14 days);
- (b) an administrator, a liquidator or provisional liquidator is appointed in respect of a person, or an application is made to a court for such an order (other than an application which is frivolous or vexatious, or which is refused, withdrawn, dismissed or stayed indefinitely within 14 days); or
- (c) a person is wound up or dissolved or resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent.

Issuance Document means any agreement pursuant to which the Company agrees to issue Notes, offering memorandum or Prospectus each of which may contain the terms and conditions upon which such Notes are issued, including as to whether the Notes are to have the benefit of any Security.

Listing Rules means the Official Listing Rules of the ASX as amended from time to time.

Material Adverse Effect means, in relation to the Company, a material adverse effect on the Company's ability to perform any of its obligations under any Transaction Document.

Meeting means a meeting of Securityholders convened in accordance with clause 8.

Note means the notes or debentures issued by the Company pursuant to the Prospectus (and referred to as PTrackERS therein).

Securityholder means, in respect of a Note, the person who is entered on the Register as the holder of the Note.

Statement means a statement issued by the Company to a Securityholder.

Parent Company means PM Capital Global Opportunities Fund Limited. The Parent Company is 100% owner of the Company.

PPSA Security Interest means a security interest within the meaning of the *Personal Property Securities Act 2009* and to which that act applies, other than a transitional security interest within the meaning of that act.

Principal Monies means the principal monies owing pursuant to a Note from time to time.

Prospectus means any Issuance Document including any Conditions of Issue.

Protected Person means any director, officer, employee, agent, delegate, attorney, Related Body Corporate, shareholder or other controlling person of the Trustee.

Receiver means any receiver or receiver and manager or similar official appointed by the Trustee under any Transaction Document.

Recovered Monies means all money received or recovered by the Trustee under the Transaction Documents from or for the account of the Company, whether or not it represents the proceeds of enforcement or sale, other than money paid by a Securityholder as subscription for any Note.

Register means the register of Securityholders maintained by the Company in accordance with clause 6.

Related Body Corporate of a body corporate means another body corporate which is related to the first body corporate within the meaning of section 50 of the Corporations Act.

Security means any Guarantee, Security Interest or other document entered into by any person the benefit of which the Trustee holds for the Securityholders.

Security Interest means:

- a PPSA Security Interest; or
- a charge, lien or pledge.

Shares means fully paid ordinary shares in the capital of the Parent Company.

Statement means a statement issued to a Securityholder pursuant to this Deed.

Transaction Documents means:

- (a) this Deed;
- (b) each Issuance Document;
- (c) each Security (if any);
- (d) each Statement;
- (e) each document which the Trustee and the Company agree in writing is a Transaction Document for the purposes of this Deed; or
- (f) each document entered into or provided under any of the documents described in paragraphs (a), (b), (c), (d), (e) or (f) or for the purpose of amending or novating any of those documents,

and **Transaction Document** means any of them, and when used in relation to the Company means any of those documents to which the Company is a party.

Trust means the trust created by this Deed.

Trust Fund means all property, rights and interests which the Trustee acquires on or after the date of this Deed in respect of the Trust including (without limitation):

- (a) the benefit of the Transaction Documents;
- (b) the benefit of any other document that it enters into in its capacity as trustee of the Trust; and
- (c) all property or money which represents the proceeds of enforcement, realisation or sale of any such property, rights or interests in respect of the Trust, any investment

into which any of those proceeds are converted and the proceeds of any of those investments.

Year means each period of 12 months commencing on and from the date on which this Deed was executed.

Interpretation

1.2 In this Deed, unless the context requires another meaning, a reference:

- (a) to the singular includes the plural and vice versa;
- (b) to a gender includes all genders;
- (c) to a document (including this Deed) is a reference to that document (including any Schedules and Annexures) as amended, consolidated, supplemented, novated or replaced;
- (d) to an agreement includes any undertaking, representation, deed, agreement or legally enforceable arrangement or understanding in writing;
- (e) to a party means a party to this Deed;
- (f) to an item, Recital, clause, Schedule or Annexure is to an item, Recital, clause, Schedule or Annexure of or to this Deed;
- (g) to a notice means a notice, approval, demand, request, nomination or other communication given by one party to another under or in connection with a Transaction Document;
- (h) to a person (including a party) includes:
 - (i) an individual, company, other body corporate, association, partnership, firm, joint venture, trust or government agency; and
 - (ii) the person's successors, permitted assigns, substitutes, executors and administrators;
- (i) to a law:
 - (i) includes a reference to any legislation, treaty, judgment, rule of common law or equity or rule of any applicable stock exchange;
 - (ii) is a reference to that law as amended, consolidated, supplemented or replaced; and
 - (iii) includes a reference to any regulation, rule, statutory instrument, by-law or other subordinate legislation;
- (j) to proceedings includes litigation, arbitration and investigation;
- (k) to a judgement includes an order, injunction, decree, determination or award of any court or tribunal;
- (l) to time is to Sydney time; and
- (m) to the words "including" or "includes" means "including, but not limited to" or "includes, without limitation".

- 1.3 Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- 1.4 Headings are for convenience only and do not affect interpretation of this Deed.
- 1.5 This Deed may not be interpreted adversely to a party only because that party was responsible for preparing it.

Trustee's consent

- 1.6 If under any provision in any Transaction Document, the consent, approval or opinion of the Trustee is required to be obtained or formed, the consent, approval or opinion of the Trustee is not to be considered to be unreasonably withheld or formed if it is withheld or formed because:
- (a) complete details of the subject matter of the consent, approval or opinion, and any information requested by the Trustee concerning that subject matter, have not been provided to the Trustee;
 - (b) the Trustee considers that if the subject matter of the proposed consent, approval or opinion was implemented:
 - (i) it would have an adverse effect on any right, remedy, power, authority or discretion of the Trustee or a Securityholder, or an attorney of the Trustee, under any Transaction Document or any law;
 - (ii) it would adversely affect the enforceability of any provision of a Transaction Document or result in a provision of a Transaction Document not being capable of being performed in accordance with its terms or enforced;
 - (iii) it would, or would be reasonably likely to, result in any breach of any law, regulation or official directive of any governmental agency;
 - (iv) it would have a Material Adverse Effect; or
 - (v) it would result in any other way in the occurrence of an Event of Default.

This clause 1.6 does not limit in any way the basis on which the Trustee may withhold its consent or approval or form its opinion.

Securityholders' instructions

- 1.7 If under any provision in any Transaction Document, the consent, approval or opinion of the Trustee, acting on the instructions of the Securityholders, is required to be obtained or formed, the consent, approval or opinion of the Securityholders or any instructions given by the Securityholders to the Trustee shall not be considered to be unreasonably withheld or formed if it is withheld or formed because:
- (a) complete details of the subject matter of the proposed consent, approval, opinion or instruction, and any information requested by the Securityholders concerning that subject matter, have not been provided to the Securityholders; or
 - (b) the Securityholders consider that if the subject matter of the proposed consent, approval, opinion or instruction was implemented:
 - (i) it would have an adverse effect on any right, remedy, power, authority or discretion of Securityholders, or an attorney of those Securityholders, under any Transaction Document or any law;

- (ii) it would adversely affect the enforceability of any provision of a Transaction Document or result in a provision of a Transaction Document not being capable of being performed in accordance with its terms or enforced;
- (iii) it would have a Material Adverse Effect; or
- (iv) it would result in any other way in the occurrence of an Event of Default.

This clause 1.7 does not limit in any way the basis on which Securityholders may withhold their consent or approval or instructions or form its opinion.

Instructions to be given reasonably

1.8 If under any provision in any Transaction Document:

- (a) the consent or approval of the Trustee is required to be obtained and the Transaction Document provides that the consent or approval of the Trustee may not be withheld unreasonably; or
- (b) the Trustee is required to form an opinion and the Transaction Document provides that the opinion must be a reasonable opinion,

each Securityholder agrees with the Company and the Trustee that, in giving instructions to the Trustee in respect of the subject matter of the proposed consent, approval or opinion, the Securityholder will not act unreasonably. The Trustee is not obliged to consider whether or not a Securityholder is or is not acting unreasonably.

Deed subject to Listing Rules if Notes are quoted on ASX

1.9 If Notes are quoted for trading on the ASX, the following clauses apply in respect of the Notes which are quoted:

- (a) despite anything contained in this Deed, if the Listing Rules prohibit an act being done, the act must not be done;
- (b) nothing contained in this Deed prevents an act being done that the Listing Rules requires to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this Deed to contain a provision and it does not contain that provision, this Deed is deemed to contain that provision;
- (e) if the Listing Rules require this Deed not to contain a provision and it contains that provision, this Deed is deemed not to contain that provision; and
- (f) if any provision of this Deed is or becomes inconsistent with the Listing Rules, this Deed is deemed not to contain that provision to the extent of the inconsistency.

Nothing in this clause 1.9 requires the Trustee to ascertain whether (d), (e) or (f) above apply.

2. Trust

Appointment

2.1 The Trustee is hereby appointed as trustee and agrees to act as trustee of the Trust.

Rights and obligations held on trust

- 2.2 The Trustee declares that it holds:
- (a) the right to enforce the Company's and the Parent Company's duty (if any) to repay the Securityholders;
 - (b) any charge or security for repayment; and
 - (c) the right to enforce any other duties that the Company and the Parent Company, and any guarantor of the Company Parent Company, have under any Transaction Documents or Chapter 2L of the Corporations Act; and
 - (d) to the extent not covered by (a) to (c) above, the Trust Fund,
- on trust in accordance with the terms of this Deed for the person or persons who from time to time before the termination of the trust created by this Deed is a Securityholder.

Term

- 2.3 The trust created by this Deed starts on the date of this Deed and, unless terminated earlier, ends on the day before the 80th anniversary of the date of this Deed.

Name of trust

- 2.4 The trust created by this Deed is known as the PM Capital GO 2025 Trust.
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3. Indebtedness

Indebtedness of Company

- 3.1 The Company:
- (a) acknowledges that it is indebted to the Trustee on behalf of each Securityholder in respect of any distributions payable in respect of the Notes from time to time in accordance with the terms of the relevant Transaction Documents and held by each such Securityholder; and
 - (b) must, in respect of each Note, and until such Notes have been cancelled pursuant to clause 4.10, pay to each Securityholder or the Trustee in respect of Notes held by such Securityholder, distributions payable in respect of the Notes in accordance with the terms of the relevant Transaction Documents.

Payment to Securityholders

- 3.2 Notwithstanding clause 3.1, the payments by the Company will be made to the Securityholders in accordance with the terms of the relevant Transaction Documents, unless or until the Trustee otherwise directs, and every such payment to Securityholders, or in accordance with a direction of the Trustee, shall operate in satisfaction pro tanto of the Company's obligations under clause 3.1. The Company will comply with any directions given by the Trustee under this clause 3.2.

4. Creation and issue of Notes

Issue of Notes

4.1 Subject to this clause 4, the Company may issue Notes on such terms as it from time to time determines.

First Issue of Notes

4.2 The Company intends to offer and undertake the first issue of Notes on the Conditions of Issue set out in Annexure 1.

Notice to Trustee

4.3 Whenever the Company proposes to issue any Issuance Document it must notify the Trustee.

Quotation of Notes

4.4 If the Issuance Documents for Notes specify that the Notes are to be quoted for trading on the ASX, the Company must use all reasonable endeavours to have the Notes quoted on the ASX in accordance with the relevant Issuance Documents.

Rights of Securityholders

4.5 Subject to the conditions contained in a Statement, the issue or transfer of a Note to a Securityholder vests in the Securityholder:

- (a) the benefit of any Security if so provided in the Issuance Document;
- (b) the benefit and the burden of the conditions applicable to the Note (including under this Deed); and
- (c) the benefit of all warranties, representations, undertakings or obligations made, given or entered into by the Company under this Deed and the Transaction Documents.

4.6 The Securityholders are not entitled to exercise or enforce any of the rights referred to in this clause 4.5 other than through the Trustee.

Redemption

4.7 Subject to the Conditions of Issue, the Company must redeem Notes in accordance with the applicable Transaction Documents.

Exchange

4.8 The Company must procure the Parent Company to facilitate the exchange of the Notes by Securityholders in accordance with and at the rate determined under the applicable Transaction Documents.

Conditions of Issue Paramount

4.9 Subject to clause 11.62(m), to the extent of any inconsistency between the Conditions of Issue for a Note and this Deed, the Conditions of Issue will prevail.

Cancellation of Notes

4.10 All Notes repaid, redeemed or purchased by the Company shall ipso facto be cancelled and shall not be re-issued. For the avoidance of doubt, Notes that have exchanged for Shares on

the terms of the Transaction Documents are not subject to the cancellation provisions of this clause 4.10 upon exchange.

5. Transfer of Notes

Transfer

- 5.1 The Notes are transferable subject to any restrictions in the applicable Transaction Documents and in accordance with the applicable Transaction Documents.

Registration requirements for transfers

- 5.2 Subject to clause 5.5 and the terms of the applicable Transaction Documents, every instrument of transfer of a Note must be:
- (a) delivered or notified to the Company or its agent for registration at the place where the Register is kept; and
 - (b) duly stamped, if necessary.

Registration of Transfers

- 5.3 The transferor shall be deemed to remain the owner of the Notes until the name of the transferee is entered in the Register in respect thereof.

Transmission

- 5.4 Any person becoming entitled to Notes in consequence of the death or bankruptcy of any holder of such Notes, may upon producing such evidence of the Securityholder's title as the Directors shall think sufficient, be registered as the holder of such Notes.

Quoted Notes

- 5.5 If Notes are quoted for trading on the ASX, the Company:
- (a) must cause transfers of Notes to be registered in accordance with the Listing Rules and ASX Settlement Operating Rules;
 - (b) must not, except as otherwise provided for in the Listing Rules and ASX Settlement Operating Rules, ask ASX Settlement to apply a holding lock to prevent a proper ASX Settlement transfer, or refuse to register a paper-based transfer, of a Note; and
 - (c) must, if it refuses to register a paper-based transfer or asks ASX Settlement to apply a holding lock, tell the Securityholder in writing of the refusal or holding lock and reason for it, within 5 Business Days after the date in which the transfer was lodged or the Company asked for the holding lock.

6. Register

Register

- 6.1 Subject to the Listing Rules and ASX Settlement Operating Rules, the Company will keep or cause to be kept in Sydney whether electronically or otherwise, a register of Securityholders and must enter in that register:
- (a) the names and addresses of all the persons to whom a Note has been issued or transferred in accordance with this Deed;

- (b) the date on which the name of each person was entered in the Register as a Securityholder;
- (c) the date on which any Securityholder ceases to hold Notes; and
- (d) the date on which any Note is redeemed, converted, repaid or cancelled.

Conclusiveness of Register

- 6.2 The Register is conclusive as to the identity of Securityholders in the absence of manifest error. In the event of any inconsistency with any register kept by the Company, the Register prevails.
- 6.3 A person entered on the Register as the holder of Notes will remain a Securityholder for the purposes of this Deed until removal of that person's name from the Register with the consent of that Securityholder even if:
 - (a) the Note held by that person is or proves to have been void, invalid or was improperly issued; or
 - (b) the Note held by that person has been redeemed, converted, repaid or cancelled.
- 6.4 Except as ordered by a court of competent jurisdiction or as required by law, the Company and the Trustee:
 - (a) may treat the Securityholder as the absolute owner (notwithstanding any notice of ownership or writing on the Note or any notice of previous loss or theft or of any trust or any other interest);
 - (b) is not required to obtain any proof of ownership and is not required to verify the identity of any Securityholder; and
 - (c) is not required to recognise or give effect to any legal or equitable interest in any Note not entered on the Register notwithstanding that the Company may have actual or constructive notice thereof.

Register available for inspection

- 6.5 The Company must keep the Register open, or cause the Register to be kept open, during business hours for inspection by a Securityholder or the Trustee.

7. Statements

- 7.1 Subject to the requirements of the ASX Settlement Operating Rules and the Listing Rules:
 - (a) each Securityholder is entitled to receive one Statement for the Notes held by that person; and
 - (b) a Statement is not a certificate of title as to Notes and the Register is the only conclusive evidence of the ownership of Notes and the entitlements thereunder.

8. Meetings of Securityholders

Rights of Securityholders to convene Meetings to give a direction or instruction to the Trustee

- 8.1 Subject to the necessary Meeting being held and an appropriate resolution being carried in accordance with this clause 8.1, the Securityholders may direct or instruct the Trustee to take any action which the Trustee has the power to take in respect of the Trust or the Trust Fund under this Deed.
- 8.2 Promptly after a resolution is carried, the chairperson of the relevant Meeting appointed under clauses 8.22 will give the Trustee notice of the terms of the resolution in order that the Trustee may act in accordance with it.
- 8.3 Where at any time there is only one Securityholder holding Notes there is no requirement for a Meeting to be held or a resolution to be carried in order for that Securityholder to give the Trustee a direction or instruction.

Trustee convening of Meetings

- 8.4 The Trustee may at any time convene a Meeting.

Requisition of Meeting

- 8.5 One or more Securityholders representing not less than 5% of the Principal Monies of all Securityholders on issue may requisition a Meeting in accordance with this clause 8.5, and without limiting the foregoing, the Company covenants that it will, on delivery to its registered office of an application by Securityholders holding Notes representing Principal Monies of at least 5% of the total Principal Monies of all Securityholders, by giving notice to each of the Securityholders at the Securityholders address as specified in the register of Securityholders, convene a meeting of the Securityholders:
- (a) to consider the financial statements that were laid before the last preceding annual general meeting of the Company; and
 - (b) to give to the Trustee directions or instructions in relation to the exercise of the Trustee's powers;
- being a meeting to be held at a time and place specified in the notice and to be presided over by a person nominated by the Trustee or, if the Trustee does not nominate a person to preside at the meeting, by a person appointed for that purpose by the Securityholders present at the meeting.
- 8.6 A requisition of a Meeting must state the objects of that Meeting and the terms of any resolution proposed to be submitted to that Meeting.
- 8.7 A requisition of a Meeting must be signed by a duly authorised officer of the person or persons requisitioning the Meeting and be delivered to the principal office of the Trustee. The requisition may consist of several documents in the same form, each signed and delivered in the manner required by this clause.
- 8.8 On receipt of any requisition signed and delivered in the manner required by clause 8.7, the Trustee will, as soon as reasonably practical, deliver a copy of that requisition to the Company and give written notice of the Meeting to the Securityholders (each at the cost of the Company).

8.9 Notice of a Meeting must be given to the Securityholders not later than 14 Business Days before the date of that Meeting except in the case of a Meeting to consider a special resolution, in which case not less than 21 Business Days' notice of the Meeting must be given.

Quorum for a meeting

8.10 A quorum at a Meeting requisitioned or convened in accordance with this clause 8.10 is formed for the purpose of passing a resolution by the presence of Securityholders holding Notes representing Principal Monies equal to at least 5% of the total Principal Monies represented by Notes held by all Securityholders.

Meeting following an initial lack of quorum

8.11 If a quorum for a Meeting is not present within 20 minutes of the notified starting time of that Meeting, the chairperson will adjourn that Meeting for not less than 3 days and not more than 7 days to such time on a Business Day and place as may be approved by the Trustee, unless the meeting has been requisitioned by Securityholders, in which case the chairperson may cancel the meeting.

Quorum necessary

8.12 No business may be transacted at any Meeting until the required quorum is formed at that Meeting.

Resolutions

8.13 A resolution put before a Meeting will only be carried by a vote in favour of that resolution made by the Securityholders holding Notes representing total Principal Monies equal to at least 50% of the total Principal Monies of all Securityholders who are present and voting at that Meeting, in person or by proxy (provided that if the Corporations Act requires a special resolution then the relevant percentage is 75%).

Form of notice of meeting

8.14 A notice of Meeting given pursuant to this clause 8.14 must specify:

- (a) the day, time and place of the proposed Meeting;
- (b) an agenda of the business to be transacted at that Meeting; and
- (c) that proxies may be appointed no later than 48 hours before the time fixed for the Meeting.

Appointment of proxy

8.15 A Securityholder is entitled to appoint a proxy for the purpose of voting on behalf of that Securityholder at a Meeting.

8.16 The written notification of the appointment of a proxy by a Securityholder must be delivered to the Trustee not less than 48 hours before the notified starting time for the relevant Meeting.

8.17 Delivery of the written notification of the appointment of a proxy to the Trustee pursuant to this clause constitutes a valid appointment of a proxy by the Securityholder for the purposes of the relevant Meeting.

8.18 The appointment of a proxy by a Securityholder must specify the following:

- (a) the full name, address and occupation of the proxy;

- (b) particulars of the Meeting for which the proxy is appointed; and
 - (c) any restriction on the matters or resolutions on which the proxy is authorised to vote.
- 8.19 A duly authorised proxy need not be a Securityholder.
- 8.20 The appointment of a proxy will terminate and be of no further force and effect on:
- (a) the final closure of the Meeting for which the proxy is appointed; or
 - (b) the presence at that Meeting of the Securityholder who appointed that proxy.
- 8.21 Objection to any voter's qualification may only be raised at the Meeting or adjourned Meeting where the relevant vote is given or tendered and will be referred to the chairperson who will decide on the validity of the objection. The chairperson's decision will be final and binding.

Election of chairperson

- 8.22 The Trustee or some other person nominated in writing by the Trustee is entitled to be the chairperson.
- 8.23 If the Trustee fails to choose a chairperson for any reason, the chairperson will be appointed by the Securityholders.
- 8.24 The person appointed to be chairperson may, but need not, be a Securityholder or a proxy.

Closure

- 8.25 All Meetings will be declared closed by the chairperson at the time all matters notified as being on the agenda of business for the Meeting have been completed.

Adjournment of Meetings

- 8.26 The chairperson may, with the consent of the Securityholders entitled to vote to carry a resolution at the relevant Meeting (and must if directed by those Securityholders), adjourn that Meeting in respect of that resolution from time to time and place to place as those Securityholders agree.
- 8.27 No business may be transacted at any adjourned Meeting which was not notified as being part of the agenda of business for the Meeting which was originally adjourned.

Resolutions

- 8.28 Every resolution to be decided at a Meeting must be decided by a poll.
- 8.29 On a poll, every Securityholder or proxy who is present has the same number of votes as the total Principal Monies in Dollars of that Securityholder, or by the Securityholders for which that proxy holds a proxy. A person entitled to more than one vote on a poll need not use all those votes in the same way.
- 8.30 A poll will be taken in the manner directed by the chairperson, either at once or after an adjournment.

Binding effect of resolutions

- 8.31 A resolution validly passed at a Meeting is binding on all Securityholders and each of the Securityholders is bound, to the extent required by that resolution, to give effect to its terms.

Trustee to advise Company

- 8.32 Where the meeting is convened by the Trustee, the Trustee will, as soon as reasonably practical, give notice to the Company of the agenda or business for any Meeting and the outcome of any resolution put to the Securityholders at that meeting pursuant to this clause 8.32.

Keeping of minutes

- 8.33 Minutes of all resolutions and proceedings at every Meeting must be made and duly entered in books to be provided from time to time for that purpose by the Company.
- 8.34 Minutes of resolutions and proceedings at a Meeting, if signed by the chairperson of the Meeting at which the resolutions were passed or proceedings transacted or by the chairperson of the next succeeding Meeting, are conclusive evidence of the matters contained in those minutes.
- 8.35 Until the contrary is proved, every Meeting for which minutes have been made and signed in accordance with this clause 8.35 is deemed to have been duly convened and held and all resolutions passed or proceedings transacted at that Meeting are deemed to have been duly passed and transacted.

Written Resolution

- 8.36 Any written notice duly executed by Securityholders who together could have passed a resolution in the terms set out in that written notice will be as effective as a resolution passed in accordance with clause 8.13.

Approval and Deemed Provision

- 8.37 If any clause of this Deed or any other Transaction Document is not effective to absolve the Trustee from any liability, the Securityholders may release the Trustee in respect of any such liability to the extent and in the manner contemplated by section 283DB of the Corporations Act.
- 8.38 Clause 8.37 shall be read into and included in any term or provision:
- (a) of the Transaction Documents; or
 - (b) of any contract with Securityholders,
- which, in accordance with section 283DB of the Corporations Act, would be void but for that term or provision being included in it.

9. Company's obligations

Specific obligations

- 9.1 The Company must, subject to the Transaction Documents and the Conditions of Issue:
- (a) promptly pay each Securityholder any distributions due under the terms of the Transaction Documents, as and when it is due;
 - (b) seek to procure the exchange of Notes which have exchange rights under the Transaction Documents as and when required and procure the issuance of new securities in consequence of that exchange;

- (c) convene where necessary or required by the Transaction Documents, meetings of Securityholders; and
- (d) redeem any Notes held by the Parent Company following an Exchange Date, as the Parent Company directs and accordance with the Transaction Documents.

General covenants

9.2 The Company covenants that it will strive to carry on and conduct its business in a proper and efficient manner.

9.3 The Company covenants that it will:

- (a) make available for inspection by the Trustee, or any registered company auditor appointed by the Trustee, the whole of the financial or other records of the Company; and
- (b) give to the Trustee such information as the Trustee requires with respect to all matters relating to the financial or other records of the Company.

Company's covenants with the Trustee

9.4 The Company hereby covenants with the Trustee that it will:

- (a) execute and do all such assurances and things as shall be required for giving effect to this Deed and the other Transaction Documents and conferring the full benefit of this Deed and the other Transaction Documents upon Securityholders and the Trustee;
- (b) keep or cause to be kept proper books of account and enter into those books full particulars of all dealings and transactions in relation to its business;
- (c) duly comply with:
 - (i) the requirements of Chapter 2L of the Corporations Act;
 - (ii) all other statutory requirements and requirements of the Listing Rules and the ASX Settlement Operating Rules with respect to the filing of reports, accounts and statements and the furnishing of reports, accounts and statements to the Trustee (or other bodies), the keeping open of registers for inspection and all other like matters; and
 - (iii) all statutory and regulatory requirements applicable to it and its obligations under this Deed and the Conditions of Issue;
- (d) pay or cause to be paid all rents, rates, taxes, duties, assessments, liabilities and outgoings payable as and when the same respectively become due and payable except such as may be contested in good faith or as to which a bona fide dispute may exist;
- (e) observe and perform all the covenants conditions and agreements contained or implied in any encumbrance given by it except to the extent to which the observance or performance thereof has been duly waived;
- (f) promptly give to the Trustee any information which it may reasonably require for the purpose of this Deed or compliance with the Corporations Act;
- (g) promptly advise the Trustee in writing of any default and particulars of such default by the Company or any subsidiary of the Company under any encumbrance over all or any part of its assets or undertakings;

- (h) duly and punctually observe fulfil and perform and comply with all the covenants terms conditions and obligations imposed upon it by or under the Transaction Documents and notify the Trustee in writing immediately on becoming aware that any such covenants terms conditions and obligations cannot be fulfilled or performed;
- (i) not, without the prior written consent in writing of the Trustee, reduce or attempt to reduce its capital;
- (j) notify the Trustee:
 - (i) promptly if any Security Interest is created over the Company's assets and advise the Trustee of the nature of such Security Interest and any other particulars required to be disclosed to the Trustee pursuant to clause 283BE of the Corporations Act;
 - (ii) as soon as it becomes aware that it holds any of its assets as the trustee of any trust and, if requested by the Trustee, specify which assets are subject to that trust;
- (k) provide the Trustee (at the Company's own cost) as and when reasonably requested by the Trustee such information reasonably agreed between the Trustee and the Company for the purpose of ensuring that the Trustee can comply with Chapter 2L of the Corporations Act, including a valuation of part or all of the property of the Company if such valuation is necessary for this purpose, and the Trustee's obligations under this Deed and the Conditions of Issue;
- (l) provide quarterly reports to the Trustee (and ASIC) in accordance with section 283BF of the Corporations Act within 1 month of the end of each quarter, including a certification by a director of the Company to the Trustee that the Company's assets are insured to the extent appropriate in accordance with usual industry practice;
- (m) provide half yearly audit reviewed financial reports and yearly audited reports to the Trustee in accordance with, and subject to the time periods contemplated by section 318 of the Corporations Act;
- (n) immediately notify the Trustee of an Event of Default or any other breach by the Company of any obligation under this Deed or Chapter 2L of the Corporations Act; and
- (o) do any other thing reasonably requested by the Trustee to enable the Trustee to comply with the Trustee's obligations under this Deed, the Corporations Act, the Listing Rules, the ASX Settlement Operating Rules, or any laws binding on the Trustee with respect to the Notes, Transaction Documents or the Trust.

Representations and Warranties

9.5 The Company makes the following representations and warranties in favour of the Trustee and each Securityholder:

- (a) **(Validity):** it is a corporation validly existing under the laws of the Commonwealth of Australia;
- (b) **(Power):** it has the power to enter into and perform its obligations under the Transaction Documents to which it is expressed to be a party, to carry out the transactions contemplated by those documents and to carry on its business as now conducted or contemplated;

- (c) **(Approval)**: it has taken all necessary corporate action to authorise the entry into and performance of the Transaction Documents to which it is expressed to be a party, and to carry out the transactions contemplated by those documents;
- (d) **(Legally binding obligations)**: each Transaction Document to which it is expressed to be a party constitutes a valid and legally binding obligation enforceable in accordance with its terms, subject to any necessary stamping and registration;
- (e) **(Execution and performance)**: the execution and performance by it of the Transaction Documents to which it is expressed to be a party and each transaction contemplated under those documents do not and will not violate in any respect a provisions of:
 - (i) a law or treaty or a judgment, ruling, order or decree of a government authority binding on it;
 - (ii) its constitution or other constituent documents; or
 - (iii) any other document or agreement which is binding on it or its assets.
- (f) **(Issuance Documents)**: that:
 - (i) the information contained in any Issuance Document is true and complete in all material respects and is not misleading or deceptive, or likely to mislead or deceive, in any material respect; and
 - (ii) no act, matter or thing has occurred since the date of such Issuance Document that renders such information misleading or deceptive or likely to mislead or deceive in any material respect;
- (g) **(No misrepresentation)**: all information (other than any assumptions, estimates or forecasts) provided by the Company to the Trustee is true in all material respects at the date of this Deed and the Issue Date for any Note or, if later, when provided and that neither that information nor its conduct and the conduct of anyone on its behalf in relation to the transactions contemplated by this Deed or a Note, was or is misleading, by omission or otherwise;
- (h) **(No taxes payable)**: no ad valorem stamp duty is payable in connection with the execution, delivery, performance or enforcement of the Transaction Documents or the transactions contemplated by them (other than in relation to the Securities);
- (i) **(Immunity)**: it does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);
- (j) **(Approvals)**: each consent, authorisation, registration, filing, agreement, notarisation, certificate, permit, licence, approval, authority or exemption of, from or required by, a government agency or required by law which is required in relation to:
 - (i) the execution, delivery, issue and performance by the Company of the Transaction Documents and the transactions contemplated by those documents; or
 - (ii) the validity and enforceability of those documents,

has been obtained or effected, is in full force and effect, and that it has complied with, and paid all applicable fees for, each of them.

- (k) **(Law)**: it has complied with all applicable laws where a failure to comply would have, or would be likely to have, a Material Adverse Effect;
- (l) **(No Event of Default)**: no event has occurred which constitutes an Event of Default; and
- (m) **(Solvency)**: there are no reasonable grounds to suspect that it is Insolvent or unable to pay its debts as and when they become due and payable.

Representations and warranties repeated

9.6 Each representation and warranty in clause 9.5 is deemed to be repeated by the Company on each day up until the day all the Notes are repaid, redeemed, converted or cancelled in accordance with the Conditions of Issue by reference to the facts and circumstances existing on that date.

10. Parent Company Obligations

10.1 The Parent Company must, subject to the Transaction Documents and the Conditions of Issue, facilitate the exchange of Notes into Shares in accordance with the Exchange Right (as defined in the Conditions of Issue) as and when required by issuing new Shares in consequence of that exchange.

11. Rights and obligations of Trustee

Scope of rights and obligations

- 11.1 From the date of this Deed:
- (a) the Trustee has all the rights, powers, remedies, discretions and obligations in relation to the trusts constituted by this Deed that it is legally possible for a natural person or corporation to have;
 - (b) subject to the Corporations Act, the Trustee does not have any obligations except those expressly provided for in the Transaction Documents;
 - (c) the Trustee owes its obligations to the Securityholders in their capacity as Securityholders only and to no other person; and
 - (d) subject to this Deed, the Trustee may exercise or omit to exercise any of its rights, remedies, powers, discretions and obligations in such manner as it thinks fit, notwithstanding that it may not have consulted the Securityholders.

Instructions to Trustee

- 11.2 Subject to the other provisions of this clause 11.2, the Trustee must:
- (a) use reasonable endeavours to act in accordance with any instructions or directions of the Securityholders; and
 - (b) refrain from exercising a right, remedy, power or discretion granted or delegated to it in its capacity as trustee under any Transaction Document if so instructed by the Securityholders,

except in relation to amounts due to it in its own right, or where the Trustee declines to do so if the Trustee is satisfied that the action would be illegal or involve it in personal liability or

the action would be unduly prejudicial to the rights of Securityholders not party to the instructions or direction unless this Deed expressly requires the Trustee to take that action or it has not been indemnified or secured to its satisfaction against all Claims, losses, liabilities, costs and expenses (including legal fees) which it might incur as a result.

- 11.3 The Trustee may refrain from exercising any right, remedy, power or discretion granted or delegated to it under the Transaction Documents until it has received instructions from the Securityholders as to whether it is to be exercised and, if applicable, the way in which it is to be exercised.
- 11.4 Subject to the other provisions of clause 11.2, the Trustee must take action or proceedings to enforce this Deed or the Conditions of Issue where all the following conditions are satisfied:
- (a) the Trustee is directed to take the action or proceeding by the Securityholders;
 - (b) the direction of the Trustee is made by a resolution of Securityholders passed in accordance with clause 8;
 - (c) the Trustee is indemnified, to its satisfaction, against all Claims, losses, liabilities, costs and expenses (including legal expenses) which the Trustee may incur or render itself liable by taking such action; and
 - (d) the Trustee has not obtained a court order to set aside or vary the direction.
- 11.5 If the Trustee forms the view that such enforcement is or could be inconsistent with this Deed, the Conditions of Issue or the Corporations Act or is or could be otherwise objectionable, it may take steps to seek as soon as reasonably practicable a court direction or order to set aside or vary the direction or instruction of Securityholders, and, while those steps are under way, the Trustee is not obliged to take action or proceedings under clause 11.2.
- 11.6 Any action taken by the Trustee or which the Trustee refrains from taking in accordance with clauses 11.2 to 11.8 is binding on all of the Securityholders.
- 11.7 The Trustee may refrain from exercising any of its rights, remedies, powers or discretions or performing any of its obligations under the Transaction Documents until it has been indemnified or secured to its satisfaction against all Claims, losses, liabilities, costs and expenses (including legal fees) which it might incur or render itself liable to as a result.
- 11.8 Any instructions or directions contemplated by this Clause may be given:
- (a) by resolution passed at a Meeting;
 - (b) by written resolution under clause 8.36; or
 - (c) if there is only one Securityholder, by written instructions from that Securityholder.

Delegation

- 11.9 The Trustee may:
- (a) perform any of its obligations under the Transaction Documents through its directors, officers, employees or agents;
 - (b) engage and pay for the advice or services of experts or professional advisers (such payments to be reimbursable by the Company on demand), including lawyers or accountants, as it considers appropriate, and may rely and act on that advice and the Trustee will not be responsible or liable for any loss occasioned by its acting or declining to act on any such advice or services; and

- (c) place any Security (if any) and any title or other document relating to the property subject to any of the Security with any person whose business includes the safe custody of documents or any firm of lawyers without any liability for any loss incurred as a result.

11.10 The Trustee may act on the opinion, certificate, advice of or information obtained from any agent, attorney, delegate, expert or professional adviser appointed under clause 11.9. The Trustee is not liable for any loss arising due to the acts or omissions of any agent, attorney, delegate, expert or professional adviser, unless the Trustee fails to use reasonable care in selecting and monitoring them. Subject to this, the Trustee is not liable for the acts or omissions of any delegate if it appointed the delegate in good faith.

Reliance

11.11 The Trustee may:

- (a) rely, as to matters of fact, on a certificate signed by or on behalf of that person;
- (b) rely on any certificate, notice or other document believed by it to be genuine and to have been signed and sent by or on behalf of the proper person or persons;
- (c) accept without enquiry or objection the title the Company has to any property which is subject to any Security (if any) and is not liable for any lack of or defect in that title, whether apparent or not, and whether capable of remedy or not; and
- (d) assume that no Event of Default has occurred and that no party is in breach of its obligations under this Deed or any Transaction Document unless it has actual knowledge to the contrary.

Trustee knowledge

11.12 The Trustee is considered to have knowledge:

- (a) of the occurrence of an Event of Default; or
- (b) that a party is in breach of its obligations under a Transaction Document, only if the Trustee has actual knowledge of the same.

Company to notify Trustee

11.13 Without limiting the operation of clause 11.12, the Company agrees to immediately notify the Trustee:

- (a) of the occurrence of an Event of Default; or
- (b) where the Company has knowledge that a party (including itself) is in breach of its obligations under a Transaction Document, the name of that party and the nature of that breach (including reasonable details of the breach).

No liability to Securityholders or Company

11.14 Neither the Trustee nor any of its directors, officers, employees, agents, delegates, attorneys, Related Bodies Corporate or successors has any liability or obligation to a Securityholder or the Company or the Parent Company:

- (a) for any failure or delay by the Company or any other party in performing its respective obligations under any Transaction Document;

- (b) for the authorisation, execution, legality, validity, enforceability, effectiveness, genuineness, admissibility in evidence of sufficiency of any Transaction Document;
- (c) for the completeness or accuracy of any recital, representation, warranty or statement made in or in connection with a Transaction Document or any certificate or other document referred to, provided for in or received by it under a Transaction Document;
- (d) for the accuracy or completeness of any information supplied by any person, whether or not that information is circulated by the Trustee;
- (e) for acting or refraining from acting in accordance with the instructions of the Securityholders under or in connection with any Transaction Document;
- (f) for any omission or delay in giving notice to any third party, making any filing or registration, obtaining any authorisation or perfecting the security constituted by the Security in any other way;
- (g) for any absence of, or defect in the title of the Company to any asset of the Company;
- (h) for the financial condition or solvency of the Company; or
- (i) for acting upon any direction or instruction purporting to have been given by a resolution of the Securityholders passed at a meeting of the Securityholders at which minutes were made and signed even though it may subsequently be found that there was some defect in the constitution of the meeting or the passing of the resolution or that for any other reason the resolution was not valid or binding upon any of those Securityholders whom it purports to bind or upon the Trustee.

No liability to Company

11.15 The Trustee has no liability or obligation to the Company or the Parent Company as a result of any failure or delay by any Securityholder, the Trustee or any other party in performing its respective obligations under any Transaction Document unless (in relation to an obligation of the Trustee) resulting directly from the gross negligence, wilful misconduct or fraud of the Trustee.

Exoneration

11.16 To the extent permitted by law, neither the Trustee nor any of its directors, officers, employees, agents, delegates, attorneys, Related Bodies Corporate or successors has any liability for any action taken or omitted to be taken under or in connection with the Transaction Documents unless resulting directly from its or their gross negligence, wilful misconduct or fraud.

No Claims

11.17 The Securityholders, the Parent Company and the Company each release the Trustee and any director, officer, employee, agent, delegate, attorney, Related Body Corporate or successor of the Trustee from any claim it may have against any of them for any matter referred to in clauses 11.14, 11.15 or 11.16.

Indemnity

11.18 To the maximum extent permitted by law, the Company unconditionally and irrevocably indemnifies the Trustee and its directors, officers, employees, agents, delegates, attorneys, Related Bodies Corporate or successors, from and against all Claims (including legal costs on a full indemnity basis) made against, or incurred by, the Trustee or its directors, officers, employees, agents, delegates, attorneys, Related Bodies Corporate or successors or incurred

by the Trustee in its capacity as trustee under or in connection with a Transaction Document including any Claim made or incurred as a result of any action taken or omitted to be taken by the Trustee its directors, officers, employees, agents, delegates, attorneys, Related Bodies Corporate or successors to protect or enforce the rights of the Securityholders or the Trustee.

- 11.19 The Trustee's right of indemnity under clause 11.18 does not apply to the extent that any Claim that results directly from the Trustee's gross negligence, wilful misconduct or fraud.
- 11.20 The Trustee's right of indemnity under clause 11.18 is in addition to any right of indemnity of the Trustee under any law.
- 11.21 The indemnities contained in this Deed in favour of the Trustee survive the retirement or removal of a trustee and continue in force in favour of a former trustee in respect of acts or omissions while it was Trustee.
- 11.22 The indemnities contained in this Deed apply despite any other provision of this Deed and any other Transaction Document and extend 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 any other Transaction Document.
- 11.23 No attorney or agent appointed in accordance with this Deed and any other Transaction Document has authority to act on behalf of the Trustee in a way which exposes the Trustee to any personal liability and no act or omission of any such person will be considered gross negligence, wilful misconduct or fraud for the purpose of clause 11.19.
- 11.24 The Trustee is not obliged to do or refrain from doing anything under this Deed and any other Transaction Document (including incur any liability) unless the Trustee's liability is limited in the same manner as set out in this clause.

Acknowledgment by Securityholders

- 11.25 Each Securityholder is taken to confirm for the benefit of the Trustee that:
 - (a) it has been, is and will continue to be solely responsible for:
 - (i) making its own analysis of and investigations into the creditworthiness, status, prospects, business, operations, assets and condition of the Company and any other person referred to in this Deed; and
 - (ii) making its own decisions to enter into or take or not take any action under the Transaction Documents;
 - (b) it has made its own assessment and approval of the return to be obtained by it under the Transaction Documents and the risks associated with the Notes; and
 - (c) it has not relied on any representation or statement made by the Trustee as an inducement to it entering into the Transaction Documents.

No obligation to keep informed

- 11.26 The Trustee has no obligation, either initially or on a continuing basis:
 - (a) to determine whether an Event of Default has occurred or any party is in breach of its obligations under any Transaction Document;
 - (b) to keep itself informed about the performance by any party of its obligations under the Transaction Documents;

- (c) to provide any Securityholder with any information it has or which comes into its possession concerning the Company or the Parent Company except as provided for in clause 11.27; or
- (d) to determine whether any representation, statement or warranty made by any party in, or in connection with, a Transaction Document is true.

11.27 The Company and the Parent Company authorises the Trustee to provide to any Securityholder any information about the Company or the Parent Company which it has or which comes into the possession of the Trustee, but the Trustee is not required to do so.

Trustee as Securityholder

11.28 In its capacity as a Securityholder, the Trustee has the same rights and powers as any other Securityholder and may exercise those rights and powers as if it were not acting as trustee.

Engage in business

11.29 The Trustee may engage in any form of business with the Company or any of its Related Bodies Corporate as if it were not the Trustee without having to account to the Securityholders for any benefit received by it arising out of that business.

11.30 The Trustee may accept fees and other consideration and reimbursement of expenses from the Company or any of its Related Bodies Corporate for services under the Transaction Documents or any other services, without any obligation to account to the Securityholders for any money received.

Limited recourse to Trustee

11.31 Subject to this Deed:

- (a) the Trustee acts, and incurs liabilities and has undertaken or will undertake all covenants, terms and conditions on its part in relation to the Trust and the Transaction Documents solely in its capacity as trustee of the Trust; and
- (b) the Trustee is not personally liable, and the Securityholders, the Parent Company and the Company have no recourse to the Trustee (in its personal capacity or as trustee of the Trust), for payment of:
 - (i) any amount payable by it under the Transaction Documents; or
 - (ii) any damages award for a breach of any of its obligations under the Transaction Documents,

other than to the extent that the Trustee obtains reimbursement from the Trust Fund.

11.32 Subject to this Deed, the Securityholders, the Parent Company and the Company must not take any step to:

- (a) have an administrator appointed to the Trustee;
- (b) have a Controller appointed to the Trustee, other than a receiver of only the Trust Fund or a part of it;
- (c) appoint or have appointed a liquidator or provisional liquidator of the Trustee;
- (d) apply to a court to propose a compromise or arrangement in respect of the Trustee;
- (e) have the Trustee wound up, or prove in a winding up of the Trustee;

- (f) obtain a judgment against the Trustee for the payment of money;
- (g) carry out any distress or execution on any property of the Trustee; or
- (h) exercise any:
 - (i) right of set-off;
 - (ii) right to combine or consolidate accounts; or
 - (iii) banker's lien,
 against the Trustee, other than in respect of the Trust Fund to which that Securityholder is entitled,

in connection with the Trustee's obligations under the Transaction Documents.

- 11.33 The parties other than the Trustee acknowledge that the whole of this Deed is subject to this clause 11.33 and the Trustee shall in no circumstances be required to satisfy any liability of the Trustee arising under, or for non-performance or breach of any Obligations under or in respect of, this Deed or under or in respect of any other Transaction Document out of any funds, property or assets other than the Assets of the relevant Trust Fund under the Trustee's control and in its possession as and when they are available to the Trustee to be applied in exoneration for such liability provided that if the liability of the Trustee is not fully satisfied out of the Assets of the relevant Trust Fund as referred to in this clause 11.33, the Trustee will be liable to pay out of its own funds, property and assets the unsatisfied amount of that liability but only to the extent of the total amount, if any, by which the Assets of the relevant Trust Fund have been reduced by reason of fraud, gross negligence or wilful misconduct by the Trustee in the performance of the Trustee's duties as trustee of the relevant Trust Fund.

In this clause the "Obligations" means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Trustee under or in respect of this Deed, and "Assets" includes all assets, property and rights real and personal of any value whatsoever.

- 11.34 The Securityholders and the Company have no rights against or recourse to any Protected Person in connection with the Trustee's obligations under the Transaction Documents.

Resignation and removal of Trustee

- 11.35 The Trustee may resign at any time by giving not less than 30 days' written notice to the Company.
- 11.36 On receiving notice of the resignation of the Trustee the Company may appoint a successor trustee. If the Company does not appoint a successor trustee within the 30 day notice period, the retiring Trustee may do so on its behalf or, at the direction of the Trustee, the Company must apply to the Court for the appointment of a successor trustee.
- 11.37 The Trustee may be removed by Securityholders by giving not less than 30 days' (unless the Trustee is Insolvent, in which case it may be immediate) written notice, such notice to be duly executed by Securityholders holdings Notes representing at least 50% of the Principal Monies of all the Notes on issue at the relevant time. Such notice must also provide for the appointment of a successor Trustee, whose appointment must have been consented to by the Company (such consent not to be unreasonably withheld).
- 11.38 The Trustee's resignation or removal does not take effect until a successor Trustee has been appointed and the successor Trustee has:

- (a) accepted the appointment in a manner which binds it to perform the obligations of the Trustee under the Transaction Documents; and
- (b) obtained legal title to the Trust Fund in its capacity as trustee.

11.39 On appointment of a successor Trustee:

- (a) the successor Trustee succeeds to and becomes vested with all the rights, powers, remedies, discretions and obligations of the retiring Trustee; and
- (b) the retiring Trustee is discharged from any further obligations under this Deed but remains entitled to and bound by any rights and obligations that have accrued up to the date of discharge.

11.40 After any retiring Trustee's resignation or removal, clauses 11.14 to 11.24 and 11.31 to 11.34 continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Trustee.

11.41 The retiring Trustee must provide to the successor Trustee such documents and assistance as it reasonably requires for the purpose of performing its functions as Trustee under the Transaction Documents.

11.42 The prior written consent of the Company must be obtained to the appointment of a successor Trustee. The Company must not unreasonably withhold its consent.

Protection of Trustee

11.43 The Trustee is not obliged to:

- (a) give any notice of this Deed or a Transaction Document to any debtor or member of the Company or to any other person; or
- (b) enforce payment of any money payable to the Company or take any steps or proceedings for that purpose.

11.44 Neither the Trustee nor any of its directors, officers, employees, agents, delegate or attorneys nor any Receiver is liable to any person for:

- (a) any omission or delay in taking any action referred to in clause 11.43; or
- (b) for any involuntary losses or irregularities which occur in or about the exercise or non-exercise of any powers, rights, remedies or discretions conferred on the Trustee or a Receiver by this Deed or a Transaction Document,

except and only to the extent that any loss is caused by the fraud, gross negligence or wilful misconduct of the Trustee or its directors, officers, employees, agents or attorneys or such Receiver.

11.45 A failure by the Trustee to comply with, or a breach by the Trustee of any of its obligations under any Transaction Document will not be considered to be gross negligence, wilful misconduct or fraud or breach of trust by the Trustee if the relevant failure or breach:

- (a) arose as a result of a breach by a person other than the Trustee of a Transaction Document where the performance of the action (the non-performance of which gave rise to such breach) is a precondition to the Trustee performing the said obligation;
- (b) was in accordance with a lawful court order or direction or otherwise required by law;

- (c) was in accordance with an instruction or direction of the Securityholders given, or purporting to have been given, at a meeting of Securityholders convened, or purporting to have been convened, in accordance with this Deed; or
- (d) arose as a result of the failure of the Securityholders or any of them to give instructions or directions required by this Deed or as a result of incomplete or ambiguous instructions or directions.

Nothing in this clause 11.45 limits the range of circumstances in which the Trustee will not be considered to have displayed gross negligence, wilful misconduct or fraud.

Trustee function

11.46 For the purposes of this Deed, as between the Company, the Parent Company, the Trustee and the Securityholders:

- (a) all demands on the Company for the payment or recovery of any money due to any Securityholder under a Transaction Document must be made by the Trustee or an Authorised Officer of the Trustee at the direction of the Securityholders;
- (b) all documents to be given to or by the Trustee and the Securityholders under this Deed must be given to or by the Trustee or an Authorised Officer of the Trustee alone; and
- (c) all rights conferred on the Trustee and the Securityholders under this Deed are exercisable through the Trustee or an Authorised Officer of the Trustee alone.

11.47 For the purposes of this Deed, the rights and duties of and to the Trustee and the Securityholders respectively as between themselves are governed by this Deed.

11.48 Notwithstanding anything else contained in clauses 11.46 to 11.49, the receipt of the Trustee or an Authorised Officer of the Trustee for any money payable to or receivable by the Trustee by virtue of this Deed constitutes a good and valid discharge against the Trustee and the Securityholders in respect of that money to any person dealing with the Trustee (including any attorney, any Receiver appointed by or on behalf of the Trustee and the Securityholders or any third party).

11.49 Notwithstanding anything else contained in clauses 11.46 to 11.49, no person dealing with the Trustee or any Authorised Officer of the Trustee, any attorney or any Receiver appointed by or on behalf of the Trustee and the Securityholders is:

- (a) bound or concerned or entitled to enquire into the validity of the exercise by the Trustee or any Authorised Officer of the Trustee of any rights by or on behalf of the Trustee or whether that exercise is in accordance with any agreement or arrangement between the Trustee and the Securityholders (whether under any Transaction Document or otherwise); or
- (b) affected by, or has its rights or obligations, whether arising under this Deed or in any other way, qualified or affected by, actual or constructive notice that any such exercise is not in accordance with any such agreement or arrangement.

Company not concerned with authority

11.50 The Company is not entitled or required to enquire as to whether any instructions have been given to the Trustee by the Securityholders or the extent of any instructions.

11.51 As between the Company and the Securityholders, all action taken by the Trustee under or in relation to the Transaction Documents is taken to be authorised by the Securityholders.

Trustee fee

- 11.52 The Company covenants with the Trustee that it will pay to the Trustee an annual fee of \$30,000 (exclusive of GST), payable quarterly in arrears or such other amount as agreed between the Company and the Trustee from time to time. The fees payable in accordance with this clause 11.52 will, commencing on the second anniversary of the date of execution of this Deed, be indexed annually in accordance with clause 11.53 to reflect any increase in the CPI. The payment of such fees must be made by the Company by transfer to such account nominated from time to time by the Trustee to the Company in writing or by such other means notified by the Trustee to the Company from time to time.
- 11.53 Commencing on the second anniversary of the date of execution of this Deed, the annual fee payable in accordance with clause 11.52 will be adjusted in accordance with the following formula provided that the annual fee must be no less than the annual fee payable in the preceding Year:

$$AAF = \frac{PAF \times CPI}{PCPI}$$

Where:

- (a) **AAF** means the adjusted annual fee as adjusted under this clause 11.53;
 - (b) **PAF** means the previous annual fee payable for the previous Year;
 - (c) **CPI** means the CPI last published before the expiration of the Year just ended; and
 - (d) **PCPI** means the previous CPI last published before the commencement of the Year just ended.
- 11.54 The Company covenants with the Trustee that it will pay to the Trustee:
- (a) if the Trustee takes any enforcement action in relation to any Transaction Document, on demand from the Trustee, such additional remuneration as shall be commensurate with any additional duties and responsibilities performed or undertaken by the Trustee in consequence of taking such enforcement action, as shall from time to time be agreed between the Company and the Trustee; and
 - (b) in the absence of agreement in relation to the additional remuneration referred to in clause 11.54(a) above, the Trustee shall be entitled to charge the Company reasonable hourly rates for time spent by the Trustee's officers and employees in relation to such enforcement action. Such hourly rates shall:
 - (i) reflect the level of expertise required to perform the work; and
 - (ii) be commensurate with and referable to the hourly rates charged at the relevant time by members of the Insolvency Practitioners Association of Australia for work of the kind being performed by the Trustee's officers and employees.
- 11.55 If the Trustee takes any action not covered by clause 11.54 that is (in the reasonable opinion of the Trustee) beyond the scope of work that a trustee of the Trust would ordinarily be expected to perform (having regard to the terms of this Deed), the Company must pay to the Trustee such reasonable additional remuneration as is commensurate with such additional duties and responsibilities as shall from time to time be reasonably agreed between the Company and the Trustee.

- 11.56 If the Trustee ceases to be the trustee during any year, it shall be entitled to receive for that year only that proportion of the relevant annual yearly fee that equates to the proportion of the year during which the Trustee acted as trustee.
- 11.57 The Company will pay to the Trustee on demand all costs, charges and expenses (including GST) reasonably and properly incurred by or on behalf of the Trustee, including reasonable remuneration of any experts or advisers employed by the Trustee in the administration of the trusts of this Deed from time to time (including legal costs on a full indemnity basis) including any variation to this Deed in priority to any claim by any Securityholder.
- 11.58 Subject to the terms of an escrow agreement or express agreement to the contrary, the Trustee may retain and pay to itself (in priority to any claim by Securityholders) all remuneration, payments or other amounts referred to in clauses 11.52 to 11.59 out of any moneys for the time being in its hands under the trusts of this Deed and/or the Trust Fund.
- 11.59 Where in any proceedings alleging any default of the Trustee there is a finding that the Trustee was in default, the Trustee must promptly repay to the Company any amount paid by the Company to the Trustee under clause 11.57 in connection with defending those proceedings, to the extent that those costs or expenses relate to the finding.

Expenses

- 11.60 The Company must indemnify the Trustee against, and must pay the Trustee on demand the amount of all reasonable costs, charges and expenses (including legal expenses on a full indemnity basis) properly incurred in connection with each of the following:
- (a) the execution, stamping and registration of this Deed and each other document relating to the Notes (including, but not limited to, an Issuance Document);
 - (b) the transactions that this Deed and each other document relating to the Notes (including, but not limited to, an Issuance Document) contemplates;
 - (c) any amendment to, or any consent, approval, waiver, release or discharge of or under, this Deed;
 - (d) the carrying out by the Trustee of any right, power, privilege, authority or discretion conferred expressly or impliedly on the Trustee or on any Securityholder by this Deed or any other document relating to the Notes (including, but not limited to, an Issuance Document);
 - (e) any breach or default in the observance or performance by the Company of any of its obligations under this Deed or any other document relating to the Notes (including, but not limited to, an Issuance Document);
 - (f) the convening and holding of any meeting of Securityholders or the carrying out of any directions or resolutions of any such meeting; and
 - (g) all actions taken under this Deed by the Trustee in order to comply with any notice, request or requirement of any government agency and any investigation by a government agency into the affairs of the Company.

Event of Default

- 11.61 If an Event of Default occurs, the Trustee may:
- (a) exercise any of its rights, remedies, powers or discretions under the Transaction Document;

- (b) exercise any of its powers under the Corporations Act; or
- (c) issue a default notice to the Company requiring that the default be immediately remedied to the satisfaction of the Trustee.

Limitations of Liability

11.62 This limitation of the Trustee's liability applies despite any other provisions of this Deed and extends to all Obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Deed.

- (a) The Trustee enters into this Deed as trustee of the Trust and in no other capacity.
- (b) The parties other than the Trustee acknowledge that the Trustee incurs the Obligations solely in its capacity as trustee of the Trust and that the Trustee will cease to have any obligation under this Deed if the Trustee ceases for any reason to be trustee of the Trust.
- (c) Subject to subclause 11.62(g), the Trustee, its officers or agents will not be liable to pay or satisfy any Obligations except out of the Assets against which it is actually indemnified in respect of any liability incurred by it as trustee of the Trust.
- (d) Subject to subclause 11.62(g), the parties other than the Trustee may enforce their rights against the Trustee arising from non-performance of the Obligations only to the extent of the Trustee's right of indemnity out of the Assets of the Trust.
- (e) Subject to subclause 11.62(g), if any party other than the Trustee does not recover all money owing to it arising from non-performance of the Obligations it may not seek to recover the shortfall by:
 - (i) bringing proceedings against the Trustee in its personal capacity; or
 - (ii) applying to have the Trustee put into administration or wound up or applying to have a receiver or similar person appointed to the Trustee or proving in the administration or winding up of the Trustee.
- (f) Subject to subclause 11.62(g), the parties other than the Trustee waive their rights and release the Trustee from any personal liability whatsoever, in respect of any loss or damage:
 - (i) which they may suffer as a result of any:
 - (A) breach by the Trustee of any of its Obligations; or
 - (B) non-performance by the Trustee of the Obligations; and
 - (ii) which cannot be paid or satisfied out of the Assets of which the Trustee is entitled to be indemnified in respect of any liability incurred by it as trustee of the Trust.
- (g) The parties other than the Trustee acknowledge that the whole of this Deed is subject to this clause 11.62 and the Trustee shall in no circumstances be required to satisfy any liability of the Trustee arising under, or for non-performance or breach of any Obligations under or in respect of, this Deed or under or in respect of any other document to which it is expressed to be a party out of any funds, property or assets other than the Assets of the Trust under the Trustee's control and in its possession as and when they are available to the Trustee to be applied in exoneration for such liability PROVIDED THAT if the liability of the Trustee is not fully satisfied out of

the Assets of the Trust as referred to in this clause 11.62, the Trustee will be liable to pay out of its own funds, property and assets the unsatisfied amount of that liability but only to the extent of the total amount, if any, by which the Assets of the Trust have been reduced by reasons of fraud, gross negligence or breach of trust by the Trustee in the performance of the Trustee's duties as trustee of the Trust.

- (h) Nothing in the aforementioned clause 11.62(g) shall make the Trustee liable to any claim for an amount greater than the amount which the Trustee would have been able to claim and recover from the assets of the Trust in relation to the relevant liability if the Trustee's right of indemnification out of the Assets of the Trust had not been prejudiced by the Trustee's failure to properly perform its duties.
- (i) The Parent Company, Company and each Securityholder acknowledge that it is responsible for performing a variety of obligations under this Deed and the Conditions of Issue. The parties agree that no act or omission of the Trustee (including any related failure to satisfy any Obligations) will constitute fraud, gross negligence or wilful default of the Trustee for the purposes of this clause 11.62 to the extent to which the act or omission was caused or contributed to by any failure of the Parent Company, Company, a Securityholder or any other person to fulfil its obligations relating to the Trust or by any other act or omission of the Parent Company, Company, a Securityholder or any other person.
- (j) No attorney, agent or other person 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 (except in accordance with the provisions of clause 11.62), and no act or omission of such a person will be considered fraud, gross negligence or wilful default of the Trustee for the purposes of this clause 11.62.
- (k) The Trustee is not obliged to do or refrain from doing anything under this Deed or the Conditions of Issue (including incur any liability) unless the Trustee's liability is limited in the same manner as set out in this clause 11.62.
- (l) In this clause the "Obligations" means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Trustee under or in respect of this Deed, and "Assets" includes all assets, property and rights real and personal of any value whatsoever.
- (m) The provisions of this clause 11.62:
 - (i) are paramount and apply regardless of any other provision of this Deed or the Conditions of Issue or any other instrument, even a provision which seeks to apply regardless of any other provision;
 - (ii) prevail in the event of any inconsistency;
 - (iii) survive and enure beyond any termination of this Deed for any reason; and
 - (iv) are not severable from this Deed.

12. Distribution of Recovered Monies

Order of distribution of Recovered Monies

- 12.1 All Recovered Monies must be distributed by the Trustee as soon as practicable after the Trustee receives the moneys in accordance with the Transaction Documents, in the order and proportions provided under the Transaction Documents. Notwithstanding the previous

sentence, any other provision of this Deed or any other Transaction Document, the Trustee is entitled to retain out of Recovered Monies any reasonable fees, costs, charges and expenses incurred and payments made by the Trustee under or in connection with this Deed that are payable to it, and any Claims incurred by it, under this Deed before distributing the remainder of the Recovered Monies in accordance with this clause.

Suspense account

- 12.2 Unless the Securityholders decide otherwise, any money recovered under a Transaction Document does not form part of the Recovered Monies for the purposes of clause 12.1 if that Transaction Document permits the money to be placed to the credit of a suspense account in order to preserve rights to prove in the bankruptcy or liquidation of any person. Any suspense account to which money is placed under this clause 12.2 must be an interest bearing account selected reasonably by the Trustee. Interest earned on the account is to be immediately treated as Recovered Monies in accordance with this Deed.

Contingent payments

- 12.3 If a Securityholder receives an amount under a Transaction Document on account of an amount contingently owing under a Transaction Document, and it transpires that the amount never becomes owing and payable, the Securityholder must promptly repay the amount received to the Trustee for distribution in accordance with this Deed.

13. Payment to Securityholders

- 13.1 Any interest, Principal Monies or other moneys payable on or in respect of any Notes may be paid:
- (a) by payment by "not negotiable" cheque sent through the post to the registered address of the holder or in the case of joint holders to the registered address of the first joint holder who is named in the Register in respect of such Notes. Every such cheque shall be sent at the risk of the person entitled to the moneys represented thereby; or
 - (b) by deposit to such account with any bank, credit union or building society as the Securityholder by written notice to the Company may direct.
- 13.2 If several persons are entered in the Register as joint holders of any Notes then the payment to any one of such persons for any distribution or other moneys payable on or in respect of such Notes shall be as effective a discharge to the Company (or the Trustee, as applicable) as if the person to whom payment is made were the sole registered holder of such Notes.
- 13.3 The Company and the Trustee shall be entitled to deduct and withhold from any payment to be made to a Securityholder, any amount which the Company or the Trustee is required to deduct or withhold in respect of such payment under any applicable taxation or other law.
- 13.4 If any withholding or deduction as described in paragraph 13.3 above is required by any law or regulation, the Company or the Trustee (as the case may be) will account to the relevant government authority for the amount required to be withheld or deducted and the Company or the Trustee (as the case may be) will not be obliged to pay any additional amounts to Securityholders in respect of such withholding or deduction.

14. Variation of Trust Deed

- 14.1 Subject to clause 14.2, and the ASX Listing Rules (to the extent applicable), this Deed may be amended, varied, modified or added to by notice given by the Company to all Securityholders

provided that the amendment, variation, modification or addition has been agreed to by Securityholders at a Meeting held in accordance with the provisions of this Deed by way of Special Resolution and provided the change does not alter any of the rights and obligations of the Trustee (without the Trustee's prior written consent).

- 14.2 The Company and the Trustee may by deed between them amend, vary, modify or add to this Deed without requiring the agreement or approval of Securityholders if in the opinion of the Trustee:
- (a) the change is necessary or desirable to correct an error or to comply with any law or to comply with the ASX Listing Rules;
 - (b) the change is of a formal or technical nature; or
 - (c) the change is not likely to be materially prejudicial to the interests of Securityholders.

15. Power of Attorney

Attorney

- 15.1 The Company and the Parent Company, as required, irrevocably appoint the Trustee, a Controller appointed by the Trustee, and their respective Authorised Officers severally as its attorneys to, after an Event of Default has occurred:
- (a) perform the obligations of the Company and the Parent Company under the Transaction Documents;
 - (b) in the name of the Company or the Parent Company or the attorney, do everything the attorney considers necessary or desirable to give full effect to a right, remedy or power of the Trustee or the Securityholders under a Transaction Document;
 - (c) execute, in the name of the Company or the Parent Company, any documents necessary to give full effect to a right, remedy or power of the Trustee or the Securityholders under a Transaction Document;
 - (d) appoint substitutes or delegate its powers (including this power of delegation) to any person for any period and revoke any substitution or delegation; and
 - (e) do everything that the Company may lawfully authorise an agent to do in respect of the Secured Property.
- 15.2 Any attorney of the Company or the Parent Company may exercise its powers even if the exercise of the power constitutes a conflict of interest or duty.
- 15.3 If required by the Trustee, the Company and the Parent Company must ratify anything an attorney or its delegate does in exercising its powers under this clause 15.
- 15.4 The Company and the Parent Company must sign and deliver to the Trustee any powers of attorney and other documents necessary to give full effect to the Trustee's rights under this Deed.

Completion of blanks

- 15.5 The Trustee and each Authorised Officer of the Trustee is authorised to fill in any blanks and otherwise complete any instruments executed by the Company and deposited with the Trustee in connection with this Deed.

16. Notices

Requirements

16.1 All notices must be:

- (a) in legible writing and in English;
- (b) addressed to the recipient in accordance with clauses 16.3 and 16.4 or to the address or facsimile number set out below or (in the case of the Trustee and/or the Company and/or the Parent Company) to any other address or facsimile number that a party may notify to the other:

to the Company:

Address: Level 27, 420 George Street, Sydney NSW 2000

Attention: Company Secretary

Facsimile No: (02) 8243 0880

E-mail address: pmcapital@pmcapital.com.au

to the Trustee:

Address: Level 1, 575 Bourke Street, Melbourne VIC 3000

Attention: Sten Silavecky, Senior Manager Structured Finance & Property

Facsimile No: (03) 8623 5200

E-mail address: ssilavecky@eqt.com.au

- (c) signed by the party, or where the sender is a company, by an Authorised Officer or under the common seal of the sender;
- (d) sent to the recipient by hand, prepaid post (airmail if to or from a place outside Australia) or facsimile; and
- (e) sent in electronic form (such as email).

Receipt

16.2 Without limiting any other means by which a party may be able to prove that a notice has been received by the other party, a notice will be considered to be received:

- (a) if sent by hand, when left at the address of the recipient;
- (b) if sent by pre-paid post, 3 days (if posted within Australia to an address in Australia) or 10 days (if posted from one country to another) after the date of posting;
- (c) if sent by facsimile, on receipt by the sender of an acknowledgment or transmission report generated by the sender's machine indicating that the whole facsimile was sent to the recipient's facsimile number;
- (d) if sent in electronic form, when the sender receives an email message from its addressee acknowledging its receipt:
 - (i) if it is transmitted by 5.00 pm (local time in the place of receipt) on a Business Day – on that Business Day; or

- (ii) if it is transmitted after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day),

but if a notice is served by hand, or is received by the recipient's facsimile on a day which is not a Business Day, or after 5:00 pm (recipient's local time) on a Business Day, that notice will be considered have been received by the recipient at 9:00 am on the next Business Day.

Notices to Securityholders

- 16.3 All notices to Securityholders may be given by the Trustee and sent by prepaid post addressed to the Securityholder to the address set out in the Register for that Securityholder.
- 16.4 Failure to give a notice to, or non-receipt of a notice by, any Securityholder does not invalidate any resolution or proceeding to which the notice relates.

17. General provisions

No merger

- 17.1 No Transaction Document merges, discharges, postpones or adversely affects in any other way the rights, remedies or powers of the Trustee or any Securityholder under any other Transaction Document.
- 17.2 Nothing in any Transaction Document merges, discharges, postpones or adversely affects in any other way a Security or any of the rights, remedies or powers of the Trustee or any Securityholder against any person.
- 17.3 If a judgment is made in favour of the Trustee or any Securityholder against the Company, the Trustee holds the judgment as security collaterally with the Transaction Documents and no Transaction Document merges in the judgment.

Further assurances

- 17.4 The Company and the Parent Company must, at their own expense, whenever requested by the Trustee, promptly do or cause to be done anything which the Trustee considers necessary or desirable to:
 - (a) give full effect to a Transaction Document; or
 - (b) more fully secure the rights, remedies and powers of the Trustee under a Transaction Document,including signing and delivering documents.

Statutory powers

- 17.5 The powers of the Trustee under this Deed are in addition to any powers the Trustee has under applicable law.

Waiver and exercise of rights

- 17.6 A waiver by the Trustee of a provision of or of a right under a Transaction Document is binding on the Trustee only if it is given in writing and is signed by the Trustee or an Authorised Officer of the Trustee.
- 17.7 A waiver is effective only in the specific instance and for the specific purpose for which it is given.

- 17.8 A single or partial exercise, or non-exercise, of a right by the Trustee does not prevent another exercise, attempted exercise or non-exercise of that right or the exercise, or non-exercise, of another right.
- 17.9 Failure by the Trustee to exercise or delay in exercising a right does not prevent its exercise or operate as a waiver.
- 17.10 The Trustee is not liable for any loss, cost or expense of the Company and the Parent Company caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

Operation of this Deed

- 17.11 Subject to clause 17.12, this Deed contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this Deed and has no further effect.
- 17.12 Any right that the Trustee may have under this Deed is in addition to, and does not replace or limit, any other right that the Trustee may have.

Void or voidable transactions

- 17.13 If:
- (a) **(release of the Company)** the Trustee has at any time released or discharged the Company from its obligations under this Deed in reliance on a payment, receipt or other transaction to or in favour of the Trustee or a Securityholder or any payment or other transaction to or in favour of the Trustee or a Securityholder has the effect of releasing or discharging the Company from its obligations under this Deed;
 - (b) **(payment void)** that payment, receipt or other transaction is subsequently claimed by any person to be void, voidable or capable of being set aside for any reason, including under any law relating to insolvency or the winding up of companies or under the general law; and
 - (c) **(claim upheld)** that claim is upheld or the claim is conceded or compromised by the Trustee or a Securityholder,
- then:
- (d) **(restitution of rights)** the Trustee and each Securityholder will immediately become entitled against the Company to all rights as it had immediately before that release or discharge;
 - (e) **(restore position)** the Company must immediately do all things and execute all documents as the Trustee may reasonably require to restore to the Trustee and each Securityholder all those rights; and
 - (f) **(indemnity)** the Company must indemnify the Trustee and each Securityholder against costs, losses and expenses suffered or incurred by the Trustee or a Securityholder in or in connection with any negotiations or proceedings relating to the claim or as a result of the upholding, concession or compromise of the claim.

Untraceable Securityholders

- 17.14 Subject to applicable law and the Listing Rules, where the Company:
- (a) is, in respect of a Note, required to pay any amount to a Securityholder; and

- (b) has made reasonable efforts to locate a Securityholder but is unable to do so, then that amount:
 - (i) if the amount has been paid to the Trustee and the Trustee has actual possession and control of such amount, must be repaid by the Trustee to the Company; and
 - (ii) is to be held by the Company for the Securityholder in a non-interest bearing deposit with a bank selected by the Company until the Securityholder, or any legal personal representative of the Securityholder, claims the amount or the amount is paid by the Company according to the legislation relating to unclaimed amounts.

The Trustee is not liable to any Securityholder for any amounts paid to the Company under this clause 17.14. The Company indemnifies the Trustee for any and all costs, losses, liabilities, expenses demands or claims suffered or incurred by the Trustee in respect of any moneys paid to the Company under this clause 17.14.

Invalid or unenforceable provisions

17.15 If a provision of a Transaction Document is invalid or unenforceable in a jurisdiction:

- (a) it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability; and
- (b) that fact does not affect the validity or enforceability of:
 - (i) that provision in another jurisdiction; or
 - (ii) the remaining provisions

Trustee's certificate

17.16 A certificate signed by an Authorised Officer of the Trustee stating an amount due, owing or payable or a rate or any other matter for the purpose of a Transaction Document is, in the absence of manifest error, conclusive and binding.

Counterparts

17.17 This Deed may be signed in counterparts and all counterparts taken together constitute one document.

Successors and assigns

17.18 This Deed is binding on, and for the benefit of, the parties to this Deed and their respective successors and permitted assigns.

17.19 The Company and the Parent Company must, at their own expense, within 5 Business Days of written demand by the Trustee, execute and cause its successors to execute any instrument which imposes no greater obligations on the Company and the Parent Company than those contained in this Deed, and do everything reasonably necessary, to bind its successors to this Deed.

Governing law

17.20 This Deed is governed by the laws applying in New South Wales.

Jurisdiction

17.21 The Company irrevocably and unconditionally:

- (a) submits to the non-exclusive jurisdiction of the courts of the New South Wales; and
- (b) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

Execution

Executed as a deed.

Signed sealed and delivered
for and on behalf of **PM Capital GO 2025 Limited**
by a director and secretary/director:

Signature of director

Signature of secretary/director

Name of director (please print)

Name of secretary/director (please print)

Signed sealed and delivered
for and on behalf of **PM Capital Global Opportunities Fund Limited**
by a director and secretary/director:

Signature of director

Signature of secretary/director

Name of director (please print)

Name of secretary/director (please print)

Executed by Equity Trustees Limited ABN 46 004 031 298 in its capacity as trustee of the PM Capital GO 2025 Trust by its attorneys under power of attorney dated 27 May 2016 in the presence of:

Signature of witness

Signature of attorney

Name of witness (please print)

Name and office of attorney (please print)

Signature of attorney

Name and office of attorney (please print)

Annexure 1

Conditions of Issue of Notes

1 Definitions

ASX means ASX Limited or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.

ASX Settlement means ASX Settlement Pty Ltd, the body which administers the CHESS system in Australia.

ASX Settlement Operating Rules means the settlement operating rules of ASX Settlement.

Business Day means a day on which Banks are open for business in Sydney other than a Saturday, a Sunday or a public holiday.

Calculation Date means the date on which the Company and Parent Company (acting reasonably) calculate the:

- NTA Before Tax Plus Franking Credits per Note; and
- NTA Before Tax Plus Franking Credits per Share,

being a date which is not more than three days before the Exchange Date.

Capital Amount means the Issue Price credited to the Company's non share capital account (less any return of capital paid to Securityholders and debited to this account).

Change in Control Event has the meaning given in Condition 3.7.

Change in Control Exchange Date has the meaning given in Condition 3.7.

Company means PM Capital Go 2025 Limited ACN 623 887 825.

Conditions means the conditions contained in this Annexure 1 Conditions of Issue of Converting Notes.

Corporations Act means the *Corporations Act 2001* (Cth).

Distribution means distributions which are paid on the Notes, other than the Redemption Price.

Distribution Payment Date means a date or dates determined at the discretion of the board of the Company between the Issue Date and the Maturity Date.

Distribution Payment Amount means distribution(s) per Note, determined at the discretion of the board of the Company, for each Distribution Payment Date, but, which cannot:

- exceed the Target Distribution; and
- have a frequency of greater than semi-annual.

Exchange means the exchange of a Note upon triggering the Exchange Right attached to the Note as a result of not exercising the Redemption Right.

Exchange Date means subject to any relevant Condition, the earlier of:

- the Maturity Date; or
- the Change in Control Exchange Date.

Exchange Rate means the rate of Exchange of each Note into Shares calculated as:

NTA Before Tax Plus Franking Credits per Note divided by
NTA Before Tax Plus Franking Credits per Share,

with the final number of Shares issued to each Securityholder being rounded down to nearest whole number of Shares having regard to the number of Notes converted by that Securityholder, with any benefit from this rounding (if any) going to the benefit of Parent Company.

The Exchange Rate is calculated on the Calculation Date.

Exchange Right means the right to have a Note convert into Shares in accordance with these conditions.

Final Distribution means amount per PTrackERS equal to the greater of:

- a. NTA After Tax Liabilities But Before Tax Assets per PTrackERS – Capital Amount;
and
- b. Zero.

Investment Manager means PM Capital Limited ABN 69 083 644 731.

Issue Date means the date of issue of the Notes.

Issue Price means the fully paid price at which paid Notes are issued by the Company.

Listing Rules means the ASX Listing Rules.

Maturity Date means 30 June 2025, or, if this is not a Business Day, the last Business Day prior to 30 June 2025 on which the Banks and the ASX are both open for trading in New South Wales.

Net Tangible Assets Before Tax Plus Franking Credits or NTA Before Tax Plus Franking Credits means:

- a. in the case of the Company, total assets; less, intangible assets (including deferred tax assets); less, all liabilities, other than tax liabilities and amounts owing to Securityholders; less, common equity paid up capital prior to the issue of the Notes; plus, franking credits.
- b. in the case of the Parent Company, total assets; less, intangible assets (including deferred tax assets); less, all liabilities, other than tax liabilities; plus, franking credits.

NTA After Tax Liabilities But Before Tax Assets means total assets of the Company; less, intangible assets (including deferred tax assets); less, all liabilities (including tax liabilities), other than amounts owing to Securityholders; less, common equity paid up capital prior to the issue of the Notes.

Note(s) means, at any time, so many of these exchanging notes created and issued by the Company under these Conditions of Issue (and generally referred to in the Prospectus as PTrackERS).

Parent Company means PM Capital Global Opportunities Fund Limited. The Parent Company is the owner of 100% of the ordinary shares of the Company.

Redemption Price means the lesser of:

- a. Capital Amount less \$0.01 per redeeming Note; or
- b. the NTA After Tax Liabilities But Before Tax Assets per redeeming Note.

Redemption Right means the right of the Securityholder to redeem a Note in accordance with these Conditions including Conditions 3.1 to 3.7 and 3.16

Securityholder or **holder of Securities** or **holder of PTrackERS** means, in relation to any of the Notes at any time, the person registered in the Register as the holder of those Notes.

Shares means fully paid ordinary shares in the capital of the Parent Company.

Target Distribution means 2% multiplied by the average of the previous 6 month end NTA After Tax Liabilities But Before Tax Assets per Note prior to declaration of the distribution.

Trust Deed means the trust deed dated _____ 2018 between the Company and the Trustee setting out further rights and obligations of the Company, the Trustee and Securityholders.

- (a) **Taxable Profits** means the amount by which: the market value of the Company's assets exceeds the total amount of its liabilities (other than Capital Amount liabilities owing to Securityholders) and share capital (as shown in the Company's books of account) and Capital Amount; and
- (b) will not be debited to the Company's share capital account.

Trustee means Equity Trustees Limited ABN 46 004 031 298 or such other entity appointed as trustee pursuant to the Trust Deed from time to time.

2 General Terms of Issue

Terms of Issue

2.1 Each of the Notes:

- (a) shall have an issue price of \$1.40;
- (b) shall be paid for in full on application;
- (c) subject to Condition 3.9, shall exchange in the manner and at the times provided by Condition 3 into Shares at the Exchange Rate;
- (d) shall be redeemed by the Company in the manner and at the times provided by Conditions 3.2 to 3.7 and 3.16 if a redemption election is made under Condition 3.1;
- (e) may pay Distributions on the basis set out in Conditions 3.19 to 3.21 (provided that any distributions cease to be payable from the Exchange Date); and
- (f) shall be initially quoted on ASX, and subject to these Conditions, the Company will use its best endeavours to maintain the listing of Notes (as a class) on ASX until the Maturity Date.

2.2 The Notes shall not:

- (a) be underwritten;
- (b) give the Securityholder a right to a dividend reinvestment plan;
- (c) give the Securityholder a right to early exchange, other than in relation to a Change of Control Exchange Date;
- (d) be offered to investors not Australian residents or domiciled in Australia, except where required by ASX Listing Rule 7.7 to be offered to New Zealand domiciled investors.

- 2.3 The Company covenants to not pay or record any dividend in respect of the ordinary shares of the Company while the Notes remain outstanding.

Status

- 2.4 The Notes:
- (a) constitute unsecured obligations of the Company;
 - (b) confer contractual rights on the Securityholders as set out in these Conditions and the Trust Deed;
 - (c) do not confer on Securityholders any right as a member or shareholder of the Company, including voting rights (other than in voting relating to the Notes); and
 - (d) confer on Securityholders a right to be given copies of all documents sent by the Company to shareholders (whether in connection with a general meeting of shareholders or otherwise).
- 2.5 Each Securityholder by accepting an issue of Notes:
- (a) agrees to be bound by these Conditions and the provisions of the Trust Deed; and
 - (b) acknowledges that it has contractual rights against the Company as set out in these Conditions but that the Notes do not (until Exchange) confer any right as a member of the Company or of the Parent.
- 2.6 The Notes will be unsecured and will rank equally with all other unsecured creditors of the Company and will rank ahead of the ordinary shares of the Company.

3 Exchange and Redemption

Redemption

- 3.1 Each Securityholder has the right to elect, at any time between 90 days and 21 days prior to the Maturity Date, to have their Notes redeemed by the Company on the Maturity Date ("**Redemption Right**").
- 3.2 If a Securityholder elects to redeem a Note, subject to the Conditions:
- (a) on the Maturity Date, but prior to redemption, a Final Distribution may be paid, subject to the Company having sufficient Taxable Profits to pay the Final Distribution. This Final Distribution, if paid, will be franked to the extent that the Company has sufficient franking credits; and
 - (b) following the Final Distribution, if any, the Note will be redeemed for the Redemption Price.
- 3.3 The payment of the Final Distribution is subject to the absolute discretion of the board of the Company and if paid is only payable to those Securityholders that have elected to redeem.
- 3.4 If all or any of the Final Distribution is not paid because of a Condition, the Company has no liability to pay the unpaid amount of the Final Distribution.
- 3.5 Any Final Distribution and the Redemption Price are payable within 10 Business Days after the Maturity Date.

- 3.6 Any Notes for which a redemption request has not been received between 90 days and 21 days prior to the Maturity Date will be automatically exchanged in accordance with the Exchange Right on the Maturity Date.

Early Exchange and Redemption – Change of Control

- 3.7 At all times prior to the Maturity Date, Securityholders holding in aggregate at least 5% of outstanding Notes will be able to call a meeting to vote for early exchange or redemption in the event that:

- (a) a takeover bid within the meaning of the Corporations Act is made for the Shares and the bidder acquires a relevant interest in 50% of the Shares and the bid is declared unconditional; or
- (b) a court orders a meeting to be held in relation to a proposed scheme of arrangement in relation to the Parent Company the effect of which is that a person will acquire a relevant interest in at least 90% of the Shares and the Parent Company's shareholders pass the resolution by the requisite majorities; or
- (c) the Investment Manager is terminated or substituted; or
- (d) the Parent Company and/or the Notes are delisted from the ASX,

(each a "**Change in Control Event**")

Any such resolution must be passed by greater than 50% of Notes on issue and if passed, the date 90 days after such passage, will be an early Exchange Date ("**Change in Control Exchange Date**").

Each Securityholder has the right to elect, at any time between 90 days and 21 days prior to the Change in Control Exchange Date, to have their Notes redeemed by the Company on the Change in Control Exchange Date (also a "Redemption Right"). The redemption and exchange process will then follow that outlined in Conditions 3.2 to **Error! Reference source not found.** above, except the Maturity Date will be replaced by the Change in Control Exchange Date, noting that if no redemption notice is received by the Company from the Securityholder exercising their Redemption Right, Notes will automatically be exchanged in accordance with Exchange Rights into Shares on the Change in Control Exchange Date.

Right to participate in new issues of ordinary shares of the Company

- 3.8 Securityholders are not entitled to participate in any future issues of ordinary shares in the Company.

Exchange for Shares

- 3.9 The Parent Company covenants with each Securityholder that in exchange for the Notes it will issue Shares for the Notes in respect of Securityholders which have not exercised Redemption Rights and as such have automatically elected to exercise Exchange Rights, at the Exchange Rate on the relevant Exchange Date (as applicable).
- 3.10 Upon the automatic exercise of a Exchange Right in respect of a Note, the Securityholder will be deemed to have, on the relevant Exchange Date:
- (a) applied for such number of Shares as will be issued upon the exchange of those Notes at the Exchange Rate; and

- (b) Nominated to transfer to the Parent Company each Note in respect of which an automatic exercise of a Exchange Right has occurred, in consideration for the Shares issued to the Securityholder under (a).

3.11 All Shares issued upon exchange of Notes will rank in all respects equally with the then existing Shares and will rank for dividends declared by the Parent Company on its Shares after the Exchange Date of the Notes.

3.12 After the issue of such Shares, if the Parent Company is listed on the ASX, the Parent Company will apply for quotation of such Shares on the ASX to allow them to be traded.

Costs of Exchange and listing

3.13 Except as otherwise stated in these Conditions, the Parent Company will pay the expenses (but excluding any taxes or stamp duties for which the holders of Shares would ordinarily be liable) of the issue of, and all expenses of obtaining a listing for, Shares issued on Exchange.

Exchange Right warranties

3.14 The Company and the Parent Company must, whilst there are any Notes:

- (a) **Listing:** subject to these Conditions, use its best endeavours to:
 - (i) maintain a listing for all the Shares on the ASX;
 - (ii) obtain and maintain a listing on the ASX for all the Shares issued on the exercise of any of the Exchange Rights;
 - (iii) obtain and maintain a listing for all the Shares issued on the exercise of any of the Exchange Rights on any other stock exchanges on which any other Shares are then listed; and
 - (iv) promptly give to the Securityholders notice of the delisting of the Shares (as a class) by the ASX, or any other stock exchange on which they are listed from time to time;
- (b) **Exchange to ordinary shares:** ensure that all Shares issued upon Exchange will be duly and validly issued, fully paid and registered in the name of the Securityholder; and
- (c) **Consents:** use its best endeavours to obtain, as and when required, and having once obtained, maintain, all necessary governmental and regulatory consents to enable:
 - (i) the Parent Company to allot and issue the Shares to be issued upon exchange of the Notes; and
 - (ii) the Company to make all payments required to be made by it in respect of the Notes.

Bound by Constitution

3.15 Each Securityholder acknowledges that on the issue of Shares on the exercise of the Exchange Right, the Securityholder will be bound by the Constitution of the Parent Company in so far as it relates to Shares.

Redemption of Notes held by Parent Company

3.16 Following an Exchange Date, the Parent Company will have all rights to elect to have their Notes redeemed by the Company on a date to be specified by the Parent Company (also, a

"Redemption Right"). The redemption process will then follow that outlined in Conditions 3.2 to 3.5 above, except the Maturity Date will be replaced by a date to be nominated by the Parent Company.

- 3.17 Should the Parent Company elect to have the Notes redeemed by the Company under Condition 3.16, the Company may transfer assets to Parent Company rather than pay cash or part of the cash otherwise payable to Parent Company in respect of the Redemption Right.

Redemption on External Administration

- 3.18 If the Company or Parent Company becomes an externally-administered body corporate (within the meaning of the Corporations Act) and notwithstanding any other provision of these Conditions, there will be automatic early Redemption, with the Redemption to occur within 10 Business Days (and any other future entitlements to Exchange or Redemption shall thereupon cease).

Distributions

- 3.19 Except in the case of a Final Distribution, at each Distribution Payment Date (which will be used for record date purposes) the board of the Company will determine at its discretion whether or not:
- (a) subject to the Company having Taxable Profits, a Distribution will be paid out of Taxable Profits of the Company; and/or
 - (b) a Distribution will be paid as a return of Capital Amount in respect of the Notes, with the total Distributions payable (if any) equal to the Distribution Payment Amount.
- 3.20 Amounts described in Condition 3.19 will be payable by the Company within 20 Business Days of each Distribution Payment Date (provided that the amounts cease to be payable from any earlier date that Exchange occurs).
- 3.21 Distributions paid out of Taxable Profits as described in Condition 3.19 will be franked to the maximum extent possible.

4 Title to Notes

- 4.1 Except as ordered by a court of competent jurisdiction or as required by law, the Company:
- (a) may treat the registered holder of any Note as the absolute owner (notwithstanding any notice of ownership or writing on the Note or any notice of previous loss or theft or of any trust or any other interest);
 - (b) is not required to obtain any proof of ownership and is not required to verify the identity of the registered holder; and
 - (c) is not required to recognise or give effect to any legal or equitable interest in any Note not entered on the Register notwithstanding that the Company may have actual or constructive notice thereof.

5 Transfer of Notes

- 5.1 The Notes are transferable at any time.
- 5.2 Subject to these Conditions and the Trust Deed and unless the Corporations Act, ASX Settlement Operating Rules or Listing Rules require otherwise, a Securityholder will be entitled to transfer their Notes or any part thereof by lodging with the Company at the address of the

Register on which the Securityholder's Notes are for the time being recorded, a proper instrument of transfer duly stamped if necessary, executed by the transferor and executed by the transferee. No fee will be charged for the registration of a transfer.

- 5.3 The transferor shall be deemed to remain the owner of the Notes until the name of the transferee is entered in the Register in respect thereof.
- 5.4 Any person becoming entitled to Notes in consequence of the death or bankruptcy of any holder of such Notes, may, upon producing evidence or of the Securityholder's title as the Directors shall think sufficient, be registered as the holder of such Notes.

6 Non-Redeemable

- 6.1 The Notes are not redeemable at the option of the Company in any circumstance, unless:
- (a) required under any law or Listing Rules;
 - (b) in accordance with Clause 3.16; or
 - (c) if the Parent Company is delisted from the ASX.

7 Payment to Securityholders

- 7.1 Any distribution shall be paid in accordance with the Trust Deed.
- 7.2 If several persons are entered in the Register as joint holders of any Notes then without prejudice to the last preceding Condition, the payment to any one of such persons for any moneys payable on or in respect of such Notes shall be as effective a discharge to the Company as if the person to whom payment is made were the sole registered holder of such Notes.
- 7.3 The Company shall be entitled to deduct and withhold from any payment to be made to a Securityholder, any amount which the Company is required to deduct or withhold in respect of such payment under any applicable taxation or other law.

8 Notices

- 8.1 A notice given to a Securityholder pursuant to a provision of these Conditions shall be in writing or electronic form and may be given to a Securityholder by being delivered to him by e-mail, facsimile, or posted in a pre-paid envelope and addressed to the address appearing in the register or to such other address as he has notified the Company in writing.
- 8.2 A notice given to any one of joint Securityholders is sufficient notice to all of those joint Securityholders.

9 Variation of Conditions

- 9.1 These Conditions may be amended, varied, modified or added to in accordance with the terms set out in the Trust Deed.

10 Trustee's Power to Enforce

- 10.1 Without limiting the rights and discretion of the Trustee under the Trust Deed, the Trustee may at its discretion and without further notice institute such proceedings against the Company and the Parent Company as it may think fit to enforce any obligation, condition or provision binding on the Company and the Parent Company under the Trust Deed and these Conditions.

11 Conditions Binding on Parties and Successors

- 11.1 These Conditions and the provisions of the Trust Deed shall be binding on the Company the Parent Company, the Trustee and the Securityholders and all persons claiming through or under them respectively. These Conditions shall be governed by and construed in accordance with the laws of New South Wales.