

17 June 2022

ASX Announcement

Escrow transfers of PYBAR consideration shares

Pursuant to the terms of voluntary escrow previously announced on 7 September 2021 in relation to the PYBAR acquisition and outlined in the 2021 Notice of Annual General Meeting, the Seller entities, Nucanopi Pty Ltd as trustee of The Rouse Family Trust (**Nucanopi**) and Brencon Pty Ltd as trustee of The Brendan Rouse Family Trust (**Brencon**), have transferred a total of 1,145,000 Metarock Group Limited ("MYE") shares to key employees of Pybar Mining Services. 765,000 MYE shares were transferred by Nucanopi and 380,000 MYE shares were transferred by Brencon.

As contemplated in those previously announced terms, MYE consented to those transfers on the condition that the transferred shares continue to be held in voluntary escrow for the balance of the 12 month escrow period expiring on 5 November 2022. The transferees have accordingly entered into voluntary escrow deeds with MYE for that balance escrow period.

The following are enclosed:

- Appendix 3Y - Change of Director's Interest Notice for Mr Paul Rouse;
- Substantial Shareholder Notice - noting MYE's deemed relevant interest in the shares the subject of the voluntary escrow arrangements.

Further information:

Tony Caruso – Chief Executive Officer: (07) 4963 0400

Brett Maff – Chief Financial Officer/Company Secretary: (07) 4963 0400



Appendix 3Y - Paul Rouse

Metarock Group Limited: Level 1 Riverside Plaza, 45 River Street, Mackay QLD 4740 // PO Box 1671, Mackay QLD 4740

Email: communication@metarock.com.au **Phone:** (07) 4963 0400 **www.metarock.com.au**

ABN: 96 142 490 579

Appendix 3Y

Change of Director's Interest Notice

Information or documents not available now must be given to ASX as soon as available. Information and documents given to ASX become ASX's property and may be made public.

Introduced 30/09/01 Amended 01/01/11

Name of entity	METAROCK GROUP LIMITED
ABN	96 142 490 579

We (the entity) give ASX the following information under listing rule 3.19A.2 and as agent for the director for the purposes of section 205G of the Corporations Act.

Name of Director	Paul Spencer Rouse
Date of last notice	3 December 2021

Part 1 - Change of director's relevant interests in securities

In the case of a trust, this includes interests in the trust made available by the responsible entity of the trust

Note: In the case of a company, interests which come within paragraph (i) of the definition of "notifiable interest of a director" should be disclosed in this part.

Direct or indirect interest	1. Direct
Nature of indirect interest (including registered holder) Note: Provide details of the circumstances giving rise to the relevant interest.	2. Nucanopi Pty. Limited ACN 062 621 756 as trustee for the Rouse Family Trust in which Mr Rouse has an indirect interest 3. Rovest Holdings Pty Ltd ACN 144 787 833 as trustee for the March Pines Super Fund in which Mr Rouse has an indirect interest
Date of change	17 June 2022
No. of securities held prior to change	1. nil 2. 14,002,186 3. 1,336,475
Class	Ordinary fully paid shares (MYE)
Number acquired	
Number disposed	2. 765,000
Value/Consideration Note: If consideration is non-cash, provide details and estimated valuation	Nil cash consideration

+ See chapter 19 for defined terms.

Appendix 3Y

Change of Director's Interest Notice

No. of securities held after change	1. nil 2. 13,237,186 3. 1,336,475
Nature of change Example: on-market trade, off-market trade, exercise of options, issue of securities under dividend reinvestment plan, participation in buy-back	Off-market transfer

Part 2 – Change of director's interests in contracts

Note: In the case of a company, interests which come within paragraph (ii) of the definition of “notifiable interest of a director” should be disclosed in this part.

Detail of contract	Not applicable
Nature of interest	
Name of registered holder (if issued securities)	
Date of change	
No. and class of securities to which interest related prior to change Note: Details are only required for a contract in relation to which the interest has changed	
Interest acquired	
Interest disposed	
Value/Consideration Note: If consideration is non-cash, provide details and an estimated valuation	
Interest after change	

Part 3 – ⁺Closed period

Were the interests in the securities or contracts detailed above traded during a ⁺closed period where prior written clearance was required?	No
If so, was prior written clearance provided to allow the trade to proceed during this period?	
If prior written clearance was provided, on what date was this provided?	

⁺ See chapter 19 for defined terms.



Substantial Shareholder Notice - MYE

Metarock Group Limited: Level 1 Riverside Plaza, 45 River Street, Mackay QLD 4740 // PO Box 1671, Mackay QLD 4740

Email: communication@metarock.com.au **Phone:** (07) 4963 0400 **www.metarock.com.au**

ABN: 96 142 490 579

Form 603
Corporations Act 2001
Section 671B

Notice of initial substantial holder

To Company Name/Scheme Metarock Group Limited (MYE)

ACN/ARSN 142 490 579

1. Details of substantial holder (1)

Name MYE (and its subsidiaries named in paragraph 7)

ACN/ARSN (if applicable) See paragraph 7

The holder became a substantial holder on 5/11/2021 (Pursuant to voluntary escrow arrangements outlined in the PYBAR acquisition announcement on 7 September 2021 and in the Notice of Annual General Meeting dated 1 October 2021)

2. Details of voting power

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

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
ORD	23,209,325	23,209,325	17.72%

3. Details of relevant interests

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

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
MYE (and its subsidiaries named in paragraph 7)	Restrictions on the disposal of shares under the voluntary escrow arrangements outlined in the PYBAR acquisition announcement on 7 September 2021 and in the Notice of Annual General Meeting dated 1 October 2021, giving MYE a deemed relevant interest in its own shares under section 608(1)(c) of the Corporations Act. See Escrow Deeds in Annexure A. These are disposal restrictions only and MYE does not have a right to acquire these shares or to exercise, or control the exercise of, a right to vote attached to these shares.	23,209,325 ordinary shares

4. Details of present registered holders

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

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
MYE	Nucanopi Pty Ltd ACN 062 621 756 as trustee for the Rouse Family Trust	Nucanopi Pty Ltd ACN 062 621 756 as trustee for the Rouse Family Trust	14,002,186 ordinary shares
MYE	Brencon Pty Ltd ACN 088 963 197 as trustee for the Brendon Rouse Family Trust	Brencon Pty Ltd ACN 088 963 197 as trustee for the Brendon Rouse Family Trust	7,002,253 ordinary shares
MYE	ALAR Investments (NSW) Pty Ltd ACN 602 695 189 as trustee of the ALAR Family Trust	ALAR Investments (NSW) Pty Ltd ACN 602 695 189 as trustee of the ALAR Family Trust	2,204,886 ordinary shares

5. Consideration

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

Holder of relevant interest	Date of acquisition	Consideration (9)	Class and number of securities
MYE	No consideration paid by MYE under the voluntary escrow deeds, which provide for restrictions on disposal of the shares by the holder.		

6. Associates

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

Name and ACN/ARSN (if applicable)	Nature of association
The persons named in paragraph 7	Subsidiaries of MYE

7. Addresses

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

Name	Address
MYE	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Mastermyne Engineering Pty Ltd ACN 122 455 707	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Mastermyne Underground Pty Ltd ACN 104 743 795	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Mastermyne Underground NNSW Pty Ltd ACN 126 151 728	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Myne Start Pty Ltd ACN 146 459 396	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
MyneSight Pty Ltd ACN 130 961 714	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Mastermyne Contracting Services Pty Ltd ACN 163 880 975	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Ausscaffold Pty Ltd ACN 106 800 837	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Diversified Mining Services Pty Ltd ACN 126 482 282	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Falcon Mining Pty Ltd ACN 099 182 368	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Wilson Mining Services Pty Ltd ACN 003 948 605	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Mastermyne Crinum Operations Pty Ltd ACN 644 197 768	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
Metarock Pty Ltd ACN 651 285 595	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
PYBAR Holdings Pty Ltd ACN 088 981 757	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740
PYBAR Mining Services Pty Ltd ACN 060 589 433	Level 1, Riverside Plaza, 45 River Street, Mackay QLD 4740

Signature

print name Brett Maff

capacity Company Secretary

sign here



date 17/06/2022

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
 - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown."
- (9) Details of the consideration must include any and all benefits, moneys and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

Annexure "A"

This is annexure "A" of 12 pages referred to in Form 603 'Notice of initial substantial holder'

Company name: METAROCK GROUP LIMITED (previously named MASTERMYNE GROUP LIMITED)

ACN: 142 490 579

The form of the Escrow Deeds is attached to this Annexure A, except clause 3.3 does not apply to the Escrow Deed with ALAR.



Signed by:

Brett Maff, Company Secretary

Date: 17 / 06 / 22

Escrow Deed

Between

Mastermyne Group Limited ACN 142 490 579 (Company)

And

The entity named as the Holder in Schedule 1 (Holder)

And

The person named as the Controller in Schedule 1 (Controller)

Escrow Deed

Date: 5 November 2021

Parties: Mastermyne Group Limited ACN 142 490 579 of Level 1, 45 River Street, Mackay, Queensland, Australia ("**Company**")

The entity named as the Holder in Schedule 1 ("**Holder**")

The person named as the Controller in Schedule 1 ("**Controller**")

Background

- A. The Company has agreed to issue to the Holder the Escrow Shares as part of the consideration payable under the Share Purchase Agreement.
- B. The Holder undertakes to the Company to hold the Escrow Shares for the Escrow Period pursuant and subject to the terms of this Deed.
- C. The Controller Controls the Holder and the Controller will hold the Controller Interests in accordance with the terms and conditions set out in this deed.

Operative Provisions

1. Interpretation

The following rules also apply in interpreting this Deed, except where the context makes it clear that a rule is not intended to apply.

1.1. Definitions:

- (a) "**Affiliate**" means in respect of a person ("**Primary Person**"), a person:
 - (i) Controlled directly or indirectly by the Primary Person;
 - (ii) Controlled directly or indirectly by the Primary Person; or
 - (iii) Directly or indirectly under the common Control of the Primary Person and another person or persons.
- (b) "**ASX**" means ASX Limited (ABN 98 008 624 691) or the financial market conducted by ASX Limited (Australian Securities Exchange), as the context requires.
- (c) "**ASX Listing Rules**" means the official listing rules of ASX from time to time.
- (d) "**ASX Settlement**" means the ASX Settlement Pty Limited (ABN 49 008 504 532).
- (e) "**ASX Settlement Operating Rules**" means the operating rules of ASX Settlement.
- (f) "**Business Day**" means a day other than a Saturday, Sunday or public holiday in Sydney, New South Wales and Brisbane, Queensland, Australia.
- (g) "**Claim**" mean any claim, cost, damages, debt, expense, tax, Liability, loss, allegation, suit, action, demand, cause of action or proceeding or any kind irrespective of:
 - (i) how or when it arises;

- (ii) whether it is actual or contingent;
- (iii) whether or not it is in respect of legal or other costs, damages, expenses, fees or losses;
- (iv) whether or not it arises at law or in any other way;

and includes all rights and entitlements of the Company under the Share Purchase Agreement.

(h) **"Completion"** means the date of Completion of the share sale pursuant to the Share Purchase Agreement.

(i) **"Control"** means, in respect of a person, the capacity to determine the outcome of decisions in relation to the financial and operating policies of that person whether through the ownership of voting securities, by contract or otherwise, and includes the following:

- (i) ownership of more than 50% of the voting rights of such person; or
- (ii) the right to appoint the majority of the members of the board of directors of such person (or similar governing body) or to manage on a discretionary basis the assets of such person,

and for the avoidance of doubt, and, solely for the purpose of this definition:

- (iii) A general partner is deemed to Control a limited partnership;
- (iv) A fund, corporation, trust, limited liability company, general or limited partnership or other entity advised or managed, directly or indirectly, by a person (or that person's investment adviser or any of the investment adviser's affiliates) and will also be deemed to be Controlled by such person; and
- (v) A fund, corporation, trust, limited liability company, general or limited partnership or other entity will be deemed to be an Affiliate of the Primary Person if the fund, corporation, trust, limited liability company, general or limited partnership or other entity is advised or managed, directly or indirectly, by a person (or that person's investment adviser or any of the investment adviser's affiliates) Controlling directly or indirectly the Primary Person or a person directly or indirectly under the common Control of the Primary Person and another person or persons;

and **Controlled** and **Controlling** have corresponding meanings.

(j) **"Controller"** has the meaning given to that term in the ASX Listing Rules.

(k) **"Controller Interests"** means all legal, beneficial, economic or other interests held by the Controller in the Holder or the Escrow Shares in which a Controller has a direct or indirect interest and each intermediate entity through which that interest occurs.

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

(m) **"Deal"** means:

- (i) sell, assign, transfer or otherwise dispose (including to 'dispose' as defined in the ASX Listing Rules) of;
- (ii) offer to sell, assign, transfer or otherwise dispose (including to 'dispose' as defined in the ASX Listing Rules) of;
- (iii) enter into any option which, if exercised, enables or requires the Holder or the Controller to sell, assign, transfer or otherwise dispose of;

- (iv) create or agree to offer to create or permit to be created any Security Interest in; or
- (v) agree or agree to offer to do any of the things in paragraphs (i) to (iv) above, and **Dealing** has a corresponding meaning.
- (n) **"Escrow Period"** has the meaning set out in the Share Purchase Agreement.
- (o) **"Escrow Shares"** means the Shares to be issued to the Holder in accordance with the Share Purchase Agreement, excluding those Shares specified in clause 3.3 of this Deed.
- (p) **"Holding Lock"** has the meaning given to 'holding lock' in the ASX Settlement Operating Rules.
- (q) **"Issuer Sponsored Subregister"** has the meaning given to "issuer sponsored subregister" in the ASX Settlement Operating Rules.
- (r) **"Liability"** means all liabilities (whether actual, contingent or prospective), losses, damages, costs and expenses of whatever description.
- (s) **"PPSA Security Interest"** means a "security interest" within the meaning of the *Personal Property Securities Act 2009* (Cth).
- (t) **"Security Interest"** means an interest or power:
 - (i) reserved in or over an interest in any securities including, any retention of title; or
 - (ii) created or otherwise arising in or over any interest in any securities under a bill of sale, mortgage, charge, lien pledge, trust or power,
 by way of, or having similar commercial effect to, security for the payment of a debt, any other monetary obligation or the performance of any other obligation, but is not limited to:
 - (iii) any agreement to grant or create any of the above; and
 - (iv) a PPSA Security Interest.
- (u) **"Share"** means a fully paid ordinary share in the capital of the Company but excluding any rights to be paid a dividend relating to the financial year ended 30 June 2021.
- (v) **"Share Registry"** means the share registry engaged by the Company to administer and manage its register of members, being at the date of this Deed 'Link Market Services'.
- (w) **"Share Purchase Agreement"** means the Share Purchase Agreement between the Company, the Holder and others for the Company's purchase of shares in PYBAR Holdings Pty Limited ACN 088 981 757 dated on or about the date of this Deed.
- (x) **"Takeover Bid"** means a takeover bid for some or all Shares under Chapter 6 of the Corporations Act.

1.2. A reference to:

- (a) Legislation (including subordinate legislation) is to that legislation as amended re-enacted or replaced, and includes any subordinate legislation issued under it;
- (b) A deed or agreement, or a provision of a deed or agreement, is to that deed, agreement or provision as amended, supplemented, replaced or novated;

- (c) A party to this Deed or to any other deed or agreement includes a permitted substitute or a permitted assign of that party;
 - (d) A person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (e) Anything (including a right, obligation or concept) includes each part of it;
 - (f) A singular word includes the plural, and vice versa; and
 - (g) A word which suggests one gender includes the other genders.
- 1.3. A covenant or an agreement between more than one person binds them jointly and severally.
- 1.4. If a word is defined, another part of speech has a corresponding meaning.
- 1.5. If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- 1.6. A reference to information is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.
- 1.7. A reference to a matter being to the knowledge of a person means that the matter is to the best of the knowledge and belief of that person or of a director or executive officer of the person if the person is a body corporate after making reasonable enquiries in the circumstances.
- 1.8. If the day on or by which a person must do something under this Deed is not a Business Day, if the act involves payments that are due on demand, the person must do it on or by the next Business Day, and in any other case, the person must do it on or by the previous Business Day.
- 1.9. A provision of this Deed must not be construed to the disadvantage of a party merely because that party was responsible for the drafting of or preparation of the Deed or the inclusion of the provision in the Deed.

2. Escrow

2.1. Holder Restrictions

Subject to clause 3, during the Escrow Period, the Holder agrees that it will not:

- (a) Deal with;
- (b) Deal in any interest (including any legal, beneficial or economic interest) or right in respect of; or
- (c) Do, or omit to do, any act if the act or omission would (or would be likely to) have the effect of resulting in a Dealing with, or in any interest (including any legal, beneficial or economic interest) or right in respect of,

any or all of the Escrow Shares.

2.2. Controller Restrictions

Subject to clause 3, during the Escrow Period, the Controller agrees that he will not, and will ensure that the Holder does not:

- (a) Deal with;

- (b) Deal in any interest (including any legal, beneficial or economic interest) or right in respect of; or
 - (c) Do, or omit to do, any act if the act or omission would (or would be likely to) have the effect of resulting in a Dealing with, or in any interest (including any legal, beneficial or economic interest) or right in respect of,
- any or all of the Controller Interests.

2.3. Escrow Restrictions and Holding Lock

The parties acknowledge and agree that:

- (a) **(registration)** the Escrow Shares will be held on the Issuer Sponsored Subregister;
- (b) **(Holding Lock)** the Company will apply a Holding Lock on the Escrow Shares as soon as practicable after the registration of the Escrow Shares on the Issuer Sponsored Subregister and the Holder agrees to the application of the Holding Lock during the Escrow Period; and
- (c) **(release)** the Company will do all things necessary to ensure that the Holding Lock is released:
 - (i) to the extent necessary to permit Dealings of the Escrow Shares permitted by this Deed; and
 - (ii) in full at the conclusion of the Escrow Period,
 including notifying the ASX that the Escrow Shares will be released from the Holding Lock.

3. Exceptions to Escrow Restrictions

3.1. Dividends and voting rights

The parties agree that the terms of this Deed will have no effect on any rights of the Holder to receive dividends, a return of capital or other distribution attaching to the Escrow Shares or to exercise voting rights in respect of the Escrow Shares.

3.2. Takeovers, mergers and reorganisations

Clause 2.1 will cease to apply to the extent necessary to allow:

- (a) the Holder to accept an offer of a bona fide Takeover Bid for all the Shares in the Company following a public announcement by the Company that the board of directors of the Company recommends that takeover Bid; or
- (b) the transfer or cancellation of the Shares in the Company as part of a scheme of arrangement under part 5.1 of the Corporations Act, provided that scheme of arrangement takes effect;

provided that, if for any reasons any or all Escrow Shares are not transferred or cancelled in accordance with Takeover Bid, (including because the Takeover Bid does not become unconditional), or scheme of arrangement described in clauses 3.2(a) or 3.2(b) respectively, then the Holder agrees that the restrictions applying to the Escrow Shares under this Deed (including under clause 2.1) will continue to apply for the duration of the Escrow Period and without limiting the foregoing, the Holding Lock will be re-applied to all Escrow Shares not so transferred or cancelled.

3.3. Shares transferred to Key Employees

The restrictions on Disposal of Escrow Shares under this Deed will not apply to up to 773,601 Shares issued to the Holder pursuant to the Share Purchase Agreement and which the Holder elects to transfer to certain key employees of PYBAR Holdings Pty Limited ACN 088 981 757 as determined by the Holder and consented to by the Company, with such consent not to be unreasonably withheld or delayed provided that each such employee enters into a separate Escrow Deed in the same form as this deed (with any amendments as the Company reasonably requires).

The parties acknowledge and agree that:

- (a) the Company has not issued the Escrow Shares with any purpose of the Holder selling or transferring the Escrow Shares, or granting, issuing or transferring any interests in, or options over, the Shares; and
- (b) any request of the Holder for the Company's consent to Deal with the Shares pursuant to this clause 3.3 is at the discretion of the Holder and it is not any way the intention or purpose of the Company in issuing the Escrow Shares to the Holder that any such disposal would occur.

3.4. Other exceptions

Clause 2.1 will cease to apply to the extent necessary to allow a Dealing in Escrow Shares or Controller Interests:

- (a) **(applicable laws)** pursuant to any applicable laws (including an order of a court or regulatory body of competent jurisdiction);
- (b) **(consent)** where the Holder or the Controller obtains prior written consent of the Company (which may be withheld by the Company in its absolute discretion);
- (c) **(death or incapacity)** on the death or incapacity of the Holder or the Controller, provided that the transferee of the Escrow Shares or Controller Interests has agreed to be bound by a deed on substantially the same terms as this Deed in respect of the Escrow Shares or Controller Interests;
- (d) **(equal buy-backs and capital returns)** to allow the Holder or the Controller to participate in any equal access share buyback or an equal capital return or other similar pro-rata re-organisation;
- (e) **(pursuant to this Deed)** which is expressly required or permitted to give effect to this Deed; or
- (f) **(permitted transfers)** by the Holder to an Affiliate provided that the transfer is made off market and provided that the transferee of the Escrow Shares or Controller Interests has agreed to be bound by a deed on substantially the same terms as this Deed in respect of the Escrow Shares or Controller Interests, (including an undertaking that if the transferee ceases to be a Controlled Entity during the Escrow Period for any reason, then at the Company's request it will promptly transfer such Escrow Shares back to the original Holder or another Controlled Entity nominated by the original Holder).

4. Conditional upon Completion of Share Purchase Agreement

By way of clarity and to avoid doubt, this Deed is conditional upon and shall not apply (as the Escrow Shares will not be issued) if the Share Purchase Agreement does not complete.

5. Warranties

5.1. Giving of warranties

Each of the warranties and representations in this clause 5 is given by the Holder and the Controller in favour of the Company:

- (a) as at the date of this Deed, unless a later date is specified in clause 5.2; and
- (b) from the applicable date under clause 5.1(a), at all times until expiry of the Escrow Period.

Unless expressly stated otherwise, the warranties and representations in this clause 5 are given in respect of any and all Escrow Shares or Controller Interests from time to time during the period from the date of this Deed until the end of the Escrow Period.

5.2. Holder and Controller warranties and representations

The Holder and the Controller each warrants and represents the following:

- (a) as at the date of this Deed, it has not done or omitted to do, any act which would result in a breach of clause 2.1 or 2.2 of this Deed if done or omitted during the Escrow Period;
- (b) no person (other than the Holder or the Controller) has the power to direct or cause the direction of the management of the Holder or the Controller, whether through the ownership of voting securities or by agreement or by virtue of any person being the manager or adviser of the Holder or the Controller or otherwise;
- (c) the Escrow Shares will be free from all Security Interests and other third party interests or rights other than as permitted under clause 5.2;
- (d) it has full power and authority to enter into and perform its obligations under this Deed, and has obtained all necessary consents to enable it to do so (including, if the Holder or the Controller has entered into this deed as a trustee (**Trustee**), under the trust deed for the relevant trust (**Trust**));
- (e) it has taken all necessary action to authorise the execution, delivery and performance of this Deed in accordance with its terms;
- (f) this Deed constitutes a legal, valid and binding obligation on it and, subject to any necessary stamping and registration, is enforceable in accordance with its terms;
- (g) the execution, delivery and performance of the Holder and the Controller of this Deed does not and will not violate, breach or result in a contravention of:
 - (i) any applicable law, regulation or authorisation;
 - (ii) its constitution or other constituent documents; or
 - (iii) any agreement, undertaking, Security Interest or document which is binding on the Holder or the Controller; a
- (h) if the Holder or the Controller is a Trustee:
 - (i) the Holder or the Controller has the right to be fully indemnified out of the assets of the Trust in respect of any liability arising under, or in connection with, this deed and the right has not been modified, released or diminished in any way. The assets of the Trust are sufficient to satisfy that right in full and the Holder or the Controller has not released or disposed of its equitable lien over that trust; and

- (ii) the Trust has not been terminated and there is no effective proposal or requirement or wind up, deregister, terminate, reconstitute or resettlement of the Trust; and
- (i) the information set out in the schedule to this deed is true, accurate, complete and correct in every material particular, and is not misleading.

5.3. Survival of warranties and representations

The warranties and representations in this clause 5 survive the termination of this Deed.

6. Consequences of Breach

6.1. Consequences of breaching the Deed

- (a) If the Holder or the Controller breaches this Deed or the Company believes that a prospective breach of this Deed may occur, each of the following applies:
 - (i) the Holder and the Controller must take steps necessary to rectify the breach;
 - (ii) the Company may take the steps necessary to enforce this Deed as soon as practicable after becoming aware of the breach or prospective breach;
 - (iii) the Company may, in addition to its other rights and remedies under this Deed, refuse to acknowledge, deal with, accept or register any sale, assignment, transfer of or other Dealing in any of the Escrow Shares; and
 - (iv) the Holder ceases to be entitled to any dividends, distributions or voting rights while the breach continues.
- (b) The parties agree that damages would be an insufficient remedy for a breach or prospective breach of this Deed by the Holder or the Controller, and the Holder and the Controller agrees that the Company is entitled to seek and obtain an injunction or specific performance to enforce the Holder's or the Controller's obligations under this Deed, without proof of actual damage and without prejudice to any of the Company's other rights or remedies.

7. Variations

This Deed may be varied only by agreement in writing signed by the parties. Unless the context otherwise requires, a reference to this Deed shall include a reference to this Deed as amended or varied from time to time.

8. Applicable Law

This Deed shall be governed by and construed in accordance with the laws of the state of Queensland, Australia, and, where applicable, the laws of the Commonwealth of Australia, for the time being in force.

9. Waiver

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver. A waiver or consent is only effective in the specific instance and for the purpose for which it is given.

10. Facsimile or Emailed Copies

The parties agree that the signing of a copy of this Deed and the faxing or emailing a scanned copy of the signed document to another party or their solicitor shall constitute due signing and delivery by the party signing and faxing or emailing the same.

11. Counterparts

This Deed may be executed in any number of counterparts. All those counterparts taken together shall be deemed to constitute one and the same document.

12. Costs

Each party must pay its own costs of negotiating, preparing and executing this Deed.

13. Severability

If any term or part of a term of this Deed is or becomes legally ineffective, invalid or unenforceable in a Court of competent jurisdiction, it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

14. Non Merger

To the extent to which any of the obligations of a party have not been fully performed on completion of any transaction contemplated by this Deed then those obligations shall continue after completion until full performance by that party or that party's release from performance by the other parties and any provisions of this Deed relating to those obligations shall not merge on completion but shall continue in full force and effect until that performance or release.

15. Notices

15.1. A notice, demand, certification or other communication under this Deed:

- (a) Is to be given in writing and in the English language; and
- (b) May be given by an agent of the sender.

15.2. In addition to any means authorised by law a communication may be given by:

- (a) Being delivered personally;
- (b) Being left at the party's current address for service;
- (c) Being sent to the party's current address for service by pre-paid ordinary mail or if the address is outside Australia, by pre-paid air mail; or
- (d) Facsimile to the party's current facsimile number; or
- (e) Electronic mail to the party's current email address.

15.3. The addresses, facsimile numbers and email addresses of the parties are initially as set out in Share Purchase Agreement.

15.4. A party may from time to time change its address, facsimile numbers or email addresses for service by notice to the other party.

15.5. A communication given by post is taken to be received:

- (a) If posted within Australia to an Australian address three Business Days after posting; and

- (b) In any other case, five Business Days after posting.
- 15.6. A communication given by facsimile is taken to be received when the sender's facsimile machine produces a transmission report stating that the facsimile was sent to the addressee's facsimile number.
- 15.7. A communication given by facsimile is taken to be given in the form transmitted unless the message is not fully received in legible form and the addressee immediately notifies the sender of that fact.
- 15.8. A communication given by electronic mail is taken to be given when the sender does not receive a notice of "delivery failure" or other notice to the effect that the email has not reached the intended recipient within 2 hours of the time of sending.
- 15.9. Any process or other Deed relating to litigation, administrative or arbitral proceedings in relation to this Deed may be served by any method contemplated by this clause in addition to any means authorised by law.
- 15.10. If a communication to a party is received by it:
 - (a) After 5:00 pm in the place of receipt; or
 - (b) On a day which is not a Business Day,the communication will be taken to have been received on the following Business Day.

16. Conflicting provisions

If there is any conflict between the terms and provisions of this Deed, and the terms and provisions of the Share Purchase Agreement, then the terms and provisions of the Share Purchase Agreement prevail.