

ASX Announcement

1 August 2022

Amendment to Note Trust Deed

In accordance with ASX Listing Rule 15.1.2, Dalrymple Bay Infrastructure Limited (ASX: DBI) attaches a copy of its Unsecured Note Trust Deed (Note Trust Deed) as amended on 1 August 2022. The Note Trust Deed constitutes the non-interest bearing loan notes (Notes) issued by DBI that are stapled to its fully paid ordinary shares.

The amendments to the Note Trust Deed (shown in red) are to clarify an aspect of the Terms of Issue annexed to the Note Trust Deed, such that it is clear that any additional Notes that DBI may issue as part of new stapled securities will have the same “face value” as the existing Notes that are currently on issue and listed on ASX as part of existing stapled securities, rather than a fixed face value of 80 cents. The face value of the Notes is currently 62.4787 cents, following the distribution on 16 June 2022.

The amendments, which were made in accordance with clause 13.1(a) of the Note Trust Deed and 7.1(a) of the Terms of Issue, do not affect entitlements of Noteholders in respect of any existing Notes.

-ENDS-

Authorised for release by the Disclosure Committee of Dalrymple Bay Infrastructure Limited.

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About Dalrymple Bay Infrastructure

Dalrymple Bay Infrastructure (DBI) through its foundation asset, the Dalrymple Bay Terminal (DBT), aims to provide safe and efficient terminal infrastructure and services for producers and consumers of high quality Australian coal exports. DBT, as the world's largest metallurgical coal export facility, serves as a global gateway from the Bowen Basin and is a critical link in the global steelmaking supply chain. By providing operational excellence and options for capacity expansions to meet expected strong export demand, DBI intends to deliver value to security holders through distributions, ongoing investment and capital growth. dbinfrastructure.com.au

Forward Looking Statements

This announcement contains certain forward-looking statements with respect to the financial condition, operations and business of the Company and certain plans and objectives of the management of DBI. Forward-looking statements can be identified by the use of forward-looking terminology, including, without limitation, the terms "believes", "estimates", "anticipates", "expects", "predicts", "intends", "plans", "goals", "targets", "aims", "outlook", "guidance", "forecasts", "may", "will", "would", "could" or "should" or, in each case, their negative or other variations or comparable terminology. These forward-looking statements include all matters that are not historical facts. Such forward looking statements involve known and unknown risks, uncertainties and other factors which because of their nature may cause the actual results or performance of the Company to be materially different from the results or performance expressed or implied by such forward looking statements. Actual results may materially vary from any forecasts in this announcement. No representation or warranty, express or implied, is made as to the fairness, accuracy, completeness or correctness of the information, opinions and conclusions contained in this announcement. To the maximum extent permitted by law, none of DBI, its directors, employees or agents, nor any other person accepts any liability, including, without limitation, any liability arising out of fault or negligence, for any loss arising from the use of the information contained in this announcement. In particular, no representation or warranty, express or implied is given as to the accuracy, completeness or correctness, likelihood of achievement or reasonableness of any forecasts, prospects or returns contained in this announcement nor is any obligation assumed to update such information. Such forecasts, prospects or returns are by their nature subject to significant uncertainties and contingencies. Before making an investment decision, you should consider, with or without the assistance of a financial adviser, whether an investment is appropriate in light of your particular investment needs, objectives and financial circumstances.



HERBERT
SMITH
FREEHILLS

Deed

EXECUTION VERSION

Unsecured Note Trust Deed

Dalrymple Bay Infrastructure Limited

Equity Trustees Limited



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Contents

Attachment 2

Meetings of Noteholders



Unsecured Note Trust Deed

Date ► 20 November 2020

Between the parties

Issuer	Dalrymple Bay Infrastructure Limited ACN 643 302 032 of Level 22, 135 King Street, Sydney NSW 2000 (Issuer)
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Note Trustee	Equity Trustees Limited ABN 46 004 031 298 of Level 19, 56 Pitt Street, Sydney NSW 2000, Australia (Note Trustee)
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Recitals	<ol style="list-style-type: none">1 The Issuer wishes to issue unsecured notes under this deed.2 The Note Trustee has agreed to act as trustee on behalf of the holders of the Notes on the terms and conditions contained in this deed.
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This deed witnesses as follows:



1 Definitions and interpretation

1.1 Definitions

Terms defined in the Terms of Issue or (if not defined in the Terms of Issue) the Constitution have the same meaning when used in this deed. In addition, the following defined terms apply in this deed.

Term	Meaning
Associate	has the meaning given in section 9 of the Corporations Act.
Authorisation	includes: <ol style="list-style-type: none">1 any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval (including any planning approval), authority or exemption from, by or with a Government Agency (including, without limitation, the Foreign Investment Review Board of Australia); or2 in relation to anything which could be fully or partly prohibited or restricted by law if a Government Agency intervenes or acts in any way within a specified period the expiry of that period without intervention or action.
Confidential Information	all information and other material (other than information or material in the public domain) provided to or obtained by the Note Trustee, or any officer, employee, delegate, adviser or other consultant of the Note Trustee under, in connection with or related to this deed or any obligation, duty or power of the Note Trustee under this deed.
Controller	has the meaning given in the Corporations Act.
Corresponding Number	means at any time the number of Attached Securities that are Stapled to a Note.
Costs	includes costs, charges, fees, expenses (including expenses of advisors), commissions, liabilities, losses, damages and Taxes and all amounts payable in respect of any of them or like payments.



Term	Meaning
Enforcement Action	<ol style="list-style-type: none">1 the acceleration of any Liabilities or any declaration that any Liabilities are prematurely due and payable or payable on demand;2 the taking of any steps to enforce or require the enforcement of any security in connection with any Liabilities;3 the making of any demand against the Issuer in relation to Liabilities or in relation to any guarantee, indemnity or other assurance against loss in respect of any Liabilities or exercising any right to require the Issuer to acquire any Liability;4 the exercise of any right of set-off against the Issuer in respect of any Liabilities;5 the suing for, commencing or joining any legal or arbitration proceedings against the Issuer to recover any Liabilities; or6 petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in respect of the Issuer or any suspension of payments or moratorium of any indebtedness of the Issuer, or any analogous procedure or step in any jurisdiction.
Government Agency	any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.
GST	any goods and services tax, consumption tax, value added tax or any similar tax, impost or duty.
Joint Noteholders	has the meaning in clause 3.3.
Liabilities	all present and future liabilities at any time of the Issuer to any Noteholder or the Note Trustee under or in connection with this Deed, the Terms of Issue or any Note, both actual and contingent and whether incurred solely or jointly or in any other capacity.
Meeting	a meeting of Noteholders convened in accordance with this deed.
Note	a debt obligation comprising an unsecured note issued under this deed.
Note Trustee	the trustee of the Trust (being initially the person named as party to this deed as Note Trustee) in its capacity as such trustee.



Term	Meaning
Note Trustee Default	the Note Trustee's fraud, negligence or wilful default.
Ordinary Share	an ordinary share in the capital of the Issuer.
Power	a right, power, authority, discretion or remedy conferred on the Note Trustee by this deed or the Terms of Issue or by law.
Privacy Act	<i>Privacy Act 1988</i> (Cth) and all regulations passed pursuant to the <i>Privacy Act 1988</i> (Cth).
Prospectus	the prospectus lodged by the Issuer with the Australian Securities and Investments Commission on or about the date of this deed in relation to an offer of Stapled Securities.
Related Body Corporate	a related body corporate as defined in the Corporations Act.
Taxes	taxes, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any Government Agency together with any related interest, penalties, fines and expenses in connection with them, except if imposed on, or calculated having regard to, the net income of a Noteholder.
Terms of Issue	the terms of issue of the Notes, being the terms set out in Attachment 1.
Transmission Event	<ol style="list-style-type: none">1 for a Noteholder who is an individual – the Noteholder's death, the Noteholder's bankruptcy, or the Noteholder becoming of unsound mind, or a person who, or whose estate, is liable to be dealt with in any way under the laws relating to mental health; and2 for a Noteholder who is a body corporate – the dissolution of the Noteholder or the succession by another body corporate to the assets and liabilities of the Noteholder.
Trust	the trust established by this deed.
Trust Fund	<ol style="list-style-type: none">1 the right to enforce the Issuer's duty to repay the Notes;2 the right to enforce the Issuer's obligation to pay all other amounts payable under Notes;



Term	Meaning
	3 the right to enforce any other duties or obligations that the Issuer owes to the Noteholders or the Note Trustee under this deed, the Terms of Issue or Chapter 2L of the Corporations Act;
	4 the amount of \$10 referred to in clause 2.3(a); and
	5 any other assets held by the Note Trustee on the trust established under this deed including, without limitation, the benefit of any covenants, undertakings, representations, warranties, rights, powers, benefits or remedies in favour of the Note Trustee under this deed or the Terms of Issue.

1.2 Interpretation

In this deed, headings and boldings are for convenience only and do not affect the interpretation of this deed and, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
- (e) terms defined in the Corporations Act have the same meaning in this deed;
- (f) a reference to any thing (including, but not limited to, any right) includes a part of that thing;
- (g) an annexure, exhibit or schedule to this deed forms part of this deed;
- (h) a reference to a part, clause, party, attachment, annexure, exhibit or schedule is a reference to a part and clause of, and a party, attachment, annexure, exhibit and schedule to, this deed, a reference to this deed includes any schedule, attachment, annexure or exhibit;
- (i) a reference to "law" includes common law, principles of equity and any statute, ordinance, code or other law made by any parliament, whether inside or outside Australia, and will be taken to include a reference to Sections 1471 through 1474 of the United States Internal Revenue Code of 1986, as amended (or any consolidation, amendments, re-enactment or replacement of those sections and including any current or future regulations or official interpretations issued, agreements entered into (whether by the Issuer, a related body corporate of the Issuer or any other person) or non-US laws enacted in relation to those sections);
- (j) a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (k) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;



- (l) a reference to a party to a document includes that party's successors and permitted assigns;
- (m) no provision of this deed will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this deed or that provision;
- (n) a reference to an agreement other than this deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (o) a reference to an asset includes all property of any nature, including, but not limited to, a business, and all rights, revenues and benefits;
- (p) a reference to a document includes any agreement in writing, or any certificate, notice, instrument or other document of any kind;
- (q) a reference to a body, other than a party to this deed (including, without limitation, an institute, association or authority), whether statutory or not:
 - (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (r) a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death; and
- (s) a reference to 'wilful default' in relation to the Note Trustee means any wilful failure to comply with, or wilful breach by, the Note Trustee of any of its obligations under this deed or at law other than a failure or breach which:
 - (1) is in accordance with a lawful court order or direction or required by law; or
 - (2) is in accordance with any proper instruction or direction of the Noteholders given at a Meeting of Noteholders convened pursuant to clause 11 of this deed.

1.3 Interpretation of inclusive expressions

Specifying anything in this deed after the words 'includes' or 'for example' or similar expressions does not limit what else is included unless there is express wording to the contrary.

1.4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the succeeding Business Day.

1.5 Compliance with law

- (a) This deed applies subject to all applicable laws which cannot be excluded.
- (b) Without limiting the generality of clause 1.5(a), to the extent a provision of this deed breaches or contravenes, or if complied with would result in a breach or



contravention of any requirement of the law this deed is taken not to contain that provision.

- (c) Without limiting clause 1.5(a), this deed and the Terms of Issue are to be construed so as to not limit the Note Trustee's liability for breach of section 283DA, or entitle the Note Trustee to be indemnified against that liability, or otherwise exonerate the Note Trustee, to any extent that would be void under section 283DB of the Corporations Act.
- (d) This clause 1.5 prevails over all other provisions of this deed including any that are expressed to prevail over it.

1.6 Trust Deed

This deed:

- (a) is the trust deed for the Trust; and
- (b) is the trust deed in respect of the Notes required by Chapter 2L of the Corporations Act.

1.7 Unsecured notes

The Notes are "unsecured notes" for the purposes of section 283BH of the Corporations Act.

1.8 Currency

- (a) Any amount payable to a Noteholder, whether in relation to a Repayment or otherwise, may, with the agreement of the Noteholder, be paid in the currency of a country other than Australia. The Issuer may fix a time on or before the payment date as the time at which the applicable exchange rate will be determined for that purpose.
- (b) The Note Trustee will not be liable to account to any Noteholder for any costs or losses associated with any payments being made in a currency of a country other than Australia or due to conversion of such payments into Australian dollars.

2 Appointment of Note Trustee and declaration of trust

2.1 Appointment

The Note Trustee is hereby appointed by the Issuer as trustee for the Noteholders subject to and in accordance with this deed.

2.2 Constitution of Trust

The Trust is constituted on the execution of this deed by the Issuer and the Note Trustee.

2.3 Declaration of trust

- (a) Upon execution of this deed, the Note Trustee declares that it holds the sum of \$10.



- (b) The Note Trustee declares that it will hold the Trust Fund on trust at all times for the benefit of the persons who are Noteholders from time to time subject to and on the terms of this deed and the Terms of Issue.

2.4 Name of Trust

The trust established under this trust deed will be known as the "DBI Stapled Notes Trust".

2.5 Commencement and termination of Trust

The Trust commences on the date of this deed and unless terminated earlier, ends on the earlier of:

- (a) the day occurring immediately before the 80th anniversary of the date it begins; and
- (b) the day on which this deed is terminated under clause 14.1.

2.6 Noteholders bound

- (a) Each Noteholder (and any person claiming through or under a Noteholder) is bound by, and is taken to have notice of, this deed and the Terms of Issue. The Noteholders are taken to have irrevocably authorised the Note Trustee to exercise its rights under this deed, the Terms of Issue and Chapter 2L of the Corporations Act, in its capacity as trustee of the Trust.
- (b) It is a fundamental condition of receiving any of the rights or benefits under a Note that a Noteholder must perform all of the obligations and comply with all restrictions and limitations applicable to it, in respect of the Notes, under this deed and the Terms of Issue.

3 Issue, ownership and transfer of Notes

3.1 Issue

- (a) Subject to this deed, the Issuer may issue Notes to any person by causing that person to be entered in the Register as the Noteholder of those Notes.
- (b) Upon the issue of a Note in accordance with clause 3.1(a) the Note will be duly constituted as a debt obligation by, and owing under, this deed.
- (c) Despite clause 3.1(b), the issue of a Note will be void, and the Note will confer no rights against the Issuer on the Noteholder or any other person, unless the Issuer has received payment in cleared funds in full of the moneys due on application for the Note.
- (d) The Issuer may pay a commission, procuration fee, brokerage or any other fees to any person for subscribing or underwriting the subscription of or subscription for the Notes.
- (e) Unless an Unstapling Date has occurred, no Notes may be issued unless there is a contemporaneous and corresponding issue of the Corresponding Number of each Attached Security on the basis that the Notes are to be Stapled to the Attached Securities to form Stapled Securities.



3.2 Ownership

- (a) Title to a Note vests in the Noteholder of the Note, subject to rectification of the Register for fraud or error.
- (b) The Issuer and the Note Trustee may treat the registered Noteholder as the absolute owner of that Note and need not:
 - (1) recognise a person as holding a Note on trust, even if the Issuer has notice of a trust; or
 - (2) recognise, or be bound by, any equitable, contingent, future or partial claim to or interest in a Note by any other person, except an absolute right of ownership in the registered Noteholder, even if the Issuer has notice of that claim or interest.

3.3 Joint holders of Notes

Where two or more persons are registered as the Noteholders of a Note (**Joint Noteholders**), they hold it as joint tenants with rights of survivorship, on the following conditions:

- (a) they are liable individually as well as jointly for any liabilities in respect of the Note;
- (b) subject to clause 3.3(a), on the death of any one of them the survivor is the only person the Issuer and the Note Trustee will recognise as having any title to the Note;
- (c) any one of them may give effective receipts for any payment in respect of the Note; and
- (d) except where persons are jointly entitled to a Note because of a Transmission Event, or where required by the Listing Rules or the ASX Settlement Operating Rules, the Issuer may, but is not required to, register more than 3 persons as Joint Noteholders.

3.4 Transfer

- (a) Subject to this deed and clause 1.4 of the Terms of Issue, a Noteholder may transfer any of the Noteholder's Notes by:
 - (1) a Proper ASTC Transfer; or
 - (2) a written transfer in any usual form or in any other form approved by the Issuer.
- (b) A transfer referred to in clause 3.4(a)(2) must be:
 - (1) signed by or on behalf of the transferor and, if required by the Issuer, the transferee;
 - (2) if required by law, duly stamped; and
 - (3) left for registration at the Issuer's registered office, or at any other place the Issuer decides, with such evidence the Issuer requires to prove the transferor's title or right to the Notes and the transferee's right to be registered as the owner of the Notes.
- (c) Subject to clauses 3.5(a) and 3.6, where the Issuer receives a transfer complying with clause 3.4, the Issuer must register the transferee named in the transfer as the Noteholder of the Notes to which it relates.



- (d) A transferor of Notes remains the Noteholder of the Notes until a Proper ASTC Transfer has been effected or the transferee's name is entered in the register of Noteholders as the holder of the Notes.
- (e) The Issuer must not charge a fee for registering a transfer of Notes unless:
 - (1) the Notes are not listed on the Exchange; or
 - (2) the fee is permitted by the Listing Rules.
- (f) The Issuer's (or the Issuer's securities registry) may put in place, and require compliance with, reasonable processes and procedures in connection with determining the authenticity of an instrument of transfer, notwithstanding that this may prevent, delay or interfere with the registration of the relevant instrument of transfer.
- (g) The Issuer may retain a registered transfer for any period the Issuer decides.
- (h) The Issuer may do anything that is necessary or desirable for the Issuer to participate in any computerised, electronic or other system for facilitating the transfer of Notes or operation of the Issuer's registers that may be owned, operated or sponsored by the Exchange or a related body corporate of the Exchange.
- (i) The Issuer may, to the extent the law permits, waive any of the requirements of this clause 3.4 and prescribe alternative requirements instead, to give effect to clause 3.4(h) or for another purpose.

3.5 Power to decline to register transfers or transmissions

- (a) The Issuer may decline to register, or prevent registration of, a transfer or transmission of Notes or apply a holding lock to prevent a transfer or transmission in accordance with the Corporations Act or the Listing Rules where:
 - (1) the transfer or transmission does not comply with the Stapling Provisions;
 - (2) the transfer or transmission is not in registrable form;
 - (3) the company has a lien on any of the Notes transferred or transmitted;
 - (4) registration of the transfer or transmission may breach a law of Australia;
 - (5) the transfer or transmission is paper based and registration of the transfer or transmission will result in a holding which, at the time the transfer is lodged, is less than a marketable parcel
 - (6) the transfer or transmission is not permitted under the terms of an employee share plan; or
 - (7) the Issuer is otherwise permitted or required to do so under the Listing Rules or, except for a Proper ASTC Transfer, under the Terms of Issue.
- (b) If the Issuer declines to register a transfer or transmission, the Issuer must give notice of the refusal as required by the Corporations Act and the Listing Rules. Failure to give that notice will not invalidate the decision of the Issuer to decline to register the transfer or transmission.



3.6 Power to suspend registration of transfers

The Issuer may suspend the registration of transfers at any time, and for any periods, permitted by the ASX Settlement Operating Rules that it decides.

3.7 Restricted securities

If, at any time, any of the Notes are classified by the Exchange as 'restricted securities', then despite any other provision of this deed:

- (a) a holder of restricted securities must not dispose of, or agree or offer to dispose of, the restricted securities during the escrow period applicable to those securities except as permitted by the Listing Rules or the Exchange;
- (b) if the restricted securities are in the same class as quoted securities, the holder will be taken to have agreed in writing that the restricted securities are to be kept on the Issuer's sponsored subregister and are to have a holding lock applied for the duration of the escrow period applicable to those securities;
- (c) the Issuer and Note Trustee will refuse to acknowledge any disposal (including, without limitation, to register any transfer) of restricted securities during the escrow period applicable to those securities except as permitted by the Listing Rules or the Exchange;
- (d) a holder of restricted securities will not be entitled to participate in any Repayment on those securities during the escrow period applicable to those securities except as permitted by the Listing Rules or the Exchange; and
- (e) if a holder of restricted securities breaches a restriction deed or a provision of this deed restricting a disposal of those securities, the holder will not be entitled to any dividend or distribution, or to exercise any voting rights, in respect of those securities for so long as the breach continues.

3.8 Forfeiture, surrender and sale of Notes by the Issuer

Without limiting clause 1.4 of the Terms of Issue, unless the Unstapling Date has occurred, where the Attached Share relating to a Note is or is to be forfeited, surrendered or sold or otherwise dealt with by the Issuer in accordance with the Constitution, the Note may be cancelled or sold or dealt with by the Issuer in a like manner, and the provision of the Constitution relating to such forfeiture, surrender or sale or dealing will apply, *mutatis mutandis*, to such cancellation, sale or dealing.

3.9 Transmission of Notes

- (a) Subject to clause 3.9(c), where a Noteholder dies, the only persons the Issuer will recognise as having any title to the Noteholder's Notes or any benefits accruing on those Notes are:
 - (1) where the deceased was a sole Noteholder, the legal personal representative of the deceased; and
 - (2) where the deceased was a Joint Noteholder, the survivor or survivors.
- (b) Clause 3.9(a) does not release the estate of a deceased Noteholder from any liability on a Note, whether that Note was held by the deceased solely or jointly with other persons.
- (c) The Issuer may register a transfer of Notes signed by a Noteholder before a Transmission Event even though the Issuer has notice of the Transmission Event.



- (d) A person who becomes entitled to a Note because of a Transmission Event may, on producing such evidence as the Issuer requires to prove that person's entitlement to the Note, choose:
 - (1) to be registered as the Noteholder of the Note by signing and giving the Issuer a written notice stating that choice; or
 - (2) to nominate some other person to be registered as the transferee of the Note by executing or effecting in some other way a transfer of the Note to that other person.
- (e) On and from the Stapling Date and prior to the Unstapling Date, any transmission and registration must be on the basis that the person must also be registered as the holder of the Corresponding Number of Attached Securities to which his or her Notes are Stapled at the same time and in the same manner.
- (f) The provisions of this deed concerning the right to transfer Notes and the registration of transfers of Notes apply, so far as they can and with any necessary changes, to a notice or transfer under clause 3.9(d) as if the relevant Transmission Event had not occurred and the notice or transfer were executed or effected by the registered Noteholder.
- (g) Where 2 or more persons are jointly entitled to a Note because of a Transmission Event they will, on being registered as the Noteholders, be taken to hold the Note as joint tenants and clause 3.3 will apply to them.

4 Terms of Notes

4.1 Terms of Issue

The Notes are issued on and subject to the terms and conditions set out in the Terms of Issue and the Issuer undertakes to perform its obligations in respect of each Note under the Terms of Issue.

4.2 Undertaking to pay

- (a) Without limiting clause 4.1, the Issuer must pay to the Note Trustee when due all amounts stated or determined to be payable on a Note under the Terms of Issue. The Note Trustee directs the Issuer to pay the amounts referred to in this clause 4.2(a) to the Noteholders, in accordance with their rights and entitlements unless the winding up of the Issuer has commenced in which case the payment must be made to the Note Trustee. To avoid doubt, the Issuer's obligation to pay any amount in respect of a Note to the Note Trustee is subordinated on the same terms as the Issuer's obligations to pay such amounts to the Noteholders under the Terms of Issue and the Note Trustee is bound by the Terms of Issue in relation to all claims for payment in respect of the Notes.
- (b) Payment of an amount payable in respect of a Note to the Noteholder of the Note (or to the person who was the Noteholder at the time the entitlement to the payment is determined under the Terms of Issue) discharges the Issuer's obligation to pay that amount to the Note Trustee under clause 4.2(a).
- (c) Payment of an amount payable in respect of a Note to the Note Trustee discharges the Issuer's obligation to pay that amount to the Noteholder of the Note (or to the person who was the Noteholder at the time the entitlement to the



payment is determined under the Terms of Issue) under clause 4.3 and the Terms of Issue.

- (d) Subject to all applicable law, where the Issuer is unable to make a payment or is relieved from the obligation to make a payment under clause 4.3, the amount is not required to be paid until required by that clause, and the Issuer will be discharged from liability to make the payment on the first of the following to occur:
 - (1) the Issuer pays the amount in accordance with the law relating to unclaimed money; and
 - (2) the claim for payment of the amount becomes void under the Terms of Issue.
- (e) The Issuer's obligations to make payments in respect of the Notes are subject to all applicable laws. If a payment could not lawfully be made to a particular Noteholder due to any circumstance or matter affecting the Noteholder without the approval of a Government Agency or the satisfaction of some other condition, then the Noteholder is not entitled to receive that payment, and the Issuer is not obliged to make that payment, unless that approval has been obtained or that other condition is satisfied. The Issuer is not obliged to pay any further interest to the affected Noteholder in such circumstances on account of the delay.
- (f) If the Issuer has determined that a person other than the Noteholder is or may be entitled to be registered as a Noteholder and receive a payment in respect of a Note, the Issuer may withhold the payment until it has established the respective entitlements of those persons to its satisfaction and (if applicable) the persons entitled have been registered as Noteholder and provided details for the payment to be effected to the satisfaction of the Issuer. The Issuer is not obliged to pay any further interest on account of the delay.

4.3 Payments to Noteholders

- (a) Subject to the ASX Settlement Operating Rules, the Issuer may fix a record date for a payment in respect of a Note, with or without suspending the registration of transfers from that date under clause 3.6.
- (b) Subject to the ASX Settlement Operating Rules, a payment to be made to Noteholders in respect of a Note must be paid to the person who is registered, or entitled under clause 3.4(c) to be registered, as the holder of the Note:
 - (1) where the Issuer has fixed a record date in respect of the Note, on that date; or
 - (2) where the Issuer has not fixed a record date in respect of that Note, on the date fixed for payment of the Note,and a transfer of a Note that is not registered, or left with the Issuer for registration under clause 3.4(b), on or before that date is not effective, as against the Issuer, to pass any right to the payment.
- (c) Subject to the ASX Settlement Operating Rules, where a person is entitled to a Note because of a Transmission Event, the Issuer may, but need not, retain any payments payable on that Note until that person becomes registered as the holder of that Note or transfers it.
- (d) The Issuer may retain from any payment payable to a Noteholder any amount presently payable by the Noteholder to the Issuer and apply the amount retained to the amount owing.



- (e) The Issuer may decide the method of payment in respect of a Note. Different methods of payment may apply to different Noteholders or groups of Noteholders (such as overseas Noteholders). Without limiting any other method of payment which the Issuer may adopt, payment in respect of a Note may be made:
 - (1) by such electronic or other means approved by the Issuer directly to an account (of a type approved by the Issuer) nominated in writing by the Noteholder or the Joint Noteholders; or
 - (2) by cheque sent to the address of the Noteholder shown in the register of Noteholders or, in the case of Joint Noteholders, to the address shown in the register of Noteholders of any of the Joint Noteholders, or to such other address as the Noteholder or any of the Joint Noteholders in writing direct.
- (f) A cheque sent under clause 4.3(e):
 - (1) may be made payable to the bearer or to the order of the Noteholder to whom it is sent or any other person the Noteholder directs; and
 - (2) is sent at the Noteholder's risk.
- (g) If the Issuer decides that payments will be made by electronic transfer into an account (of a type approved by the Issuer) nominated by a Noteholder, but no such account is nominated by the Noteholder or an electronic transfer into a nominated account is rejected or refunded, the Issuer may credit the amount payable to an account of the Issuer to be held until the Noteholder nominates a valid account.
- (h) Where a Noteholder does not have a registered address or the Issuer believes that a Noteholder is not known at the Noteholder's registered address, the Issuer may credit an amount payable in respect of the Noteholder's Notes to an account of the Issuer to be held until the Noteholder claims the amount payable or nominates a valid account.
- (i) An amount credited to an account under clauses 4.3(g) or 4.3(h) is to be treated as having been paid to the Noteholder at the time it is credited to that account. The Issuer will not be a trustee of the money and no interest will accrue on the money. The money may be used for the benefit of the Issuer until claimed, reinvested under clauses 4.3(j) or disposed of in accordance with the laws relating to unclaimed monies.
- (j) If a cheque for an amount payable under clause 4.3(e) is not presented for payment for at least 11 calendar months after issue or an amount is held in an account under clauses 4.3(g) or 4.3(h) for at least 11 calendar months, the Issuer may reinvest the amount, after deducting reasonable expenses, into shares in the Issuer and/or Notes and/or Attached Securities on behalf of, and in the name of, the Noteholder concerned and may stop payment on the cheque. The shares and/or Notes and/or Attached Securities may be acquired on market or by way of new issue at a price the Issuer accepts is market price at the time. Any residual sum which arises from the reinvestment may be carried forward or donated to charity on behalf of the Noteholder, as the Issuer decides. The Issuer's liability to provide the relevant amount is discharged by an application under this clause 4.3(j). The Issuer may do anything necessary or desirable (including executing any document) on behalf of the Noteholder to effect the application of an amount under this clause 4.3(j). The Issuer may determine other rules to regulate the operation of this clause 4.3(j) and may delegate its power under this clause to any person.



5 Undertakings

Subject to this deed, the Issuer undertakes to the Note Trustee that for so long as any principal or interest due on Notes remains outstanding, it will:

- (a) comply with its obligations under the Notes, this deed, Chapter 2L (including, without limitation, its reporting obligations under section 283BF of the Corporations Act) and section 318 of the Corporations Act;
- (b) without limiting any other provision of this deed, provide to the Trustee:
 - (1) within 120 days after the close of each financial year, a copy of the Issuer's audited financial statements lodged with ASIC in respect of that financial year;
 - (2) within 90 days after the close of each financial half year, a copy of the Issuer's unaudited financial statements lodged with ASIC in respect of that half year,

and, in each case, ensure that any financial statements it provides to the Note Trustee:

- (3) comply with generally accepted accounting practice in Australia, except to the extent disclosed in the financial statements; and
 - (4) comply with all applicable laws;
- (c) comply with the Terms of Issue;
- (d) do all things which are reasonably requested by the Note Trustee to enable the Note Trustee to comply with the Note Trustee's obligations under this deed, the Terms of Issue, the Corporations Act (or any other laws binding on the Note Trustee with respect to the Trust or the Notes), the Listing Rules or the ASX Settlement Operating Rules;
- (e) provide to the Note Trustee:
 - (1) at the same time as their issue, all documents sent by it to Noteholders;
 - (2) at the same time as their issue, all documents lodged by it with the Exchange pursuant to the Terms of Issue; and
 - (3) promptly, all other information requested by the Note Trustee which is reasonably required for the purposes of discharging the duties, trusts and powers of the Note Trustee under this deed or law;
- (f) promptly, after becoming aware that any provision of this deed or the Notes cannot be complied with by the Issuer (as the case may be), notify the Note Trustee of that fact in writing;
- (g) promptly after any redemption or cancellation of any Notes, confirm in a certificate signed by any two directors, or any director and company secretary, of the Issuer details of that redemption or cancellation to the Note Trustee;
- (h) promptly, after any appointment, retirement, resignation or removal of an auditor of the Issuer, notify the Note Trustee in writing;
- (i) for so long as any of the Notes remain outstanding, notify the Note Trustee in writing promptly after it becomes aware of a breach by the Issuer of Chapter 2L or section 318 of the Corporations Act or the Terms of Issue; and



- (j) to promptly obtain, make and keep in effect all consents and filings required for it to enter into and perform its obligations under the Trust Deed and the Terms of Issue.

6 Enforcement of this deed

6.1 Enforcement by Note Trustee

All of the rights against the Issuer in connection with Notes are held by the Note Trustee. Accordingly, no Noteholder is entitled to directly enforce any rights, powers or remedies in connection with the Notes (whether under this trust deed or the Terms of Issue, and whether in its own name or the Note Trustee's name) directly against the Issuer.

6.2 Enforcement on direction by Noteholders

Subject to this deed, the Terms of Issue and section 283DA(h) of the Corporations Act, the Note Trustee must take action to enforce this deed or the Terms of Issue, in each case in accordance with their terms, where all the following conditions are met (and the Trustee may, but is not required to, act independently or to otherwise act in accordance with any direction from the Noteholders or any of them, or in accordance with a Ordinary Resolution unless such conditions are satisfied):

- (a) the Note Trustee has been directed to take that action by an Ordinary Resolution (unless such a direction has been rescinded by a subsequent Ordinary Resolution);
- (b) the Note Trustee is placed in funds or is otherwise indemnified to its satisfaction:
 - (1) for all actions, proceedings, claims and demands to which the Note Trustee may render itself liable by taking such action;
 - (2) in respect of all Costs, charges, damages and expenses which the Note Trustee may thereby incur;
 - (3) in respect of the costs of all management time spent by employees or officers of the Note Trustee in relation to such action which will be charged at the Note Trustee's standard hourly rates prevailing from time to time provided that such rates have been notified to the Issuer in writing; and
- (c) the Note Trustee is not restricted or prohibited from taking such action under this deed or the Terms of Issue, or by any order of any competent court or any applicable law.

If the Note Trustee forms the view that action it has been directed to take is or could be inconsistent with this deed, the Terms of Issue or any applicable law or is or could be otherwise objectionable, it may take steps to seek (and, if the court so determines, to obtain) as soon as reasonably practicable a court direction or order to set aside or vary the direction and, while those steps are underway, the Note Trustee is not obliged to take any action or proceedings it has been directed to take.

For the avoidance of doubt, the Note Trustee may take action in relation to enforce this deed or the Terms of Issue in any circumstance and in its absolute discretion but is not obliged to act unless the conditions of this clause are satisfied.



If the Issuer breaches any of its obligations under this deed or the Terms of Issue, the Note Trustee may, at its discretion and without further notice, bring such proceedings as it may think fit to enforce such obligations.

6.3 Enforcement by Noteholder

- (a) A Noteholder is prohibited from:
 - (1) taking any Enforcement Action;
 - (2) enforcing this deed or the Terms of Issue against the Issuer.
- (b) The Issuer may plead this clause in bar to any proceedings brought against it that are not permitted by this clause 6.

6.4 Distribution of proceeds

All money received by the Note Trustee in respect of amounts payable under this deed must be held by the Note Trustee on trust to be applied in the following order:

- (a) firstly, in payment of all Costs incurred by or other amounts owing to the Note Trustee under or in connection with this deed (including all remuneration and other amounts payable to the Note Trustee under clauses 8 and 9);
- (b) secondly, in or towards payment equally or rateably of all arrears of interest remaining unpaid in respect of the Notes and all principal or other amounts due but remaining unpaid in respect of the Notes; and
- (c) thirdly, in payment of the balance (if any) to the Issuer.

7 Powers, duties and discretions of Note Trustee

7.1 Excluded roles and duties

The appointment of the Note Trustee as trustee does not mean that the Note Trustee:

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

any Noteholder (other than in its capacity as a Noteholder), the Issuer or any other person, except as provided in this deed or the Terms of Issue.

7.2 Powers generally

The Note Trustee has in acting as trustee of the Trust (including in exercising its rights and complying with its obligations under this deed and the Terms of Issue) and in relation to all property of the Trust all the powers of a natural person or which it is otherwise possible to confer on a trustee.

7.3 Duties

- (a) The Note Trustee must:
 - (1) act honestly and in good faith and comply with all laws in performing its duties and in the exercise of its Power;



- (2) exercise such diligence and prudence as a person qualified to be a trustee under the Corporations Act in the position of the Note Trustee would exercise in performing its duties and in the exercise of its Powers;
 - (3) if and to the extent the Note Trustee holds Trust assets, keep accounting records which correctly record and explain all amounts paid and received by the Note Trustee in its capacity as trustee under this deed or the Terms of Issue; and
 - (4) if and to the extent the Note Trustee holds Trust assets, keep the assets of the Trust separate from all other assets of the Note Trustee which are held in a capacity other than as trustee of the Trust under this deed.
- (b) The Note Trustee must not interfere with the conduct of the ordinary business of the Issuer unless required to do so in order to comply with its duties under the Corporations Act, this deed or the Terms of Issue.
- (c) The Note Trustee has no obligations or duties except those expressly set out in this deed and those imposed on it by Chapter 2L of the Corporations Act and any other law that cannot be excluded. The obligations of the Note Trustee to act, or refrain from acting, are at all times subject to the Corporations Act.

7.4 Stapling Provisions

The Note Trustee acknowledges that until the Unstapling Date:

- (a) the Note Trustee will not; and
- (b) notwithstanding any other provisions of this deed, the Noteholders may not direct the Note Trustee to,

act, or refrain from acting, or otherwise do anything which is inconsistent with the Stapling Provisions.

7.5 Discretions

The Note Trustee may:

- (a) **(delegation)** employ agents, contractors and attorneys and may delegate by power of attorney or otherwise, any of its Powers (on such terms and conditions as the Note Trustee may think fit) including, without limitation, holding any Trust property and executing documents on its behalf, without notifying the Issuer or Noteholder of such employment or delegation provided that the Note Trustee reasonably believes that it is fit, proper and appropriate to so employ or delegate;
- (b) **(directions)** apply to court for directions in relation to any question arising either before or after Notes become repayable and assent to and approve of or oppose any application to any court made by or at the instance of any Noteholder;
- (c) **(reliance)** rely and act upon (without enquiry) any communication or document it has had no reasonable grounds to believe is not genuine and correct and to have been signed or sent by the appropriate person or persons;
- (d) **(expert advice)** engage and rely and act upon (without enquiry) the advice or opinion of or information provided by any agent, contractor, attorney, delegate, barrister, solicitor, accountant, auditor, actuary, valuer or other consultant or adviser of the Issuer or engaged or appointed by the Note Trustee. The Note



Trustee is not responsible for any loss occasioned by so engaging, relying or acting;

- (e) **(certificates and other documents)** accept as conclusive evidence, rely and act upon:
- (1) a certificate which purports to be signed by any two directors of the Issuer as to any fact or matter, as conclusive evidence of it, including without limitation as to whether or not any particular dealing, transaction, step or thing is commercially desirable or detrimental to the interests of the Noteholders or whether any circumstance exists entitling the Issuer to redeem the Note prior to the Maturity Date; and
 - (2) any information, document, communication, report, balance sheet or profit and loss or other accounts, certificate or statement supplied (including by electronic transmission) by the Issuer or its Related Body Corporates, or any director, secretary, auditor, solicitor or duly authorised officer of the Issuer or its Related Body Corporate, as conclusive evidence of the contents of such documents, including without limitation, any statements or opinions contained therein,

in each case in the absence of the Note Trustee's knowledge of any manifest or proven error.

The Note Trustee is not required to call for further evidence or information (other than, as the case may be, such certificate, statement, report, document, communication, balance sheet or profit and loss or other accounts received by it) nor to enquire as to their accuracy and is not responsible for any Costs that may be occasioned by its acceptance, reliance or so acting on them provided the Note Trustee has no knowledge that the relevant certificate, statement, report, document, communication, balance sheet or profit and loss or other accounts was not accurate or, as the case may be, the relevant document was not authentic;

- (f) **(statements)** accept as conclusive evidence, rely and act upon, all statements (including statements made or given to the best of knowledge and belief or similarly qualified) and any opinions contained in any information, document, communication, statement, certificate, report, balance sheet or profit and loss account given pursuant to the provisions of, or in any way in relation to, this deed or the Terms of Issue as conclusive evidence of the contents of it;
- (g) **(determinations)** determine as between itself and the Noteholders all questions and matters of doubt arising in relation to this deed or the Terms of Issue (whether in respect of a question actually raised or implied in acts or proceedings of the Note Trustee);
- (h) **(disputes and ambiguities)** if there is any dispute or ambiguity in relation to any matter connected with the Notes, this deed or the Terms of Issue, the Note Trustee may (but need not) do one or both of the following:
- (1) obtain and rely on advice from any person referred to in clause 7.5(d); or
 - (2) apply to a court for any direction in accordance with clause 7.5(b) and comply with any such directions or orders,

provided that for so long as the Note Trustee is using reasonable endeavours to resolve any dispute or ambiguity, the Note Trustee may (but need not) refuse to do anything in relation to matters affected by the dispute or ambiguity;

- (i) **(exercise of powers)** comply with its obligations under the deed and the Terms of Issue in any manner it thinks fit and determine in any manner it thinks fit



whether to exercise, and the manner, mode and time of exercise of, the Note Trustee's Powers. Unless it is fraudulent, negligent or wilfully defaults, the Note Trustee is not liable in its personal capacity for any loss, Cost, claim, damage or expense which may result from the exercise or failure to exercise any of its Powers; and

- (j) **(waiver)** waive, so long as it is in writing, at any time and on any terms or conditions, any breach by the Issuer under this deed or the Terms of Issue but where a breach is the failure of the Issuer to redeem or repay any Notes in accordance with the Terms of Issue or this deed, the Note Trustee may only waive the breach if the Noteholders have by an Ordinary Resolution consented to or authorised the waiver, or the breach has been remedied.

7.6 Interests of Noteholders

When considering whether any matter is detrimental to, or in the interests of, the Noteholders, the Note Trustee:

- (a) is not required to consider the tax position of the Noteholders or to consider any other issue or circumstance affecting the position of a particular Noteholder or particular group of Noteholders; and
- (b) to the maximum extent permitted by law, unless the Unstapling Date has occurred:
 - (1) is bound to have regard to the interests of the Noteholders as holders of the Attached Shares taken as a whole; and
 - (2) is entitled to accept and rely upon any resolution of the board of directors of the Issuer as conclusive evidence of whether the matter is, or is not, detrimental to or in the interests of, the Noteholders.

7.7 Noteholders bound

Each Noteholder is bound by anything properly done or not done by the Note Trustee in accordance with this deed or the Terms of Issue, whether or not on instructions, and whether or not the Noteholder gave an instruction or approved of the thing done or not done.

8 Note Trustee protections

8.1 Note Trustee not responsible for certain matters

Except to the extent required by the Corporations Act or otherwise provided by this deed, the Note Trustee:

- (a) **(application moneys)** has no responsibility in respect of moneys subscribed by applicants for Notes or to see to the application of those moneys.
- (b) **(form of documents)** has no responsibility for the form or contents of this deed and will have no liability arising as a result of or in connection with any inadequacy, invalidity or unenforceability of any provision of this deed except insofar as it relates to the Note Trustee or to any representation or warranty given by the Note Trustee;
- (c) **(monitoring)** is not required to:



- (1) provide to any person (including any Noteholder) any information concerning the business, financial condition, status or affairs of the Issuer (whenever coming into its possession);
- (2) investigate the adequacy, accuracy or completeness of any information provided by the Issuer;
- (3) assess, investigate, request information in relation to or otherwise keep itself informed about, or keep under review the business, financial condition, status, affairs or other circumstances of the Issuer;
- (4) monitor compliance by the Issuer of its obligations under this deed; or
- (5) investigate or consider whether any issue of Notes or any payment in respect of a Note will be an unfair preference or other similar voidable transaction for the purposes of Chapter 5 of the Corporations Act;
- (d) **(notice)** is not required to notify any person of the execution of this deed or the occurrence of any breach of this deed, the Terms of Issue or any other document relating to the Notes;
- (e) **(exercise Powers)** has no obligation to exercise any Power in a particular manner or at all; or
- (f) **(notices)** subject to the Corporations Act, has no obligation to provide Noteholders with notices, documents or other information it has received from the Issuer.

8.2 Knowledge of the Note Trustee

The Note Trustee:

- (a) will only be considered to have knowledge or notice of or be aware of any matter or thing if the Note Trustee has knowledge, notice or awareness of that matter or thing by virtue of the actual notice or awareness of the officers or employees of the Note Trustee who have day to day responsibility for the administration of the Trust; and
- (b) will be taken not to have knowledge, notice or awareness of the occurrence of a breach of this deed or Terms of Issue unless the Note Trustee has received written notice from a Noteholder or the Issuer stating that the relevant breach has occurred and describing the events or circumstances constituting such breach.

8.3 Confidential information

Nothing in this deed requires the Note Trustee to disclose information or provide documents relating to the Issuer or any other person if the Note Trustee reasonably believes that to do so would or may constitute a breach of law or duty of confidentiality.

8.4 Capacity as Noteholder

If the Note Trustee is also a Noteholder, then in its capacity as a Noteholder it:

- (a) has the same rights and obligations as the other Noteholders; and
- (b) may exercise those rights and agrees to comply with those obligations independently from its role as Note Trustee as if it were not the Note Trustee.



8.5 Other dealings with Issuer

The Note Trustee and its Related Bodies Corporate or Associates may, without being liable to account to the Issuer or any Noteholder:

- (a) hold Notes, shares or any other marketable securities issued by the Issuer, or any of its Related Bodies Corporate or Associates, in any capacity;
- (b) represent or act for, or contract with, individual Noteholders in any capacity;
- (c) deal in any capacity with the Issuer or any of its Related Bodies Corporate or Associates;
- (d) act in any capacity in relation to any other trusts;
- (e) retain for its own benefit any amount received by it for its own account; or
- (f) accept deposits from, lend money or provide services to, and generally conduct any banking or other business with, or enter into any contract or arrangement with the Issuer or any Noteholder, and any person connected with the Issuer or any Noteholder, without having to account to the Noteholders or any other person (including in respect of any fee, remuneration or profit received or accruing in connection with any of the above),

provided that to do so would not preclude the Note Trustee from acting as Note Trustee under the Corporations Act.

8.6 Exclusions of liability

Neither the Note Trustee nor any of its directors, officers, employees, agents or attorneys or Related Bodies Corporate will be responsible for or liable to the Issuer or any Noteholder or any other person for loss or damage caused by:

- (a) the Note Trustee's acts or omissions in accordance with the terms of this deed in reliance on:
 - (1) the Register;
 - (2) information or documents supplied by the Issuer or any agent of the Issuer;
 - (3) the authenticity of any document it reasonably believes to be genuine and correct;
 - (4) opinion, advice or information of any consultant or adviser of the Note Trustee;
- (b) any act, omission, neglect or default of any delegate, attorney or agent of the Note Trustee (other than a Related Body Corporate of the Note Trustee), unless the Note Trustee fails to use reasonable care in selecting and monitoring them;
- (c) any failure by the Issuer to perform its obligations under this deed, the Terms of Issue or the Notes or any other act, omission, neglect or default of the Issuer, any Controller or of any other person under or in connection with this deed or the Notes;
- (d) any act or omission required by law or by any court of competent jurisdiction;
- (e) anything required to be done or omitted to be done in accordance with an instruction or direction given to it by the Noteholders at a Meeting;
- (f) any act or omission of an operator of any securities title, transfer or holding system or any absence of, or defect in, the title of the Issuer to any asset;
- (g) any payment having been made to any fiscal authority;



- (h) the Note Trustee waiving or excusing, subject to any conditions that the Note Trustee thinks fit, any breach by the Issuer of its obligations under this deed or the Terms of Issue;
- (i) any of them exercising, failing to exercise or attempting to exercise any Power under this deed, the Terms of Issue or in relation to the Notes;
- (j) the financial condition or solvency of the Issuer;
- (k) the value, validity, effectiveness, genuineness, execution, enforceability or sufficiency of:
 - (1) this deed, the Terms of Issue, any Note; or
 - (2) any other document or agreement referred to or provided for in, or received by any of them under this deed or the Terms of Issue;
- (l) any recital, statement, representation or warranty contained in this deed, the Terms of Issue, the Prospectus or in any document or agreement referred to or provided for in, or received by any of them under, this deed or the Terms, in each case, made by any person other than the Note Trustee;
- (m) any action properly taken or not taken by the Note Trustee under this deed, the Terms of Issue or in relation to a Note:
 - (1) in accordance with any instructions or directions from the Noteholder(s); or
 - (2) in any manner, where this deed or the Terms of Issue do not require instructions to be given to the Note Trustee.

8.7 Limitation of liability

- (a) The Note Trustee is not liable to the Issuer or the Noteholders or any other person in any capacity other than as trustee of the Trust.
- (b) A liability to the Issuer, any Noteholder or any other person arising under or in connection with this deed and the Terms of Issue is limited to and can be enforced by the person against the Note Trustee only to the extent to which it can be satisfied out of any Trust Fund assets held by the Note Trustee out of which the Note Trustee is actually indemnified for the liability. This limitation of the Note Trustee's liability applies despite any other provision of this deed and extends to all liabilities and obligations of the Note Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.
- (c) The Issuer or a Noteholder may not sue the Note Trustee in any capacity other than as trustee of the Trust, including seeking the appointment of a receiver (except in relation to any assets of the Trust Fund), a liquidator, an administrator or any other similar person to the Note Trustee or prove in any liquidation of or affecting the Note Trustee (exception in relation to any assets of the Trust Fund).
- (d) The Issuer and Noteholders waive their rights and release the Note Trustee from any personal liability in respect of any loss or damage which any of them may suffer as a consequence of a failure of the Note Trustee to perform its obligations under this deed, which cannot be paid or satisfied out of the Trust Fund.
- (e) The provisions of this clause will not apply to any obligation or liability of the Note Trustee to the extent arising as a result of a Note Trustee Default.



- (f) The Issuer and Noteholders acknowledge that they are responsible under this deed for performing a variety of obligations under this deed. No act or omission of the Note Trustee (including any related failure to satisfy its obligations or breach of representation or warranty under this deed) will be considered fraud, negligence or wilful default of the Note Trustee for the purposes of this clause 8.7 to the extent to which the act or omission was caused or contributed to by any failure of the Issuer, any Noteholder or any other person to fulfil its obligations relating to the deed or by any other act or omission of the Issuer, any Noteholder or any other person.
- (g) No attorney, agent or delegate appointed in accordance with this deed has authority to act on behalf of the Note Trustee in any way which exposes the Note Trustee to any personal liability and no act or omission of any such person will be considered fraud, negligence or wilful default of the Note Trustee for the purpose of this clause 8.7.

8.8 No obligation to act

The Note Trustee is not obliged to carry out any act or refrain from doing any act (including incurring any liability or convening any Meeting of Noteholders) under this deed or the Terms of Issue until such time as it is placed in funds or is otherwise indemnified to its satisfaction against any Cost which it may incur as a result of doing so.

8.9 Noteholder capacity

The Note Trustee's duties and obligations to Noteholders are owed to Noteholders only in their capacity as Noteholders.

8.10 Acting on directions

To the extent permitted by law, the Note Trustee is not liable to a Noteholder for acting in accordance with any Ordinary Resolution or any other direction given by any Noteholder or Noteholders in accordance with this deed or the Terms of Issue with which the Note Trustee is required to comply.

8.11 Note Trustee refraining from acting

The Note Trustee may:

- (a) refrain from doing anything that would, or in its reasonable opinion might, contravene any applicable law or regulation; and
- (b) do anything that, in its opinion, is necessary to comply with any applicable law or regulation.

8.12 Note Trustee may assume certain matters

The Note Trustee may assume, subject to its obligations under the Corporations Act, that:

- (a) any representation or statement made by a person in this deed, the Terms of Issue or the Prospectus is and remains true;
- (b) unless it has no reasonable grounds for doing so, any deed or information provided to it is genuine and accurate; and
- (c) (unless it is notified in writing by a Noteholder or the Issuer to the contrary) any right, power, authority or discretion vested in any party to this deed has not been exercised.



8.13 Noteholders' own decision to invest

By its purchase of Notes, each Noteholder will be deemed to have confirmed and acknowledged that, as between itself and the Note Trustee:

- (a) it has purchased Notes on the basis of the Prospectus or other information disclosed by the Issuer (and the Note Trustee is not responsible for the Prospectus or such other information);
- (b) it was not induced by the Note Trustee to purchase the Notes; and
- (c) the Note Trustee has no monitoring duty as set out in clause 8.1(c).

8.14 Issuer not concerned with authority of Note Trustee

The Issuer is not entitled to enquire whether any action by the Note Trustee has in fact been authorised by the Noteholders and, as between the Issuer and the Noteholders, any action taken by the Note Trustee concerning this deed, the Terms of Issue or any Note is taken to be authorised by the Noteholders.

8.15 Protection of third parties

No person dealing with the Note Trustee is bound to enquire as to whether the Note Trustee has been properly appointed under this deed or the Terms of Issue or as to whether the Note Trustee has the requisite power to act as Note Trustee of the Trust and may assume that anything purported to be done by the Note Trustee under this deed, the Terms of Issue or in relation to any Note has been duly authorised by this deed, the Terms of Issue and the Noteholders.

8.16 Exclusions of law where permitted

- (a) To the maximum extent permitted by law and subject to the Corporations Act, the Note Trustee's obligations, duties and responsibilities are expressly limited to those set out in this deed and the Terms of Issue.
- (b) All liabilities and responsibilities which may from time to time be imposed on the Note Trustee at law or in equity are, to the extent permitted at law or in equity, excluded and, except to the extent provided to the contrary in this deed, the Terms of Issue or the Corporations Act, expressly negated and waived by the Issuer and the Noteholders.
- (c) Subject to the Corporations Act, any legislation that affects an obligation of the Issuer in a manner that is adverse to the interests of the Note Trustee or the Noteholders, or adversely affects the exercise by the Note Trustee or the Noteholders of a right or remedy, under or relating to this deed is excluded to the full extent permitted by law.

8.17 No representation or reliance

The Issuer and the Note Trustee confirm that no party (nor any person acting on a party's behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed.



8.18 Void or voidable transactions

If:

- (a) the Note Trustee has at any time released or discharged the Issuer from its obligations under this deed or the Terms of Issue in reliance on a payment, receipt or other transaction to or in favour of the Note Trustee or Noteholders or any payment or other transaction to or in favour of the Note Trustee or Noteholders has the effect of releasing or discharging the Issuer from its obligations under this deed or the Terms of Issue;
- (b) 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) that claim is upheld or the claim is conceded or compromised by the Note Trustee or a Noteholder,

then:

- (d) the Note Trustee and each Noteholder will immediately become entitled against the Issuer to all rights as it had immediately before that release or discharge;
- (e) the Issuer must immediately do all things and execute all documents as the Note Trustee may reasonably require to restore to the Note Trustee and the Noteholders all those rights; and
- (f) the Issuer must indemnify the Note Trustee and each Noteholder against costs, losses and expenses suffered or incurred by the Note Trustee or Noteholder 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.

8.19 Survival

The provisions of this clause 8 shall survive the termination of this deed and the Terms of Issue and any retirement or removal of the Note Trustee as trustee of the Trust.

9 Note Trustee's remuneration and indemnities

9.1 Remuneration

The Issuer must pay to the Note Trustee by way of remuneration for its services as trustee under this deed a fee or such other remuneration as may be agreed between the parties in writing, from time to time. The payment of such fees must be made by the Issuer by transfer to such account nominated from time to time by the Note Trustee to the Issuer or by such other means notified by the Note Trustee to the Issuer from time to time.

9.2 Reimbursement

- (a) The Issuer must pay its own Costs in connection with negotiating, preparing, executing and performing this deed or the Terms of Issue, and must pay to the Note Trustee on demand all Costs properly incurred by or on behalf of the Note Trustee in connection with:



- (1) the negotiation, preparation and execution of this deed and any subsequent consent, agreement, approval, waiver or amendment required under this deed;
 - (2) acting as trustee of the Trust or the carrying out or exercise or the purported carrying out or exercise by the Note Trustee of any duty, obligation or Power imposed or conferred expressly or impliedly by this deed or the Terms of Issue on the Note Trustee or upon Noteholders or by law including the exercising, enforcing or preserving, or attempting to exercise, enforce or preserve, the rights under this deed or the Terms of Issue;
 - (3) any breach or default in the observance or performance by the Issuer of any of the covenants, obligations, conditions and provisions of this deed or under the Notes;
 - (4) the convening and holding of any Meeting of Noteholders and the carrying out of any proper directions or resolutions of Noteholders; or
 - (5) all actions taken under this deed or under the Notes in relation to complying with any notice, request or requirement of any Government Agency and any investigation by any Government Agency into the affairs of the Issuer.
- (b) If the Issuer or any of its assets are placed in liquidation, the Note Trustee is entitled to claim and receive from any Controller or similar official amounts by way of reimbursement of all Costs (including on its own account) in connection with any enforcement or other action taken by it as trustee of the Trust.
- (c) Nothing in clause 9.2(a) limits, prejudices or otherwise affects any other provision of this deed, the Terms of Issue or any rights of the Note Trustee under law.

9.3 Other indemnities

- (a) Except as otherwise agreed with any Noteholder or Noteholders in connection with the taking of any action by the Note Trustee, the Note Trustee is not entitled to be indemnified by any Noteholder personally.
- (b) Subject to clause 9.3(a), the Note Trustee's rights under this clause 9.3 are in addition to any right of indemnity that may be conferred on the Note Trustee by law or this deed.
- (c) The Note Trustee, its officers, directors, employees, agents, attorneys and its Related Body Corporates (together, the **Note Trustee Indemnified Parties**) are entitled to be indemnified by the Issuer and, without limitation, out of the Trust Fund, in respect of all Costs suffered or properly incurred by a Note Trustee Indemnified Party in the execution of the Trust, the exercise of any of the Powers vested in the Note Trustee or performance of any obligations under this deed or the Terms of Issue, but this indemnity does not extend to:
- (1) any such Costs to the extent arising out of a Note Trustee Default; or
 - (2) any Taxes (excluding any GST) imposed on a Note Trustee Indemnified Party's remuneration for its services in connection with their appointment in respect of the Trust.

The Note Trustee may retain and pay out of any moneys in its hand in priority to any claim by a Noteholder, all sums necessary to effect and satisfy an amount due and payable to a Note Trustee Indemnified Party under this clause 9.3.



- (d) Any indemnity to which the Note Trustee is entitled under this deed is in addition to, and without prejudice to, any indemnity allowed by law or equity to the Note Trustee.

9.4 Indemnity unaffected by unrelated breaches

To the maximum extent permitted by Section 283DB of the Corporations Act, where a Cost, loss, liability, expense, demand or claim is suffered or incurred pursuant to a proper exercise of the Note Trustee's powers under this deed or at law, the Note Trustee may exercise any of its rights of indemnification or reimbursement out of the Trust Fund or as against the Issuer to satisfy that Cost, loss, liability, expense, demand or claim, despite any loss the Trust Fund may have suffered or any diminution in the value of the Trust Fund as a consequence of any unrelated act or omission by the Note Trustee or by any person or entity acting on behalf of the Note Trustee.

9.5 Priority and survival

All remuneration and Costs referred to in this clause 9 shall be paid in priority to any claim by any Noteholder and continue to be payable until paid notwithstanding that this deed or the Trust may be terminated, or the Trust may be wound up or subject to administration by or under the order of any court. This priority of the Note Trustee will subsist whether or not a receiver, receiver and trustee, official trustee, liquidator, administrator or similar official is appointed to the Issuer or any of its assets or the Trust is in the course of administration by or under the order of any court.

9.6 GST

The Issuer must pay to the Note Trustee on demand any goods and services tax, value added tax or any like tax (**GST**) which is payable as a consequence of any supply made or deemed to be made or other matter or thing done under or in connection with this deed by the Note Trustee (together with any fine, penalty or interest payable because of a default by the Issuer). The amount paid by the Issuer to the Note Trustee on account of the GST must be sufficient to ensure that the economic benefit to the Note Trustee of this deed remains the same whether or not GST applies. The Note Trustee will give the Issuer a tax invoice.

9.7 Stamp duties

- (a) The Issuer must pay all stamp duties and any related fines and penalties in respect of this deed, the performance of this deed and each transaction effected by or made under this deed.
- (b) The Issuer must indemnify the Note Trustee against any liability arising from the Issuer's failure to comply with clause 9.7(a).

10 Retirement and removal of Note Trustee

10.1 Retirement

Subject to compliance with the relevant statutory requirements for the time being, the Note Trustee may retire by giving notice in writing to the Issuer, but such retirement will not be effective until the last to occur of the following:



- (a) the day which is 60 days after the date of the notice in writing (or such other period as the Note Trustee and the Issuer may agree); and
- (b) the day upon which the appointment of a new Note Trustee becomes effective under clause 10.3.

10.2 Removal

- (a) Subject to compliance with the relevant statutory requirements for the time being, the Note Trustee must retire as trustee for the Noteholders under this deed and the Issuer may by written notice to the Note Trustee, remove the Note Trustee if:
 - (1) the Note Trustee is in material breach of its obligations under this deed and has not rectified the breach within 10 Business Days of receiving a written notice from the Issuer specifying the breach and requesting the Note Trustee to rectify the breach;
 - (2) the Note Trustee ceases to carry on business or ceases or refuses to act as Note Trustee under this deed;
 - (3) the Note Trustee is placed in liquidation or is wound up or dissolved;
 - (4) a receiver, receiver and trustee, official trustee, liquidator, administrator or similar official is appointed to the Note Trustee;
 - (5) any licence, consent, Authorisation, permit or similar thing the Note Trustee is required to hold to carry out its obligations and duties under or in respect of this deed is revoked or not renewed;
 - (6) the Issuer reasonably believes that any of the things referred to in section 283BD of the Corporations Act have occurred;
 - (7) the Note Trustee ceases to be a person who can be appointed a trustee under section 283AC(1) of the Corporations Act;
 - (8) the Note Trustee cannot continue to act as Note Trustee because of the operation of section 283AC(2) of the Corporations Act; or
 - (9) the Issuer is authorised or requested to do so by a Meeting of the Noteholders called in accordance with clause 11.
- (b) Any removal of the Note Trustee by the Issuer under this clause 10.2 will only take effect upon the appointment of a new Note Trustee under clause 10.3.
- (c) On the retirement or removal of the Note Trustee, the Note Trustee must at the cost of the Issuer do all such things and execute all such deeds and assurances as are necessary for the purpose of vesting in a new trustee all money, property, rights, powers, authorities and discretions vested in the Note Trustee under this deed.

10.3 Appointment of new Note Trustee

- (a) Subject to section 283AC of the Corporations Act and paragraph (b) below, the Issuer may appoint a new Note Trustee following the retirement or removal of the Note Trustee in accordance with this clause 10, but if the Issuer fails to do so within 60 days (or such other period as the Note Trustee and the Issuer may agree) after receiving a notice from the Note Trustee under clause 10.1 then the Note Trustee may appoint a new Note Trustee (or, in its discretion, apply to the court for the appointment of a new Note Trustee) and any such appointment will be effective without the approval of the Issuer or the Noteholders being required, but the Note Trustee may, in lieu of exercising the power conferred by



this clause 10.3, call a meeting of Noteholders for the purpose of appointing by the passing of an Ordinary Resolution a person nominated either by the Note Trustee or by any Noteholder (but if by a Noteholder, such person must have been approved by the Issuer) as the new Note Trustee.

- (b) If the Issuer appoints a new Note Trustee which is a Related Body Corporate of the Note Trustee, such appointment will not take effect unless the Note Trustee consents in writing to the appointment (such consent not to be unreasonably withheld).
- (c) A new Note Trustee may be appointed by deed executed by the new Note Trustee and the Issuer or the Note Trustee (as applicable) and such execution shall by force of this clause 10.3 vest in the new Note Trustee all Powers and all right title and interest of the Note Trustee in this deed and the Terms of Issue.

10.4 Release

- (a) When the Note Trustee retires or is removed, the Note Trustee is by force of this clause 10.4 discharged and released from its obligations, covenants and liabilities under this deed arising after the date it retires or is removed. The Issuer must then, if required by the Note Trustee, execute a confirmation of release in favour of the Note Trustee in a form and substance reasonably acceptable to the Note Trustee.
- (b) The retirement, removal or departure of the Note Trustee does not prejudice any accrued right or obligation of the Note Trustee (including, without limitation, any right of indemnity that may be conferred on the Note Trustee by law, the Note Trustee's entitlement to the indemnities contained in this deed and the Terms of Issue or the Note Trustee's entitlement to be paid fees or be reimbursed for Costs, in each case that continue to accrue up to the date of appointment of the new Note Trustee) and it may retain copies of any documents and records required by it and which it reasonably considers to be relevant and will be given reasonable access to any other documents and records by the new Note Trustee.

10.5 Release

The Note Trustee is entitled to its remuneration up to the date of its retirement or removal and reimbursement for its costs of complying with this clause 10.

11 Meetings of Noteholders

11.1 Meetings of Noteholders

- (a) Subject to the Corporations Act, the Note Trustee or the Issuer may at any time convene a Meeting.
- (b) The provisions of Part 2L.5 of the Corporations Act and Attachment 2 apply to any Meeting of Noteholders.
- (c) The Note Trustee may do all things (including executing documents) it reasonably considers necessary or desirable under or in connection with any Ordinary Resolution.



11.2 Passing of resolution

A resolution passed at a Meeting of Noteholders held in accordance with this deed is binding on all Noteholders.

12 Register

12.1 Maintenance of the Register

- (a) The Issuer must establish and maintain (or cause to be established and maintained) the Register and enter (or cause to be entered) on the Register:
 - (1) all information required by section 171 of or as otherwise required under the Corporations Act;
 - (2) the name of the Noteholder recorded in the relevant application form or transfer, but the Issuer is not bound to register more than three persons as joint holders of a Note;
 - (3) the postal and email address (if any) of the Noteholder or, in the case of joint Noteholders, the postal and email address (if any) of the Noteholder whose name first appears on the application form or Transfer Form for such Note;
 - (4) any payment instructions or account details notified by the relevant Noteholder to the Issuer, for the purpose of receiving payments in relation to the Notes held by such Noteholder; and
 - (5) any other particulars which the Issuer or Note Trustee thinks fit or that it is required to include on the Register under this deed.
- (b) The Issuer must promptly, on receipt of details of any change of name or address of a Noteholder notified in writing and accompanied, in the case of change of name, by any evidence which the Issuer may reasonably require, alter (or cause to be altered) the details recorded on the Register in respect of that Noteholder.
- (c) At any time the Issuer may (on such terms as it thinks fit) appoint a suitably qualified person to establish and maintain the Register on its behalf and may terminate such appointment, however the Issuer will remain responsible for ensuring the Register is maintained in accordance with this deed. The Issuer must notify the Note Trustee of the name of any entity (and relevant contact details, including the location of the Register) that the Issuer has appointed to establish or maintain the Register under this clause.
- (d) Where a Noteholder transfers some but not all of its Notes, the transfer may be recorded in the Register in respect of any of the Noteholder's Notes.

12.2 Stapled Security Register

Unless an Unstapling Date has occurred, the Issuer may maintain the Register for the purposes of this deed in a consolidated register which also constitutes the register for holders of the Attached Securities and the provisions of this clause 12 shall be construed accordingly.



12.3 Closed periods

On giving a notice by advertisement or otherwise as may be required by law, or the requirements of the Listing Rules, the Issuer may from time to time close any Register for any period or periods not exceeding in any one year the maximum period permitted by law or those requirements in aggregate in any calendar year. The Issuer is not required to register any transfer during any period in which the Register is closed.

12.4 Notice of trust

No notice of any trust (whether express, implied or constructive) will be entered in the Register except as may be ordered by a court of competent jurisdiction.

12.5 Copy of Register

The Issuer must give a complete copy of the Register to the Note Trustee (which may be in electronic or written form as the Issuer so determines) within 48 hours of a request by the Note Trustee for a copy of the Register.

12.6 Register conclusive

- (a) In the absence of fraud or manifest error or proven error, each recording in the Register in respect of a Note constitutes sufficient and conclusive evidence to all persons and for all purposes that the person whose name is so recorded is the registered owner of the Note.
- (b) Neither the Issuer nor the Note Trustee is liable for any mistake in the Register or in any purported copy except, in the case of the Issuer, to the extent that the mistake is attributable to its own fraud, negligence or wilful default.
- (c) If:
 - (1) an entry is omitted from the Register;
 - (2) an entry is made in the Register otherwise than in accordance with this deed;
 - (3) an entry wrongly exists in the Register;
 - (4) there is an error or defect in any entry in the Register; or
 - (5) default is made or unnecessary delay takes place in entering in the Register that any person has commenced, or ceased, to be the holder of Notes,

then the Issuer may rectify the same and is not liable for any loss, Costs or liability incurred as a result of any of the foregoing occurring provided that it is not as a result of the Issuer's fraud or wilful default.

12.7 Holding statements and certificates

- (a) So long as the Notes are listed on the Exchange, the Issuer or the Register (as applicable) must issue to each Noteholder a holding statement as soon as reasonably practicable after the issue or transfer of the Notes.
- (b) Any holding statement in respect of Notes is no guarantee that any amounts will be paid to the Noteholder.
- (c) Certificates will not be issued to evidence the Notes unless required by law or otherwise determined by the Issuer.



12.8 Transaction advice after transfer

If the Issuer accepts a transfer the Issuer may issue a transaction advice for:

- (a) the Notes which have been transferred; and
- (b) the balance of any Notes which were not transferred.

12.9 Participation in transfer systems

The Issuer may determine that Notes which are listed on the Exchange will participate in the 'Clearing House Electronic Sub-register System' or any other computerised or electronic system of transfer or registration. The Issuer may with the approval of the Exchange, create rules to facilitate such participation which may be additional to or may override this clause.

12.10 Location of Notes

The Notes are to be treated as located where the Register is kept. The Issuer must promptly notify the Note Trustee in writing of the location of the Register maintained in respect of the Notes, including any change in the location of the Register.

12.11 Note Trustee may accept correctness

In the absence of manifest or proven error, a Register is conclusive evidence of the ownership of the Notes, and the Note Trustee is entitled to accept the correctness of all information contained in a Register without investigation and is not liable to any person for any error in it.



13 Amendments to deed

13.1 Amendment without Noteholder consent

- (a) At any time and from time to time, but subject to clause 13.1(d), the Note Trust Deed, compliance with the Corporations Act and all other applicable laws, the Issuer may without the consent of the Note Trustee or the Noteholders, amend this deed or the Terms of Issue if the Issuer (acting reasonably) is of the opinion that such amendments are:
 - (1) of a formal or technical or minor nature and not materially prejudicial to the interests of the Noteholders as a whole;
 - (2) made to cure any ambiguity or correct an error;
 - (3) necessary to facilitate the listing or quotation of the Notes on the Exchange or another securities exchange;
 - (4) necessary to comply with any laws or the Listing Rules;
 - (5) necessary or convenient in connection with the Stapling Provisions or for the purpose of enabling unsecured notes issued under this deed to be stapled together with shares in the Issuer; or
 - (6) subject to clause 13.1(b), not (taken as a whole and in conjunction with all other amendments to be made contemporaneously with that amendment) materially prejudicial to the interests of Noteholders as a whole.
- (b) If the Note Trustee (acting reasonably) determines that an amendment proposed to be made by the Issuer under clause 13.1(a)(6) (taken as a whole and in conjunction with all other amendments to be made contemporaneously with that amendment) is materially prejudicial to the interests of Noteholders as a whole and gives notice to the Issuer of that determination then the Issuer may not make that amendment unless an Ordinary Resolution is passed in favour of the amendment. The Issuer must give the Note Trustee notice of any proposed amendment under clause 13.1(a)(6) at least 20 Business Days (or such lesser period as may be acceptable to the Note Trustee) prior to making the amendment.
- (c) When determining whether an amendment is or would be materially prejudicial to the interests of Noteholders as a whole the Issuer:
 - (1) is not required to consider the tax position or other circumstances affecting the position of a particular Noteholder or particular group of Noteholders; and
 - (2) must have regard to the interests of Noteholders as holders of Ordinary Shares and any Attached Securities.
- (d) Notwithstanding this clause 13.1, the Issuer may not vary the Maturity Date in a manner that would result in the Maturity Date falling on a date on or after the 10th anniversary of the Issue Date, or vary the terms of any outstanding Notes in a manner which would result in the Issuer not being obliged to repay the Face Value Amount of those Notes on or before that date, unless an Ordinary Resolution is passed in favour of such amendment.



13.2 Amendment with Noteholder consent

At any time and from time to time, but subject to compliance with the Corporations Act and all other applicable laws, the Issuer and the Note Trustee may by an instrument in writing amend this deed or the Terms of Issue if an Ordinary Resolution is passed in favour of such amendment.

13.3 Amendments not to affect Note Trustee

Despite clause 13.1 and clause 13.2, no amendment will alter personal rights or obligations of the Note Trustee unless the Issuer has obtained the Note Trustee's prior written consent to such amendment.

13.4 Interpretation

In this clause 13.4, "**amend**" includes modify, cancel, alter, waive or add to, and "**amendment**" has a corresponding meaning.

14 Termination and release

14.1 Termination of trust

This deed terminates on the earlier of:

- (a) the date the last of the following occurs:
 - (1) the redemption of all Notes;
 - (2) all amounts due on the Notes have all been paid in full;
 - (3) the Issuer has furnished to the Note Trustee a certificate signed by a director or secretary of the Issuer stating that the outstanding principal amount of each Note, and any other amounts due in respect of any Note, have been paid in full or that each Note has otherwise been redeemed or satisfied;
 - (4) the Issuer has furnished to the Note Trustee a statement in writing that it does not intend to, and will not, issue any Notes in the future under this deed;
 - (5) all Costs suffered or incurred by the Note Trustee under this deed and all other amounts which are payable or reimbursable by the Issuer to the Note Trustee under this deed have been paid in full; and
 - (6) the satisfaction or waiver of all other obligations or liabilities of the Issuer to the Note Trustee and Noteholders;
- (b) the date on which Noteholders unanimously determine that the Trust be wound up provided that all Costs suffered or incurred by the Note Trustee under this deed and all other amounts which are payable or reimbursable by the Issuer to the Note Trustee under this deed have been paid in full; and
- (c) the date required by law.



14.2 Distribution of assets

If the Trust is terminated in accordance with clause 14.1, the Note Trustee must distribute the balance of any income and capital in accordance with clause 6.4.

14.3 Confirmation of release

- (a) Subject to clause 14.3(b), at any time after the obligations of the Issuer have been discharged under clause 14.1, a party (**Released Party**) may request the other party to execute in favour of the Released Party, certification that the Released Party is released from the obligations under this deed and the other party must provide the Released Party with the confirmation and release so requested.
- (b) Without limiting the generality of clause 7.5(e), where the Trust terminates following satisfaction of the conditions in clause 14.1(a), no party is required to execute a release in favour of the Released Party unless and until the Issuer has procured an auditor of the Issuer to certify the satisfaction of the conditions specified in clause 14.1(a) (**Termination Certificate**), and the Note Trustee may rely and act on the Termination Certificate.

15 Confidentiality and privacy

15.1 Confidential Information

The Note Trustee acknowledges that all Confidential Information is confidential to the Issuer and must not be disclosed to any person except as permitted by clause 15.2.

15.2 Permitted disclosure

The Note Trustee may disclose Confidential Information:

- (a) to the extent required by this deed, the Terms of Issue or in connection with any obligation, or duty of the Note Trustee under this deed or the Terms of Issue, but only to the extent so required;
- (b) to the extent required by law or by any judicial or regulatory authority or body, but only to the extent so required;
- (c) on a confidential basis to its officers, employees, delegates and professional advisers or other consultants, but only to the extent that such disclosure is necessary in order for the Note Trustee to perform its obligations (including exercising the Powers) under this deed or the Terms of Issue; or
- (d) with the prior written consent of the Issuer (which may be given or withheld in its absolute discretion).

15.3 Privacy

- (a) The Issuer must take all action necessary to comply with the Privacy Act.
- (b) Without limiting clause 15.3(a), the Issuer agrees to obtain sufficient authorisations from persons providing personal information to the Issuer to enable the Issuer to:
 - (1) transfer that personal information to the Note Trustee; and



- (2) permit the Note Trustee and its agents to collect, use, handle and disclose that personal information for the purposes of carrying out the Note Trustee's obligations under this document.

15.4 Financial information

The Note Trustee has no duty or obligation to provide any Noteholder with any financial information relating to the Issuer provided that the Note Trustee shall, at the request of a Noteholder, provide to that Noteholder copies of any financial statements received by the Trustee under clause 5.

16 Representations and warranties

16.1 General

The Note Trustee and the Issuer each represents and warrants to each other that:

- (a) **(incorporation)** it is duly incorporated and has the power to own its property and to carry on its business as it is now being conducted;
- (b) **(requirements)** in the case of the Note Trustee only, it meets the requirements of a trustee as provided in sections 283AC(1) and 283AC(2) of the Corporations Act;
- (c) **(authority)** it has full power and authority to enter into, deliver and perform its obligations under this deed and the Terms of Issue and to carry out the transactions contemplated by them;
- (d) **(authorisations)** it has taken all necessary action to authorise the execution, delivery and performance of this deed and the Terms of Issue and to carry out the transactions contemplated by them in accordance with their respective terms; and
- (e) **(documents binding)** this deed constitutes (or will, when signed and delivered constitute) legal, valid and binding obligations enforceable against it in accordance with its terms, subject to stamping and any necessary registration and except as such enforceability may be limited by any applicable bankruptcy, insolvency, reorganisation, moratorium or trust or general principles of equity or other similar laws affecting creditors' rights generally.

16.2 Issuer only representations and warranties

The Issuer represents and warrants to the Note Trustee that:

- (a) **(no contravention)** none of this deed, the Terms of Issue or any transaction under them which involve it do not contravene:
 - (1) any applicable laws or directives by which it is bound or to which any of its assets are subject; or
 - (2) its constituent documents.
- (b) **(accounts)** its most recent audited financial statements lodged with ASIC:
 - (1) comply with generally accepted accounting practice in Australia, except to the extent disclosed in the financial statements; and
 - (2) comply with all applicable laws;



- (c) **(no winding up)** no winding up has commenced in respect of the Issuer and is subsisting or will result from the issue of the Notes;
- (d) **(no immunity)** neither it nor any of its assets has any immunity from set off, suit or execution;
- (e) **(not as trustee)** it does not enter into this deed or the Terms of Issue as trustee; and
- (f) **(solvency)** it is solvent (as that term is defined in the Corporations Act).

16.3 Repetition

Each representation and warranty in this clause is deemed to be repeated by each of the Issuer and the Note Trustee on each date Notes are issued or any payments are made by the Issuer to the Noteholders with reference to the facts and circumstances existing on that date.

16.4 Reliance

The Issuer and the Note Trustee each acknowledge that they have each entered into this deed in reliance on the representations and warranties in, or given under, this deed, including under clause 16.1 and 16.2 (as the case may be).

17 Change in law

- (a) If, following a Regulatory Change, a Regulatory Obligation is imposed on the Note Trustee, then:
 - (1) the Note Trustee may seek any further information or advice (including, without limitation, legal advice) that it may reasonably require with respect to the performance of such Regulatory Obligations;
 - (2) the Issuer will take reasonable steps to assist the Note Trustee in connection with the obtaining of further information or advice in connection with such Regulatory Obligations; and
 - (3) the Note Trustee and the Issuer will, as soon as is reasonably practicable after the Note Trustee becomes aware of the Regulatory Change enter into negotiations with respect to such changes to the terms of this deed (including in respect of any additional remuneration that may be reasonably required in light of any such Regulatory Change) as may be reasonably necessary to reflect the Note Trustee's Regulatory Obligations,however the parties agree that this clause 17, does not operate to exempt or excuse the Note Trustee from any obligation to perform its Regulatory Obligations.
- (b) For the purposes of this clause 17:

"Regulatory Change" means any change in law, practice, regulation, ruling, confirmation, advice or action that represents the official requirements of any Government Agency, or the law in force in the State of New South Wales, Australia.



“Regulatory Obligation” means an obligation or liability arising under, or in connection with, a Regulatory Change.

18 General

18.1 Notices

Subject to clause 18.2, any notice or other communication including, but not limited to, any demand, consent or approval to or by a party under this deed:

- (a) must be in legible writing and in English addressed as shown below:
 - (1) if to the Issuer:
 - Address: Level 22, 135 King Street, Sydney NSW 2000
 - Attention: Company Secretary
 - Email: Infra.Cosec@brookfield.com
 - cc: Michael.Ryan@brookfield.com
 - (2) if to the Note Trustee:
 - Address: Level 19, 56 Pitt Street, Sydney NSW 2000, Australia
 - Attention: General Manager, Corporate Trust & Securitisation
 - Email: productteam@eqt.com.au
 - Fax: +61 3 8623 5200
 - Telephone: +61 3 8623 5000
- or to any other address specified to the sender by any party by notice;
- (b) must be signed by an officer or under the common seal of the sender;

18.2 Service of information by Issuer to Note Trustee

All information (including but without limitation, reports, financial statements, documents and any other information requested by the Note Trustee) to be provided by the Issuer to the Note Trustee under clause 5 or another provision of this deed must be given to the Note Trustee by email to the email address set out in clause 18.1 (or by other electronic means determined by the Note Trustee and notified to the Issuer).

18.3 Service of notices by the Issuer to any Noteholder

- (a) Without limiting any other way in which notice may be given to a Noteholder under this deed, the Terms of Issue, the Corporations Act or the Listing Rules, the Issuer may give a notice to a Noteholder by:
 - (1) delivering it personally to the Noteholder;
 - (2) sending it by prepaid post to the Noteholder's address in the register of Noteholders or any other address the Noteholder supplies to the Issuer for giving notices; or



- (3) sending it by fax or other electronic means (including providing a URL link to any document or attachment) to the fax number or electronic address the Noteholder has supplied to the Issuer for giving notices.
- (b) The Issuer may give a notice to Joint Noteholders by giving the notice in the way authorised by clause 18.3(a) to the Joint Noteholder named first in the register of Noteholders for the Note.
- (c) The Issuer may give a notice to a person entitled to a Note as a result of a Transmission Event by delivering it or sending it in the manner authorised by clause 18.3(a) addressed to the name or title of the person, to:
 - (1) the address, fax number or electronic address that person has supplied to the Issuer for giving notices to that person; or
 - (2) if that person has not supplied an address, fax number or electronic address, to the address, fax number or electronic address to which the notice might have been sent if that Transmission Event had not occurred.
- (d) A notice given to a Noteholder under clauses 18.3(a) or 18.3(b) is, even if a Transmission Event has occurred and whether or not the Issuer has notice of that occurrence:
 - (1) duly given for any Notes registered in that person's name, whether solely or jointly with another person; and
 - (2) sufficiently served on any person entitled to the Notes because of the Transmission Event.
- (e) A notice given to a person who is entitled to a Note because of a Transmission Event is sufficiently served on the Noteholder in whose name the Note is registered.
- (f) A person who, because of a transfer of Notes, becomes entitled to any Notes registered in the name of a Noteholder, is taken to have received every notice which, before that person's name and address is entered in the register of Noteholders for those Notes, is given to the Noteholder complying with this clause 18.3.
- (g) A signature to any notice given by the Issuer to a Noteholder under this clause 18.3 may be printed or affixed by some mechanical, electronic or other means.
- (h) Where a Noteholder does not have a registered address or where the Issuer believes that the Noteholder is not known at the Noteholder's registered address, all notices are taken to be:
 - (1) given to the Noteholder if the notice is exhibited in the Issuer's registered office for a period of 48 hours; and
 - (2) served at the commencement of that period,unless and until the Noteholder informs the Issuer of the Noteholder's address.

18.4 Service of notices by the Note Trustee to the Noteholders

- (a) Without limiting any other way in which notice may be given to a Noteholder under this deed, the Terms of Issue, the Corporations Act or the Listing Rules, the Note Trustee may give a notice to a Noteholder by:
 - (1) delivering it personally to the Noteholder;



- (2) sending it by prepaid post to the Noteholder's address in the register of Noteholders or any other address the Noteholder supplies to the Issuer for giving notices; or
 - (3) sending it by fax or other electronic means (including providing a URL link to any document or attachment) to the fax number or electronic address the Noteholder has supplied to the Issuer for giving notices.
- (b) The Note Trustee may give a notice to Joint Noteholders by giving the notice in the way authorised by clause 18.4(a) to the Joint Noteholder named first in the register of Noteholders for the Note.
- (c) The Note Trustee may give a notice to a person entitled to a Note as a result of a Transmission Event by delivering it or sending it in the manner authorised by clause 18.4(a) addressed to the name or title of the person, to:
 - (1) the address, fax number or electronic address that person has supplied to the Note Trustee for giving notices to that person; or
 - (2) if that person has not supplied an address, fax number or electronic address, to the address, fax number or electronic address to which the notice might have been sent if that Transmission Event had not occurred.
- (d) A notice given to a Noteholder under clauses 18.4(a) or 18.4(b) is, even if a Transmission Event has occurred and whether or not the Note Trustee has notice of that occurrence:
 - (1) duly given for any Notes registered in that person's name, whether solely or jointly with another person; and
 - (2) sufficiently served on any person entitled to the Notes because of the Transmission Event.
- (e) A notice given to a person who is entitled to a Note because of a Transmission Event is sufficiently served on the Noteholder in whose name the Note is registered.
- (f) A person who, because of a transfer of Notes, becomes entitled to any Notes registered in the name of a Noteholder, is taken to have received every notice which, before that person's name and address is entered in the register of Noteholders for those Notes, is given to the Noteholder complying with this clause 18.4.
- (g) A signature to any notice given by the Note Trustee to a Noteholder under this clause 18.4 may be printed or affixed by some mechanical, electronic or other means.
- (h) Where a Noteholder does not have a registered address or where the Note Trustee believes that the Noteholder is not known at the Noteholder's registered address, all notices are taken to be:
 - (1) given to the Noteholder if the notice is exhibited in the Note Trustee's registered office for a period of 48 hours; and
 - (2) served at the commencement of that period,unless and until the Noteholder informs the Note Trustee of the Noteholder's address.



18.5 Service of notices by the Noteholders or the Issuer to the Note Trustee

A notice given by a Noteholder or the Issuer to the Note Trustee must:

- (a) be in writing and signed by a person duly authorised by the sender; and
- (b) be left at, or sent by prepaid post (airmail if posted from a place outside Australia) to the address set out in clause 18.1 or the address last notified by the Note Trustee, or sent by email to the email set out in clause 18.1 or the email last notified by the Note Trustee.

18.6 Time of service

For the purposes of this clause 18:

- (a) A notice properly addressed and posted is taken to be served at 10.00am (Sydney time) on the day after the date it is posted.
- (b) A certificate signed by a secretary or officer of the Issuer or an attorney of the Note Trustee to the effect that a notice was duly posted under this constitution is conclusive evidence of that fact.
- (c) Where a notice is sent by fax, the notice is taken as served at the time the fax is sent if the correct fax number appears on the facsimile transmission report produced by the sender's fax machine.
- (d) Where a notice is sent by electronic transmission, the notice is taken as served at the time the electronic transmission is sent.
- (e) Where a notice is given to a Noteholder by any other means permitted by the Corporations Act relating to the giving of notices and electronic means of access to them, the notice is taken as given at 10.00am (Sydney time) on the day after the date on which the Noteholder is notified that the notice is available.
- (f) Where a given number of days' notice or notice extending over any other period must be given, the day of service is not to be counted in the number of days or other period.

18.7 Notice to transferor binds transferee

Every person who, by operation of law, transfer or any other means, becomes entitled to be registered as the Noteholder of any of the Notes is bound by every notice which, prior to the person's name and address being entered in the Register, was properly given to the person from whom the person derived title to those Notes.

18.8 Notices when Issuer is in liquidation

If the Issuer or any of its assets are placed in liquidation, then the receiver, receiver and trustee, official trustee, liquidator, administrator or similar official appointed to the Issuer or its assets (as applicable) must:

- (a) if the Note Trustee has not already done so, notify the Noteholders of the receiver's, receiver and trustee's, official trustee's, liquidator's, administrator's or similar official's appointment; and
- (b) provide regular updates to the Note Trustee and the Noteholders as to the status of the liquidation and any other material developments affecting the Issuer or its assets (as the case requires).



18.9 Service on deceased Noteholders

A notice served in accordance with this clause 18 is (despite the fact that the Noteholder is then dead and whether or not the Issuer has notice of the Noteholder's death) considered to have been properly served in respect of any of the Notes, whether held solely or jointly with other persons by the Noteholder, until some other person is registered in the Noteholder's place as the Noteholder or Joint Noteholder. The service is sufficient service of the notice or document on the Noteholder's legal personal representative and any person jointly interested with the Noteholder in the Notes.

18.10 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this deed which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.
- (b) If any clause is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this deed.

18.11 Governing law and submission to jurisdiction

- (a) This deed is governed by the laws of New South Wales, Australia.
- (b) The Issuer, the Note Trustee and each Noteholder submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia in connection with matters concerning the Notes or this deed. The Issuer, the Note Trustee and each Noteholder waive any right they have to object to an action being brought in those courts, or to claim that the action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

18.12 Waivers

- (a) Waiver of any right arising from a breach of this deed or of any Power arising upon default under this deed must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
 - (1) a right arising from a breach of this deed; or
 - (2) a Power created or arising upon default under this deed,does not result in a waiver of that right or Power.
- (c) A party is not entitled to rely on a delay in the exercise or non exercise of a right or Power arising from a breach of this deed or on a default under this deed as constituting a waiver of that right or Power.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a right or Power by that other party.

18.13 Cumulative rights

The rights, powers, authorities, discretions and remedies arising out of or under this deed are cumulative and do not exclude any other right, power, authority, discretion or remedy.



18.14 Further assurances

Each party must do all things and execute at the Issuer's cost all further documents necessary to give full effect to this deed.

18.15 To the extent not excluded by law

The rights, duties and remedies granted or imposed under the provisions of this deed operate to the extent not excluded by law.

18.16 Counterparts

This deed may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A party may execute this deed by signing any counterpart.



Signing page

Executed as a deed

Issuer

Signed sealed and delivered by

Dalrymple Bay Infrastructure Limited

by its attorney under a power of attorney dated 3 November 2020

sign here ► _____
Attorney

print name _____

in the presence of:

sign here ► _____
Witness

print name _____



Note Trustee

Signed sealed and delivered by

Equity Trustees Limited ACN 004 031 298

by its attorneys under Power of Attorney dated 27th May 2016

sign here ► _____
Attorney

*print name
& schedule
number* _____

sign here ► _____
Attorney

*print name
& schedule
number* _____

in the presence of

sign here ► _____
Witness

print name _____



Attachment 1

Terms of Issue

1 Form, denomination, title and information

1.1 Form

The Notes are unsecured notes of the Issuer, constituted by the Note Trust Deed and issued in registered form by entry in the Register.

1.2 Face Value

~~Each Note is issued fully paid and with an initial Face Value of \$0.80.~~

Each Note is issued fully paid and with an initial face value of:

- (a) in the case of a Note issued on the date of the initial issue of Notes, \$0.80; and
- (b) in the case of a Note issued on a date subsequent to the initial issue of any Notes, the Face Value of the Notes on issue as at its date of issue.

1.3 Title and transfer

- (a) Title to all Notes will be determined, and (subject to clause 1.4) may be transferred, in accordance with the Note Trust Deed.
- (b) Except as required by law, the Issuer will not recognise any person as having any title to, or interest in, a Note, other than the registered holder of the Note.

1.4 Stapling Provisions

- (a) Each Note will be initially issued as part of a Stapled Security.
- (b) The Stapling Provisions apply in relation to each Note (including the issuance and transfer of each Note) as if references in the Stapling Provisions to a share included references to a Note.
- (c) To avoid doubt:
 - (1) a Note cannot be transferred or otherwise dealt with except as part of the Stapled Security of which it forms part and in accordance with the Stapling Provisions;
 - (2) if for any reason the Issuer is not obliged to register, or may delay the registration, of a transfer of the Attached Share in respect of a Note, the Issuer is not obliged to register, or may delay the registration of, the transfer of the Note; and
 - (3) if for any reason the Issuer is obliged to register, or entitled to register, a transfer of the Attached Shares in respect of a Note, the Issuer may register a corresponding transfer of the Note.



- (d) Each Noteholder appoints the Issuer, each officer of the Issuer and each authorised representative of the Issuer, severally, as its attorney for the purposes of signing any document or doing any other thing which the Issuer considers necessary or desirable for the purposes of giving effect to this clause 1.4.

1.5 Evidence of holdings

The Issuer must provide to Noteholders such statements of the holdings of the Stapled Securities of which the Notes form part as the Issuer is required to give under the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules. Note certificates will not be issued unless the Issuer determines that certificates should be made available or are required to be made available by law.

1.6 Note Trust Deed

Noteholders are entitled to the benefit of, and are bound by the provisions of, the Note Trust Deed. The Note Trust Deed has been lodged with the Australian Securities and Investments Commission, and is available for inspection by Noteholders either at the office of the Note Trustee or a copy can be provided via email upon request to the Note Trustee.

2 Status of Notes

The Notes are direct, unsecured and subordinated obligations of the Issuer and rank for payment:

- (a) in priority to the claims of holders of Ordinary Shares and any Attached Securities ranking or expressed to rank equally with Ordinary Shares;
- (b) equally with the claims of holders of any other Attached Securities; and
- (c) after all other claims on or liabilities of the Issuer.

3 Repayment

- (a) The Issuer in its discretion may elect to Repay all or some of the Face Value of each Note on any Business Day.
- (b) The Issuer will give not less than 14 days' prior notice of any proposed Repayment to the Note Trustee and the Noteholders, provided that so long as the Stapled Securities are quoted on the Exchange such notice will be deemed to have been given upon the Issuer announcing the proposed Repayment in accordance with the Listing Rules.
- (c) Subject to the Stapling Provisions and to compliance with the Corporations Act in relation to the buy-back of the Attached Share, the Issuer may buy-back a Note on-market or off-market at any time and on any terms agreed with the relevant Noteholder.
- (d) The Issuer must Repay the Face Value of each Note on the Maturity Date to the extent not Repaid or repurchased prior to that date.



- (e) A Note will be taken to be fully and finally redeemed, and will be cancelled, once the Face Value of the Note is reduced to nil.

4 Payments

- (a) The Issuer's obligations to make payments on the Notes are subject to all applicable laws.
- (b) The Issuer may deduct from any amount payable to a Noteholder the amount of any withholding or other tax, duty or levy required by law to be deducted in respect of such amount. For the purposes of this paragraph, any amount deducted by the Issuer in accordance with FATCA will be deemed to be a deduction required by law.
- (c) Payments in respect of the Notes will be made in accordance with the provisions relating to payment set out in the Note Trust Deed.

5 Ranking in a winding up of the Issuer

- (a) If an order is made by a court of competent jurisdiction in Australia, or an effective resolution is passed for the winding up of the Issuer, the Issuer must Repay each Note in accordance with this clause:
 - (1) prior to the payment of any payment to holders Ordinary Shares and any Attached Securities ranking or expressed to rank equally with Ordinary Shares;
 - (2) on a pro rata basis with the claims of holders of any other Attached Securities; and
 - (3) after payment in full of all other claim on or liabilities of the Issuer.
- (b) In order to give effect to the ranking specified in clause 5(a), in any winding up of the Issuer, the claims of Noteholders are limited to the extent necessary to ensure that:
 - (1) all other claims on the Issuer (other than claims in respect of Ordinary Shares and any Attached Securities ranking or expressed to rank equally with Ordinary Shares) receive payment in full before any payment is made to Noteholders in respect of the Notes; and
 - (2) payments may be made in respect of the claims of holders of Attached Securities other than Ordinary Shares and any Attached Securities ranking or expressed to rank equally with Ordinary Shares on a pro rata basis with payments to Noteholders in respect of the Notes.
- (c) Neither the Note Trustee nor any Noteholder has any right to prove in a winding up of the Issuer in respect of the Notes, other than a right to prove in a winding up of the Issuer permitted under clause 5(a).
- (d) Neither the Note Trustee nor any Noteholder may exercise voting rights as a creditor in respect of the Notes in a winding up of the Issuer to defeat the subordination in this clause 5.
- (e) The Notes do not include events of default or any other provisions entitling the Note Trustee or the Noteholders to require that the Notes be Repaid prior to the



Maturity Date other than under this clause 5. Without prejudice to any rights of a Noteholder as a holder of Ordinary Shares, neither the Note Trustee nor any Noteholder has any right to apply for the winding up or administration of the Issuer, or to cause a receiver, or receiver and manager, to be appointed in respect of the Issuer for any reason.

6 Further issues

- (a) Subject to applicable laws, there are no restrictions under these Terms of Issue or the Note Trust Deed on the Issuer incurring any debt obligations or other liabilities, whether subordinated or not or ranking in priority ahead of, equal with or behind the Notes or upon such terms as to ranking, interest, redemption or otherwise as the Issuer may determine at the time of issue.
- (b) Without limiting the foregoing, the Issuer may at any time issue further Notes as part of any Stapled Securities and such Notes will be deemed to constitute and form part of the Notes for the purposes of the Note Trust Deed and these Terms of Issue.

7 Amendments

7.1 Amendments without consent

- (a) At any time and from time to time, but subject to clause 7.1(d), the Note Trust Deed, compliance with the Corporations Act and all other applicable laws, the Issuer may, without the consent of the Note Trustee or the Noteholders, amend these Terms of Issue or the Note Trust Deed if the Issuer (acting reasonably) is of the opinion that such amendments are:
 - (1) of a formal or technical or minor nature and not materially prejudicial to the interests of the Noteholders as a whole;
 - (2) made to cure any ambiguity or correct an error;
 - (3) necessary to facilitate the listing or quotation of the Notes on the Exchange or another securities exchange;
 - (4) necessary to comply with any laws or the Listing Rules;
 - (5) necessary or convenient in connection with the Stapling Provisions or for the purpose of enabling unsecured notes issued under the Note Trust Deed to be stapled together with shares in the Issuer; or
 - (6) subject to clause 7.1(b), not (taken as a whole and in conjunction with all other amendments to be made contemporaneously with that amendment) materially prejudicial to the interests of Noteholders as a whole.
- (b) If the Note Trustee (acting reasonably) determines that an amendment proposed to be made by the Issuer under clause 7.1(a)(6) (taken as a whole and in conjunction with all other amendments to be made contemporaneously with that amendment) is materially prejudicial to the interests of Noteholders as a whole and gives notice to the Issuer of that determination then the Issuer may not make that amendment unless an Ordinary Resolution is passed in favour of the amendment. The Issuer must give the Note Trustee notice of any proposed



amendment under clause 7.1(a)(6) at least 20 Business Days (or such lesser period as may be acceptable to the Note Trustee) prior to making the amendment.

- (c) When determining whether an amendment is or would be materially prejudicial to the interests of Noteholders as a whole the Issuer:
 - (1) is not required to consider the tax position or other circumstances affecting the position of a particular Noteholder or particular group of Noteholders; and
 - (2) must have regard to the interests of Noteholders as holders of Ordinary Shares and any Attached Securities.
- (d) Notwithstanding this clause 7.1, the Issuer may not vary the Maturity Date in a manner that would result in the Maturity Date falling on a date on or after the 10th anniversary of the date of issue of any outstanding Notes, or vary the terms of any outstanding Notes in a manner which would result in the Issuer not being obliged to repay the Face Value Amount of those Notes on or before that date, unless an Ordinary Resolution is passed in favour of such amendment.

7.2 Amendments with consent

At any time and from time to time, but subject to the Note Trust Deed, compliance with the Corporations Act and all other applicable laws, the Issuer may amend these Terms of Issue or the Note Trust Deed if an Ordinary Resolution is passed in favour of such amendment.

7.3 Amendments not to affect Note Trustee

Despite clause 7.1 and clause 7.2, no amendment will alter personal rights or obligations of the Note Trustee unless the Issuer has obtained the Note Trustee's prior written consent to such amendment.

8 General

8.1 Governing law

The Notes and these Terms of Issue are governed by the laws of New South Wales, Australia.

8.2 Submission to jurisdiction

The Issuer, the Note Trustee and each Noteholder submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia in connection with matters concerning the Notes or these Terms of Issue. The Issuer, the Note Trustee and each Noteholder waive any right they have to object to an action being brought in those courts, or to claim that the action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.



9 Definitions

Terms defined in the Constitution have the same meaning when used in these Terms of Issue. In addition, the following defined terms apply in these Terms of Issue:

Attached Security	in respect of a Note, the Attached Share and any other instrument forming part of the Stapled Security of which the Note forms part.
Attached Share	in respect of a Note, the Ordinary Share forming part of the Stapled Security of which the Note forms part.
Constitution	the constitution of the Issuer.
Corporations Act	<i>Corporations Act 2001</i> (Cth).
Face Value	\$0.80 per Note less any amounts previously Repaid. <u>in relation to a Note at any time, the initial face value of the Note less any amounts previously Repaid.</u>
FATCA	Sections 1471 through 1474 of the United States Internal Revenue Code of 1986, as amended, or any consolidation, amendments, re-enactment or replacement of those sections, and including any current or future regulations or official interpretations issued, agreements entered into (whether by the Issuer, a related body corporate of the Issuer or any other person) or non-US laws enacted in relation to those sections.
Issuer	Dalrymple Bay Infrastructure Limited (ACN 643 302 032).
Maturity Date	30 September 2030, of if that day is not a Business Day, the next Business Day.
Meeting Provisions	the provisions for meetings of the Noteholders set out in Attachment 2 of the Note Trust Deed.
Note	an unsecured note issued or to be issued by the Issuer on these Terms of Issue.
Note Trust Deed	the trust deed dated on or about 20 November 2020 between the Issuer and the Note Trustee as amended from time to time.



Note Trustee	Equity Trustees Limited (ABN 46 004 031 298) in its capacity as trustee of the trust established by the Note Trust Deed.
Noteholder	in relation to any Note, a person whose name is registered in the Register as the holder of that Note.
Ordinary Resolution	<ol style="list-style-type: none">a resolution passed at a meeting of the Noteholders duly called and held under the Meeting Provisions:<ul style="list-style-type: none">by at least 50% of the persons voting on a show of hands (unless the second bullet point of this paragraph 1 applies); orif a poll is duly demanded, then by a majority consisting of at least 50% of the votes cast; ora resolution passed by postal ballot or written resolution by Noteholders representing (in aggregate) at least 50% of the principal amount of all outstanding Notes.
Person	any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organisation, government or any agency or political subdivision thereof or any other entity.
Register	<p>the register of Noteholders established and maintained in accordance with the Note Trust Deed and, where appropriate, includes:</p> <ol style="list-style-type: none">a sub-register conducted by or for the Issuer pursuant to the Corporations Act, the Listing Rules or ASX Settlement Operating Rules; andany branch register.
Repayment	the reduction of the Face Value of a Note by payment in accordance with these Terms of Issue. The terms " Repay " and " Repaid " have a corresponding meaning.
Repayment Date	in respect of any Note, the date for Repayment of that Note in accordance with the Terms of Issue.
Stapled Security	securities which are Stapled Securities as defined in the Constitution.
Stapling Provisions	the provisions set out in rule 16 of the Constitution.
Terms of Issue	these terms and conditions of issue.



Attachment 2

Meetings of Noteholders

1 Interpretation

(a) **Definitions**

These meanings apply unless the contrary intention appears:

Circulating Resolution means a written resolution of Noteholders made in accordance with clause 18 of these Meeting Provisions.

Form of Proxy means a notice in writing in the form available from the Issuer.

Proxy means a person so appointed under a Form of Proxy.

Notification Date means the date stated in the copies of a Circulating Resolution sent to Noteholders, which must be no later than the date on which that resolution is first notified to Noteholders.

(b) **Noteholders at a specified time**

The time and date for determining the identity of a Noteholder who may be counted for the purposes of determining a quorum or attend and vote at a Meeting, or sign a Circulating Resolution, is at the close of business in the place where the Register is maintained on the date which is 8 days before either the date of the Meeting or, for a Circulating Resolution, the Notification Date (as applicable).

(c) **Consistency with Part 2L.5 of the Corporations Act**

In respect of any Meeting that is called under Part 2L.5 of the Corporations Act, these Meeting Provisions shall be deemed to be modified to the extent necessary, and only to that extent, to conform these Meeting Provisions to the provisions of Part 2L.5 that are applicable to that Meeting.

2 Relationship with meetings of shareholders

Subject to the Corporations Act, unless an Unstapling Date has occurred:

- (a) a Meeting may be convened and held in accordance with the procedures applicable to the convening and holding of general meetings of shareholders of the Issuer and such Meeting will be deemed to have been duly convened and held in accordance with these Meeting Provisions; and
- (b) the Issuer and the Note Trustee are entitled to treat any resolution of shareholders of the Issuer as a resolution of Noteholders passed at a Meeting duly convened and held in accordance with these Meeting Provisions.

The remaining provisions of these Meeting Provisions apply in respect of any Meeting convened by the Note Trustee, or if for any reason it is necessary for the Issuer to



convene a Meeting other than as contemplated by this clause, including upon receipt of a direction from Noteholders under clause 3(b) of these Meeting Provisions.

3 Convening a Meeting

(a) Ability to convene Meetings

Each of the Note Trustee or the Issuer may, at any time, call a Meeting, including without limitation, under Part 2L.5 of the Corporations Act.

(b) Issuer's duty to call Meeting

In accordance with section 283EA(1) of the Corporations Act, the Issuer must convene a Meeting on receipt of a direction in writing to do so by Noteholders who together hold at least 10% of the aggregate of the principal amount of all outstanding Notes if:

- (1) the direction is given to the Issuer in writing at its registered office; and
- (2) the purpose of the Meeting is to:
 - (A) consider the financial statements that were laid before the last annual general meeting of the Issuer; or
 - (B) give the Note Trustee directions in relation to the exercise of any of the Note Trustee's Powers,

or both, as so requested by the relevant Noteholders.

(c) Venue

All Meetings must be held in Sydney, New South Wales, Australia unless the Issuer and the Note Trustee agree otherwise.

A Meeting may be held at two or more venues using any technology that gives the Noteholders as a whole a reasonable opportunity to participate at the same time.

4 Notice of Meeting

(a) At least 10 Business Days' notice in writing of any Meeting must be given by the party convening the Meeting to:

- (1) each Noteholder (or in the case of a Note registered as being owned jointly, the person whose name appears first in the Register);
- (2) if the notice is not given by the Note Trustee, the Note Trustee;
- (3) if the notice is not given by the Issuer, the Issuer; and
- (4) the auditors of the Issuer.

(b) The accidental omission to give notice of a Meeting to, or the non-receipt of notice of a Meeting by, a Noteholder does not invalidate any resolution passed or other proceedings at the Meeting a Noteholder does not invalidate any resolution passed or other proceedings at the Meeting.

(c) The party convening the Meeting must notify the Note Trustee, the Issuer and Noteholders (as the case requires) in writing of:



- (1) the place, day and time of the Meeting;
 - (2) the general nature of the business to be transacted at the Meeting, but it is not necessary to specify in the notice the precise terms of the resolutions to be proposed; and
 - (3) explain how Noteholders may appoint Proxies and state that Proxies may be appointed until 48 hours before the Meeting but not after that time.
- (d) If either the Issuer or the Note Trustee omits to give notice of a Meeting to the other of them under clause 4(c) of these Meeting Provisions or if the other of them does not receive notice, the Meeting is invalid unless the person who did not receive notice waives the notice requirement by notice to the other.
- (e) Clause 18 of the Trust Deed applies to these Meeting Provisions as if it was fully set out in these Meeting Provisions.
- (f) If a notice must be given within a certain period of days, the day on which the notice is given, and the day on which the Meeting is to be held, are not to be counted in calculating that period.
- (g) Noteholders who are or become registered as Noteholders less than 21 days before a Meeting will not receive notice of that Meeting.

5 Who may attend and address Meeting

Each Noteholder is entitled to attend and vote at any Meeting or any rescheduled Meeting (which was adjourned pursuant to clause 6(c) or 6(e) of these Meeting Provisions). The only persons entitled to attend and speak at any Meeting are the Issuer, auditor of the Issuer, the Note Trustee, the Registrar, the Noteholders (and/or their Proxies) and their respective financial and legal advisers and the chairperson.

6 Quorum

- (a) No business may be transacted at any Meeting, except the election of a chairperson and the adjournment of the Meeting, unless a quorum of Noteholders is present at the time when the Meeting proceeds to business. If a quorum is present at the time the first item of business is transacted, it is taken to be present when the Meeting proceeds to consider each subsequent item of business unless the chairperson of the Meeting (on the chairperson's own motion or at the request of the Issuer or a Noteholder or Proxy who is present (if such request is accepted by the chairperson in its absolute discretion)) declares otherwise.
- (b) A quorum for any Meeting is at least 2 Noteholders present in person or by Proxy holding (or in the case of Proxies, representing Noteholders who hold), at least 10% of the Notes. In determining how many Noteholders are present, each individual attending as a Proxy is to be counted, except that:
- (1) where a Noteholder has appointed more than one Proxy, only one of those Proxies is to be counted;
 - (2) where an individual is attending both as a Noteholder and as a Proxy on behalf of another Noteholder, that individual is to be counted once in respect of each such capacity; and



- (3) where an individual is attending as a Noteholder and has also appointed a Proxy in respect of the Notes that it holds, those individuals are to be counted only once.
- (c) If a quorum is not present within half an hour from the time appointed for the Meeting, the Meeting:
 - (1) if convened on the requisition of Noteholders, is dissolved; and
 - (2) in any other case, is adjourned until a date, time and place the chairperson appoints. The date of the adjourned Meeting must be no earlier than 14 days in respect of any Meeting from which the adjournment took place and no later than 42 days after the date of the Meeting from which the adjournment took place must be adjourned as the chair directs.
- (d) At a rescheduled Meeting (which was adjourned pursuant to clause (c) of these Meeting Provisions) the Noteholders with at least 5% of the Notes who are present either in person or by proxy constitute a quorum and are entitled to pass the resolution.
- (e) If a quorum is not present within 30 minutes after the time appointed for any adjourned Meeting, the chairperson may dissolve the Meeting. If the Meeting is not dissolved in accordance with this provision, the chairperson may, with the consent of the Meeting by Ordinary Resolution, and must, if directed by the Meeting by Ordinary Resolution, adjourn the Meeting to a new date (being not less than five days' after the adjourned meeting), time or place.
- (f) Other than where a Meeting is adjourned because of a lack of a quorum pursuant to clause (c) or (e) of these Meeting Provisions, the chairperson of a Meeting may, with the consent of, and must, if directed by, any Meeting, adjourn the Meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the Meeting either to a later time at the same Meeting or to an adjourned Meeting at any time and any place.
- (g) Only business which might validly (but for the lack of required quorum) have been transacted at the original Meeting may be transacted at the adjourned Meeting.
- (h) It is not necessary to give notice of an adjournment unless the Meeting is adjourned because of a lack of a quorum. In that case, unless otherwise agreed in writing by each Noteholder, the person calling the Meeting must give at least 5 days' notice of the adjourned Meeting to each person entitled to receive notice of a Meeting under these Meeting Provisions. The notice must state the quorum required at the adjourned Meeting but need not contain any further information.

7 Chair

- (a) The person who calls a Meeting must nominate in writing a person as the chairperson of a Meeting provided that the consent of the Note Trustee is first obtained for any person nominated by the Issuer. The chairperson of a Meeting may, but need not, be a Noteholder. The chairperson of an adjourned Meeting need not be the same person as was the chairperson of the Meeting from which the adjournment took place.
- (b) If a Meeting is held and:
 - (1) a chairperson has not been nominated; or



- (2) the person nominated as chairperson is not present within 15 minutes after the time appointed for the holding of the Meeting, or is unable or unwilling to act,

the Issuer may appoint a chairperson with the consent of the Note Trustee unless the Meeting was convened by the Note Trustee, in which case the Noteholders or Proxies present may appoint a chairperson.

- (c) The chair:

- (1) need not be a Noteholder; and
- (2) may be an officer or employee of the Issuer or the Note Trustee.

8 Voting

- (a) Subject to Noteholders being entitled to vote, any question submitted to a Meeting must be decided in the first instance by a show of hands, but a poll will be taken in any case where:
 - (1) it is required by this deed or by law that the question be decided by a majority which is to be measured by a percentage of the votes cast by those present; or
 - (2) either before or immediately after any question is put to a show of hands a poll is demanded by the chair of the Meeting, the Note Trustee, the Issuer, or at least one or more Noteholders, present personally or by Proxy, holding or representing by Proxy, at least 5% of the Notes.
- (b) If a poll is to be taken pursuant to clause 8(a)(1) of these Meeting Provisions or properly demanded pursuant to clause 8(a)(2) of these Meeting Provisions, it must be taken in the manner and at the date and time directed by the chairperson, provided that a poll demanded must be taken immediately or at such time (being not later than 30 days from the date of the Meeting). The result of the poll is a resolution of the Meeting at which the poll was demanded.
- (c) A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately. The results of a poll at a Meeting is regarded as the resolution of the Meeting.
- (d) A demand for a poll may be withdrawn by the person who demanded it.
- (e) The demand for a poll does not prevent the continuance of the Meeting for the transaction of any business other than the question on which the poll was demanded.
- (f) In the case of equality of votes, the chair of a Meeting of Noteholders has a casting vote in addition to his votes (if any) as a Noteholder both on a show of hands and on a poll.
- (g) A declaration by the chairperson that a resolution has been carried, or carried by a particular majority, or lost or not carried by any particular majority, is conclusive evidence of the fact. Neither the chairperson nor the minutes need to state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.



9 Votes

- (a) A Noteholder (or, in the case of a Note registered as being owned jointly, the person whose name appears first in the Register) may be present and vote in person at any Meeting or be represented by Proxy.
- (b) Except where these Meeting Provisions otherwise provide, at any Meeting:
 - (1) on a show of hands, each Noteholder present in person and each person present as a Proxy on behalf of a Noteholder who is not present at the Meeting has one vote (and, if a Noteholder is present as a Proxy on behalf of another Noteholder, that Noteholder has one vote in respect of each such appointment and any person present as a Proxy on behalf of more than one Noteholder, that Proxy has one vote in respect of each such capacity); and
 - (2) on a poll, each Noteholder or Proxy present has one vote in respect of each Note which is registered in that person's name or in respect of which that person is a Proxy.
- (c) Without affecting the obligations of the Proxies named in any Form of Proxy, any person entitled to more than one vote need not use all votes (or cast all the votes) to which it is entitled in the same way.

10 Voting by Joint Noteholders and persons of unsound mind

- (a) If Notes are held jointly, the most senior Noteholder's vote either in person or by Proxy is accepted to the exclusion of the other Joint Noteholders.
- (b) The most senior Noteholder is the person whose name appears first on the Register.
- (c) If a Noteholder is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the person who properly has the management of the Noteholder's estate may exercise any rights of the Noteholder in relation to a Meeting of Noteholders as if the other person were the Noteholder.

11 Objection to voter's qualification

- (a) An objection may be raised to the qualification of a voter only at the Meeting where the vote objected to is given or tendered.
- (b) An objection must be referred to the chair whose decision is final.
- (c) The chair may consult with any representative of the Issuer and the Note Trustee present at the Meeting.
- (d) A vote allowed at a Meeting is valid for all purposes.



12 Proxies

A Noteholder is entitled to appoint another person as his Proxy to attend and vote at a Meeting on its behalf. A Proxy need not be a Noteholder and may be an attorney, officer, employee, contractor, agent, representative, or otherwise connected with, the Issuer or the Note Trustee (or the case may be). Each Proxy has the same rights as the appointor to vote whether on a show of hands, to speak, and be reckoned in the quorum.

13 Proxy instrument

- (a) If the appointer of a Proxy is an individual, the instrument of appointment must be in writing and signed by the appointer or the appointer's attorney authorised in writing.
- (b) If the appointer of a Proxy is a corporation, the instrument of appointment must be:
 - (1) under its common seal; or
 - (2) under the hand of an officer or attorney who has been authorised by the corporation.
- (c) The instrument of appointment must be in writing and signed by the appointer or the appointer's attorney authorised in writing.

14 Voting authority to be deposited with Issuer

- (a) The Proxy Form under which a Proxy is appointed, or a facsimile copy of it and the original or certified copy of the power of attorney or authority under which it is signed or a facsimile copy of it must be deposited with the Issuer (or the Note Trustee if it is the party convening the Meeting) at least 48 hours, or any shorter period determined by the Issuer from time to time, before the time appointed for the Meeting at which the Proxy proposes to vote. The original of any facsimile instrument provided under this clause 14(a) must be deposited with the Issuer before the time appointed for the Meeting.
- (b) If clause 14(a) of these Meeting Provisions is not complied with, the Proxy is invalid.
- (c) Any vote in accordance with the terms of a Form of Proxy is valid even if, before the Proxy votes:
 - (1) the relevant Noteholder revokes or amends the Form of Proxy or any instruction in relation to it; or
 - (2) transfers the Notes in respect of which the Proxy was appointed, unless notice of that revocation, amendment or transfer is received from the Noteholder who signed that Form or Proxy by the Issuer (or a person appointed to act on behalf of the Issuer specified in the notice of Meeting) at the office specified in the notice of Meeting not later than 48 hours before the Meeting at which the Proxy Form was used.
- (d) An instrument appointing a Proxy is only valid for 12 months from its execution date.



15 Effect of death, insanity, revocation or transfer on vote under Proxy

- (a) A vote given by a Proxy is valid even though the principal is insane at the time, has died, has revoked the Proxy Form or the authority under which the Proxy Form was executed or transferred the Notes in respect of which the Proxy was appointed.
- (b) Clause 15(a) of these Meeting Provisions does not apply if the Issuer has notice in writing of the death, insanity, revocation or transfer (as applicable) at least 48 hours before the Meeting at which the Proxy is to be used.

16 Effect of resolution

- (a) A resolution passed (or deemed by clause 2 of these Meeting Provisions to have been passed) at a Meeting duly convened and held (or by a Circulating Resolution duly sent and signed) in accordance with these Meeting Provisions is binding on all Noteholders, whether or not they were present, or voted, at the Meeting (or signed the Circulating Resolution).
- (b) The Issuer must ensure that notice is given to the Noteholders and the Registrar of the result of the voting on a resolution within 14 days of the result being known. However, a failure to do so does not invalidate the resolution.

17 Minutes

- (a) The person appointing the chairperson must ensure that each Circulating Resolution, and minutes of the proceedings, and every resolution passed, at each Meeting of Noteholders are taken and entered in a minute book provided by the Issuer.
- (b) The person appointing the chairperson must ensure that the minutes of a Meeting are signed by the chairperson of the Meeting or by the chairperson of the next Meeting and Circulating Resolutions are signed by a director or secretary of the Issuer. Each signature by the chair of minutes of a Meeting, or by a director or secretary of a Circulating Resolution, is conclusive evidence of the matters stated in the minutes (or the Circulating Resolution) as applicable.
- (c) Unless there is proof to the contrary a minuted Meeting is regarded as properly held and a resolution passed at the Meeting is regarded as properly passed.

18 Circulating Resolutions

- (a) Noteholders may without a Meeting being held, pass an Ordinary Resolution, if within one calendar month after the Notification Date, Noteholders representing more than 50% of the principal amount of outstanding Notes as at the Notification Date, sign a document containing a statement that they are in favour of the resolution set out in that document.



- (b) Separate copies of a document may be used for signing by Noteholders if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last Noteholder signs it.
- (d) The accidental omission to give a copy of a Circulating Resolution to, or the non-receipt of a copy, by any Noteholder does not invalidate a Circulating Resolution.

19 Further procedures

The Issuer may, with the prior written consent of the Note Trustee (which consent must not be unreasonably withheld or delayed), prescribe further regulations for the holding of, attendance and voting at Meetings as are necessary or desirable and which do not adversely affect the interests of the Noteholders.