

Form 603
Corporations Act 2001
Section 671B

Notice of initial substantial holder

To Company Name/Scheme Evolution Energy Minerals Limited

ACN/ARSN 648 703 548

1. Details of substantial holder (1)

Name ARCH Sustainable Resources GPCo Limited in its capacity as general partner for and on behalf of ARCH Sustainable Resources Fund LP (**GPCo**), ARCH EM (GSY) PCC Limited (Cell SRF), ARCH Emerging Markets Partners Limited, AEMP Limited, African Rainbow Capital Pty Ltd, Ubuntu-Botho Investments (Pty) Ltd, Sizanani-Thusanang Helpmekaar Investments Pty Ltd, Ubuntu-Ubuntu Commercial Enterprises Pty Ltd, JCH & Partners LLP, Johan Hattingh and Dr Patrice Tlhopane Motsepe.

ACN/ARSN (if applicable) N/A

The holder became a substantial holder on 8 November 2021

2. Details of voting power

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

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
Fully Paid Ordinary Shares (Shares)	40,000,000	40,000,000	24.71%

3. Details of relevant interests

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

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
See Annexure A		

4. Details of present registered holders

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

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
GPCo, ARCH EM (GSY) PCC Limited (Cell SRF), ARCH Emerging Markets Partners Limited, AEMP Limited, African Rainbow Capital Pty Ltd, Ubuntu-Botho Investments (Pty) Ltd, Sizanani-Thusanang Helpmekaar Investments Pty Ltd, Ubuntu-Ubuntu Commercial Enterprises Pty Ltd, JCH & Partners LLP, Johan Hattingh and Dr Patrice Tlhopane Motsepe.	GPCo	GPCo	40,000,000 Shares

5. Consideration

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

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-cash	
GPCo, ARCH EM (GSY) PCC Limited (Cell SRF), ARCH Emerging Markets Partners Limited, AEMP Limited, African Rainbow Capital Pty Ltd, Ubuntu-Botho Investments (Pty) Ltd, Sizanani-Thusanang Helpmekaar Investments Pty Ltd, Ubuntu-Ubuntu Commercial Enterprises Pty Ltd, JCH & Partners LLP, Johan Hattingh and Dr Patrice Tlhopane Motsepe.	8 November 2021	A\$8,000,000	Nil	40,000,000 Shares

6. Associates

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



Name and ACN/ARSN (if applicable)	Nature of association
GPCo ARCH EM (GSY) PCC Limited (Cell SRF) ARCH Emerging Markets Partners Limited AEMP Limited	Associates under section 12(2)(a)(i), (ii) and (iii) of the Corporations Act as each of GPCo, ARCH EM (GSY) PCC Limited (Cell SRF) and ARCH Emerging Markets Partners Limited is controlled by AEMP Limited.
GPCo ARCH EM (GSY) PCC Limited (Cell SRF) ARCH Emerging Markets Partners Limited AEMP Limited JCH & Partners LLP	Associates under section 12(2)(a)(i), (ii) and (iii) of the Corporations Act as each of GPCo, ARCH EM (GSY) PCC Limited (Cell SRF), ARCH Emerging Markets Partners Limited and AEMP Limited is controlled by JCH & Partners LLP and each of the above entities is controlled by Johan Hattingh.
African Rainbow Capital Pty Ltd Ubuntu-Botho Investments (Pty) Ltd	Associates under section 12(2)(a)(i) and (ii) of the Corporations Act as African Rainbow Capital Pty Ltd is controlled by Ubuntu-Botho Investments (Pty) Ltd.
Ubuntu-Botho Investments (Pty) Ltd Sizanani-Thusanang Helpmekaar Investments Pty Ltd	Associates under section 12(2)(a)(i) and (ii) of the Corporations Act as Ubuntu-Botho Investments (Pty) Ltd is controlled by Sizanani-Thusanang Helpmekaar Investments Pty Ltd.
Sizanani-Thusanang Helpmekaar Investments Pty Ltd Ubuntu-Ubuntu Commercial Enterprises Pty Ltd	Associates under section 12(2)(a)(i) and (ii) of the Corporations Act as Sizanani-Thusanang Helpmekaar Investments Pty Ltd is controlled by Ubuntu-Ubuntu Commercial Enterprises Pty Ltd.
African Rainbow Capital Pty Ltd Ubuntu-Botho Investments (Pty) Ltd Sizanani-Thusanang Helpmekaar Investments Pty Ltd	Associates under section 12(2)(a)(i), (ii) and (iii) of the Corporations Act as each of African Rainbow Capital Pty Ltd and Ubuntu-Botho Investments (Pty) Ltd is controlled by Sizanani-Thusanang Helpmekaar Investments Pty Ltd.
African Rainbow Capital Pty Ltd Ubuntu-Botho Investments (Pty) Ltd Sizanani-Thusanang Helpmekaar Investments Pty Ltd Ubuntu-Ubuntu Commercial Enterprises Pty Ltd	Associates under section 12(2)(a)(i), (ii) and (iii) of the Corporations Act as each of African Rainbow Capital Pty Ltd, Ubuntu-Botho Investments (Pty) Ltd and Sizanani-Thusanang Helpmekaar Investments Pty Ltd is controlled by Ubuntu-Ubuntu Commercial Enterprises Pty Ltd and each of the above entities is controlled by Dr Patrice Tlhopane Motsepe.

7. Addresses

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

Name	Address
GPCo	First Floor, Albert House, South Esplanade, St. Peter Port, Guernsey, Channel Islands GY1 1AJ
ARCH EM (GSY) PCC Limited (Cell SRF)	First Floor, Albert House, South Esplanade, St. Peter Port, Guernsey, Channel Islands GY1 1AJ
ARCH Emerging Markets Partners Limited	100 New Bridge Street, London, United Kingdom, EC4V 6JA
AEMP Limited	First Floor, Albert House, South Esplanade, St. Peter Port, Guernsey, Channel Islands GY1 1AJ
African Rainbow Capital Pty Ltd	6th Floor Bowmans Building, 11 Alice Lane, Sandton, Gauteng, 2196, South Africa
Ubuntu-Botho Investments (Pty) Ltd	6th Floor Bowmans Building, 11 Alice Lane, Sandton, Gauteng, 2196, South Africa
Sizanani-Thusanang Helpmekeer Investments Pty Ltd	ARM House, 29 Impala Road, Chislehurst, Sandton, 2196, South Africa
Ubuntu-Ubuntu Commercial Enterprises Pty Ltd	32 IDA Street, Menlo Park, Pretoria, 0081, South Africa
JCH & Partners LLP	100 New Bridge Street, London, United Kingdom, EC4V 6JA
Johan Hattingh	100 New Bridge Street, London, United Kingdom, EC4V 6JA
Dr Patrice Tlhopane Motsepe	ARM HOUSE, 29 Impala Road, Chislehurst, Sandton 2196

Signature

print name: Thomas Amy	capacity	director of GPCo
sign here 	date	15 November 2021
print name: Thomas Amy	capacity	director of ARCH EM (GSY) PCC Limited (Cell SRF)
sign here 	date	15 November 2021

DIRECTIONS

(1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.

(2) See the definition of "associate" in section 9 of the Corporations Act 2001.

(3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.

(4) The voting shares of a company constitute one class unless divided into separate classes.

(5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.

(6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.

(7) Include details of:

- (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
- (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.

(8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown".

(9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

ANNEXURE A

Evolution Energy Minerals Limited (ACN 648 703 548)

This is Annexure A of two (2) pages referred to in the Form 603 (Notice of Initial Substantial Holder) dated 15 November 2021

3. Details of relevant interests

Holder of relevant interest	Nature of relevant interest	Class and number of securities
GPCo	Relevant interest in 40,000,000 Shares under: 1. section 608(1)(a) of the Corporations Act as the holder of those Shares pursuant to an Investment Deed (see Annexure B for further details); and 2. section 608(3)(a) of the Corporations Act by having voting power of 100% in ARCH EM (GSY) PCC Limited (Cell SRF).	40,000,000 Shares
ARCH EM (GSY) PCC Limited (Cell SRF)	Relevant interest in 40,000,000 Shares held by GPCo, under: 1. section 608(1)(b) and (c) of the Corporations Act, having the power to control voting and disposal of the Shares; and 2. section 608(3)(a) of the Corporations Act by having voting power of 100% in GPCo.	40,000,000 Shares
ARCH Emerging Markets Partners Limited	Relevant interest in 40,000,000 Shares held by GPCo, under section 608(3)(a) of the Corporations Act by having voting power of 100% in GPCo and ARCH EM (GSY) PCC Limited (Cell SRF).	40,000,000 Shares
AEMP Limited	Relevant interest in 40,000,000 Shares held by GPCo, under: 1. section 608(3)(b) of the Corporations Act by having control, as the sole shareholder, of GPCo and ARCH EM (GSY) PCC Limited (Cell SRF); and 2. section 608(3)(a) of the Corporations Act by having voting power of 100% in GPCo and ARCH EM (GSY) PCC Limited (Cell SRF).	40,000,000 Shares
African Rainbow Capital Pty Ltd	Relevant interest in 40,000,000 Shares held by GPCo, under section 608(3)(a) and (b) of the Corporations Act by having voting power of above 20% in AEMP Limited, which in turn controls GPCo and ARCH EM (GSY) PCC Limited (Cell SRF).	40,000,000 Shares
Ubuntu-Botho Investments (Pty) Ltd	Relevant interest in 40,000,000 Shares held by GPCo, under section 608(3)(a) and (b) of the Corporations Act by controlling African Rainbow Capital Pty Ltd, which has voting power of above 20% in AEMP Limited, which in turn controls GPCo and ARCH EM (GSY) PCC Limited (Cell SRF).	40,000,000 Shares
Sizanani-Thusanang Helpmekaar Investments Pty Ltd	Relevant interest in 40,000,000 Shares held by GPCo, under section 608(3)(a) and (b) of the Corporations Act by controlling Ubuntu-Botho Investments (Pty) Ltd, which in turn controls African Rainbow Capital Pty Ltd, which has voting power of above 20% in AEMP Limited, which in turn controls GPCo and ARCH EM (GSY) PCC Limited (Cell SRF).	40,000,000 Shares
Ubuntu-Ubuntu Commercial Enterprises Pty Ltd	Relevant interest in 40,000,000 Shares held by GPCo, under section 608(3)(a) and (b) of the Corporations Act by controlling Sizanani-Thusanang Helpmekaar Investments Pty Ltd, which in turn controls Ubuntu-Botho Investments (Pty) Ltd, which in turn controls African Rainbow Capital Pty Ltd, which has voting power of above 20% in AEMP Limited, which in turn controls GPCo and ARCH EM (GSY) PCC Limited (Cell SRF).	40,000,000 Shares
JCH & Partners LLP	Relevant interest in 40,000,000 Shares held by GPCo, under: 1. section 608(3)(b) of the Corporations Act by having control of AEMP Limited, which in turn has control of GPCo and ARCH EM (GSY) PCC Limited (Cell SRF); and 2. section 608(3)(a) of the Corporations Act by having voting power of 100% in GPCo and ARCH EM (GSY) PCC Limited (Cell SRF).	40,000,000 Shares
Johan Hattingh	Relevant interest in 40,000,000 Shares held by GPCo, under: 1. section 608(3)(b) of the Corporations Act by having control of JCH & Partners LLP, which in turn has control of AEMP Limited, which in turn has control of GPCo and ARCH EM (GSY) PCC Limited (Cell SRF); and 2. section 608(3)(a) of the Corporations Act by having voting power of 100% in GPCo and ARCH EM (GSY) PCC Limited (Cell SRF).	40,000,000 Shares
Dr Patrice Thopane Motsepe	Relevant interest in 40,000,000 Shares held by GPCo, under section 608(3)(a) and (b) of the Corporations Act by having control of Ubuntu-Ubuntu Commercial Enterprises Pty Ltd, which in turn controls Sizanani-Thusanang Helpmekaar Investments Pty Ltd, which in turn controls Ubuntu-Botho Investments (Pty) Ltd, which in turn controls African Rainbow Capital Pty Ltd, which has voting power of above 20% in AEMP Limited, which in turn controls GPCo and ARCH EM (GSY) PCC Limited (Cell SRF).	40,000,000 Shares

SIGNATURES

Thomas Amy
Print name



Sign here

Director of ARCH Sustainable Resources GPCo Limited
Capacity

15 November 2021
Date

Thomas Amy
Print name



Sign here

Director of ARCH EM (GSY) PCC Limited (Cell SRF)
Capacity

15 November 2021
Date

ANNEXURE B

Evolution Energy Minerals Limited (ACN 648 703 548)

This is Annexure B of sixty nine (69) pages referred to in the Form 603 (Notice of Initial Substantial Holder) dated 15 November 2021

SIGNATURES

Thomas Amy
Print name



Sign here

Director of ARCH Sustainable Resources GPCo Limited
Capacity

15 November 2021
Date

Thomas Amy
Print name



Sign here

Director of ARCH EM (GSY) PCC Limited (Cell SRF)
Capacity

15 November 2021
Date

Investment Deed

between

Evolution Energy Minerals Limited

and

Marvel Gold Limited

and

ARCH Sustainable Resources GPCo Limited in its capacity as general partner for and on behalf of ARCH Sustainable Resources Fund LP.

Contents

1	Definitions and interpretation	3
2	Prospectus offers and ASX listing	11
3	Conditions	12
4	Warranties.....	13
5	Rights of first offer	14
6	Evolution Board representative.....	17
7	Other covenants	19
8	ESG requirements	21
9	Termination.....	23
10	Confidentiality and announcements	26
11	Non-compliance by the Company	27
12	Guarantee	27
13	GST	30
14	Notices	31
15	General	31
Annexure 1 – ESG Committee Charter		
Annexure 2 – Information and Conflict Protocol		

This deed is made on

28 September 2021

between **Evolution Energy Minerals Limited** ACN 648 703 548 of Level 1, Emerald House, 1202 Hay Street, West Perth WA 6005 (**Company** or **Evolution**)

and **Marvel Gold Limited** ACN 610 319 769 of Level 1, Emerald House, 1202 Hay Street, West Perth WA 6005 (**Marvel**)

and **ARCH Sustainable Resources GPCo Limited** (1-68349) in its capacity as general partner for and on behalf of **ARCH Sustainable Resources Fund LP**, a Guernsey limited partnership with registered number 3805, both of First Floor Albert House South Esplanade St Peter Port GUERNSEY GY1 1AJ (**Subscriber** or **ARCH**)

Recitals

- A The Company owns the Chilalo Project and is proposing to apply for admission to the Official List.
- B The Company has agreed to offer and issue the Subscription Securities to the Subscriber pursuant to the Prospectus, in accordance with the terms and conditions of this deed.
- C The parties (and others) have entered into the Royalty Deed and the Voluntary Escrow Deed on or about the date of this deed.
- D The parties further agree to various other matters pursuant to this deed.

Now it is agreed as follows:

1 Definitions and interpretation

1.1 Definitions

Acquisition means Evolution's acquisition of a 100% interest in the Chilalo Project pursuant to the Share Exchange Agreement dated 17 September 2021 between Marvel and the Company.

Affiliate in relation to a party, means:

- (a) a Related Corporation of the party;
- (b) an entity the party controls;
- (c) an entity that controls the party; and
- (d) an entity that is controlled by an entity that controls the party,

(where 'control' has the meaning given in section 50AA of the Corporations Act).

Anti-Corruption and Anti-Bribery Certificates means the signed Anti-Corruption and Anti-Bribery Certificates provided to the Subscriber by the Company on or prior to the date of this deed.

ARCH Director has the meaning given in clause 6.1.

ARCH Offer means the Company's offers, pursuant to the Prospectus, to issue the Subscription Securities to the Subscriber, in accordance with the terms and conditions of this deed.

ARCH Offer Closing Date means the date on which the ARCH Offer closes pursuant to the Prospectus.

ARCH Reimbursable Costs means the Subscriber's and its Affiliates' actual reasonable expenses incurred (as evidenced by written invoices provided to the Company) in connection with the preparation, negotiation and execution of this deed and the Royalty Deed (including, but not limited to, any and all reasonable external due diligence and legal expenses incurred by the Subscriber and its Affiliates in connection with the ARCH Offer), up to a maximum total amount of US\$200,000 in aggregate (including GST and all other Tax, if applicable).

ASIC means the Australian Securities and Investments Commission.

ASIC Act means the *Australian Securities and Investments Commission Act 2001* (Cth).

ASX means ASX Limited (ACN 008 624 691), and, where the context permits, the Australian Securities Exchange operated by ASX Limited.

ASX Listing Rules means the official listing rules of the ASX as amended from time to time.

Business Day means a day on which banks are open for business in London, United Kingdom and Perth, Western Australia excluding a Saturday, Sunday or public holiday in London, United Kingdom or Perth, Western Australia.

Chilalo Project means the Company's graphite exploration and development project located in Ruangwa District of the Lindi Region in south-east Tanzania and known as the Chilalo Graphite Project comprising the Evolution Tenements and all other assets and undertaking comprising the Chilalo Project.

Claim means any claim, demand, legal proceedings or cause of action, including any claim, demand, legal proceedings or cause of action under common law or under statute in any way relating to this deed, and includes a claim, demand, legal proceedings or cause of action arising from a breach of Warranty, or under an indemnity in this deed.

Conditions has the meaning given in clause 3.1.

Conditions Cut Off Date means 30 November 2021, or such later date as is agreed by the Company and the Subscriber in writing.

Confidential Information means all confidential, non-public or proprietary information regardless of how the information is stored or delivered, exchanged between two or more parties (or their Representatives) before, on or after the date of this deed, including:

- (a) the terms and conditions of this deed;
- (b) all trade secrets, business plans, financial, marketing, systems, technology, ideas, concepts, know how, techniques, designs, specifications, blueprints, tracings, diagrams, models, functions, capabilities and designs (including without limitation, computer software, manufacturing processes or other information embodied in drawings or specifications), intellectual property or any other information which is indicated to be subject to an obligation of confidence, owned or used by or licensed to a party; and
- (c) any information made available to ARCH or its Representatives under or in connection with this deed.

Constitution means the constitution of the Company as amended or varied from time to time.

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

Disclosure Letter means the letter delivered to the Subscriber just prior to the signing of this deed and which has been initialled by or on behalf of the Company and the Subscriber or acknowledged via email, in each case for the purposes of identification.

Duty means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them, but excludes any Tax.

Encumbrance means any interest or power:

- (a) reserved in or over any interest in any asset including, but not limited to, any retention of title; or
- (b) created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power,

by way of, or having similar commercial effect to, security for payment of a debt, any other monetary obligation or the performance of any other obligation, or any trust or any retention of title and includes, but is not limited to, any agreement to grant or create any of the above.

Environmental Laws means any and all applicable laws relating to the regulation or emission of pollutants to, or the protection of, the environment or natural resources, or exposure to hazardous substances.

Equity Offer Notice has the meaning given in clause 5.1.

Equity Security has the same meaning as that term has in the ASX Listing Rules.

Escrow Termination Date has the meaning given in clause 11(a).

ESG means environmental, social and governance.

ESG Committee means the ESG committee established by the Company and by the Evolution Board in compliance with the Constitution.

ESG Committee Charter means the committee charter for the ESG Committee as set out in Annexure 1, including as it may be amended from time to time.

ESG Expiry Event means the occurrence, after Subscription Completion, of the Subscriber's Voting Power in the Company being below 5% for 30 consecutive Trading Days.

ESG Investment Period means the period of time commencing upon the date of this deed and ending upon the occurrence of the ESG Expiry Event.

ESG Policy has the meaning given to that term in the ESG Committee Charter.

ESG Program means the documents listed in Schedule 9, including as they may be amended from time to time.

ESG Shareholder has the meaning given to that term in the ESG Committee Charter.

Evolution Board means the board of directors of the Company and **Evolution Board Member** means any member of the Evolution Board.

Evolution Equity Offer means an offer by the Company to issue any Evolution Equity Securities, other than an issue of Evolution Equity Securities:

- (a) as detailed in Schedule 4;
- (b) as consideration for the acquisition of an asset by the Company;

- (c) offered by way a pro rata issue in accordance with Listing Rule 7.2, exception 1;
- (d) offered by way a share purchase plan offered to all holders of Shares (other than ineligible holders);
- (e) in connection with any dividend plan;
- (f) on conversion of any convertible securities, including on the exercise of an option over an Evolution Share;
- (g) in connection with a takeover bid or merger, in accordance with Listing Rule 7.2, exception 6; or
- (h) pursuant to an employee incentive plan of the Company which is approved by the Evolution Board, from time to time.

Evolution Equity Security means any Equity Security issued by the Company.

Evolution Group means the Company and its Subsidiaries from time to time and **Evolution Group Member** means any one of them.

Evolution Material Adverse Change means, in relation to the Evolution Group, any event, change, condition, matter or thing that will have or would reasonably be expected to have, a material adverse effect on the business, assets, liabilities, financial position and performance, profitability or prospects of the Evolution Group (taken as a whole), but does not include:

- (a) any matter fairly disclosed to or known by the Subscriber or its Representatives on or before the date of this deed (including as a result of the Disclosure Letter or disclosures made to ASX by Marvel);
- (b) any change occurring as a result of any matter, event or circumstance required or permitted by this deed or the Royalty Deed or the transactions contemplated by them;
- (c) any matter, event or circumstance arising from changes in economic or business conditions, whether before or after the date of this deed;
- (d) any change in taxation, interest rates, exchange rates, graphite product pricing or general economic conditions which impact the Evolution Group, whether before or after the date of this deed;
- (e) any change affecting the graphite and mining industries generally; or
- (f) any change in accounting policy required by law.

Evolution Option means an option to be issued by the Company on the terms and conditions set out in Schedule 6.

Evolution Share means a fully paid ordinary share in the capital of the Company.

Evolution Tenements means each of the mineral titles set out in Schedule 5, and includes any application for a mineral title, and any extension, renewal, variation, conversion, amalgamation, replacement or substitution of a mineral title, which is granted in respect of the whole or any part of the area of the mineral titles set out in Schedule 5.

Expiry Event means the occurrence, after Subscription Completion, of the Subscriber's Voting Power in the Company being below 10% for 30 consecutive Trading Days.

Financial Information means the financial information set out in section 6 of the Prospectus.

FIRB means the Foreign Investment Review Board of the Commonwealth of Australia.

FIRB Act means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

Fundamental Breach has the meaning given to that term in the ESG Committee Charter.

Fundamental Breach Determination Date means the date on which the ESG Committee delivers written notice of a determination of a Fundamental Breach to the Evolution Board.

Fundamental Matter means any matter set out in Schedule 2.

Government Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity in any part of the world.

GST means goods and services tax or similar value added tax levied or imposed in Australia under the GST Law or otherwise on a supply.

GST Act means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

GST Law has the same meaning as in the GST Act.

Incentive Option means an option to be issued by the Company on the terms and conditions set out in section 10.4 of the Prospectus.

Indicative Offer Timetable means the timetable for the Public Offer and ARCH Offer as set out in Schedule 7.

Information and Conflict Protocol means the information and conflict protocol as set out in Annexure 2.

Investment Period means the period of time commencing upon the date of this deed and ending upon the occurrence of the Expiry Event.

Issue Date means the date on which the Company issues all Subscription Securities to the Subscriber pursuant to the ARCH Offer and all Public Offer Shares pursuant to the Public Offer.

Lender means funds managed by Castlake, L.P.

Lender Arrangement means the arrangement in place with the Lender as detailed in section 9.2 of the Prospectus, pursuant to which the Lender will be paid \$9,500,000 out of the proceeds of the ARCH Offer and Public Offer and will release the Lender Security such that the Chilalo Project will be unencumbered.

Lender Security means the security granted in favour of the Lender in respect of the Chilalo Project as set out in Section 9.2 of the Prospectus.

Loss means losses, liabilities, damages, costs, charges and expenses and includes Taxes and Duties.

Material Breach has the meaning given to that term in the ESG Committee Charter.

Material Breach Determination Date means the date on which the ESG Committee delivers written notice of a determination of a Material Breach to the Evolution Board.

Mining Legislation means Mining Act, R.E. 2019, Cap 123 of the Laws of Tanzania.

Nominee means an investor or co-investor in the ARCH Sustainable Resources Fund LP.

Official List has the same meaning as that term has in the ASX Listing Rules.

Opening Date means the date on which the Public Offer and ARCH Offer open pursuant to the Prospectus.

Participation Notice has the meaning given in clause 5.1.

Post Admission Date Deadline means the date that is 6 months after the Company is admitted to the Official List.

Prospectus means the prospectus to be prepared and issued by the Company in respect of the Public Offer and the ARCH Offer.

Prospectus Lodgement Date means the date on which the Prospectus is lodged with ASIC.

Public Offer means the Company's public offer to issue the Public Offer Shares at an issue price of \$0.20 per Public Offer Share, pursuant to the Prospectus, to raise \$14,000,000.

Public Offer Shares means 70,000,000 Evolution Shares to be offered by the Company pursuant to the Public Offer in the Prospectus.

Public Offer Closing Date means the date on which the Public Offer closes pursuant to the Prospectus.

Qualified Chilalo Buyer means an established participant in the graphite commodity market in respect of whom the Company has formed the view (acting reasonably) that selling Chilalo Project graphite to that participant is not detrimental to the interests of the Company.

Quarterly ESG Report has the meaning given to that term in the ESG Committee Charter.

Regulated Action has the meaning given in clause 7.2(a).

Regulated Action Notice has the meaning given in clause 7.2(a).

Related Corporation of an entity means each company:

- (a) that is a Subsidiary of that entity;
- (b) of which the entity is a Subsidiary; or
- (c) that is a Subsidiary of a company of which the entity is also a Subsidiary.

Representative means, in respect of a party, an employee, officer, director or adviser of that party and, in respect of the Subscriber, includes an Affiliate of the Subscriber and an employee, officer, director, limited partner or adviser of an Affiliate to the Subscriber.

ROFO Exercise Notice has the meaning given in clause 5.2(c).

ROFO Notice has the meaning given in clause 5.2(a).

ROFO Transaction has the meaning given in clause 5.2(a).

Royalty Deed means the royalty deed signed by the Company, the Subscriber and Ngwena Tanzania Limited and dated on or about the date of this deed, regarding the grant by Ngwena Tanzania Limited to the Subscriber of a royalty in relation to the Chilalo Project.

Shareholder means a registered holder of one or more Evolution Shares.

Subscriber's Governing Documents means:

- (a) the Limited Partnership Agreement to which the Subscriber is a party;
- (b) any side letters to the Limited Partnership Agreement;
- (c) the Subscriber's ESG policy;

- (d) the Subscriber's environmental and social management system documentation; and
 - (e) other related governing documents binding on the Subscriber,
- in each case as they exist in final or near final form as at the date of this deed.

Subscription Completion means completion of the issue by the Company to the Subscriber of:

- (a) the Subscription Shares in consideration for the Subscription Price; and
- (b) the Subscription Options for nil consideration,

under the Prospectus and on the terms and conditions in this deed.

Subscription Options means 20,000,000 Evolution Options.

Subscription Price means \$8,000,000 (being \$0.20 per Subscription Share).

Subscription Securities means the Subscription Options and the Subscription Shares.

Subscription Shares means 40,000,000 Evolution Shares.

Subsidiary has the meaning given in Division 6 of Part 1.2 of the Corporations Act.

Tax means any tax, levy, charge, impost, fee, deduction, compulsory loan or withholding, that is assessed, levied, imposed or collected by any Government Agency and includes, but is not limited to any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above and excluding any Duty.

Tax Law means a law with respect to or imposing any Tax or Duty.

Trading Day has the meaning given in the ASX Listing Rules.

Voluntary Escrow Deed means the voluntary escrow deed signed by the Company and the Subscriber and dated on or around the date of this deed.

Voting Power has the meaning given in the Corporations Act.

Warranties means the representations and warranties set out in Schedule 3.

1.2 Interpretation

In this deed:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (e) an expression importing a person includes any company, partnership, limited partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this deed and a reference to this deed includes any schedule, annexure, attachment and exhibit;

- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (h) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to a party to a document includes that party's successors and permitted assignees;
- (j) a promise, undertaking, representation, warranty, acknowledgement, indemnity or other obligation on the part of two or more persons binds them jointly and severally;
- (k) a reference to an agreement includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing;
- (l) no provision of this deed will be construed adversely to a party because that party was responsible for the preparation of this deed or that provision;
- (m) a reference to a body, other than a party to this deed (including an institute, association or authority), whether statutory or not:
 - (i) that ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,
 is a reference to the body that replaces it or that substantially succeeds to its powers or functions;
- (n) a reference to any thing (including, but not limited to, any right) includes a part of that thing but nothing in this clause 1.2(n) implies that performance of part of an obligation constitutes performance of the obligation;
- (o) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (p) a reference to '\$' or 'dollars' is to Australian currency unless denominated otherwise;
- (q) a reference to a 'month' means a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such day, ending at the expiration of the next month; and
- (r) a reference to time is a reference to Perth, Western Australia time.

1.3 Deed components

This deed includes any schedule, annexure, attachment and exhibit.

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 next Business Day.

1.5 Inclusive expressions

Specifying anything in this deed after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included.

1.6 Awareness and knowledge

- (a) A reference to Evolution being 'aware' or having 'knowledge' (or similar expressions) refers to matters of which a Director (other than any Representative of the Subscriber), CEO, CFO or company secretary of Evolution is actually aware or has

actual knowledge or would have been aware at the relevant time had that person made reasonable enquiries in the circumstance.

- (b) A reference to the Subscriber being 'aware' or having 'knowledge (or similar expressions) refers to matters of which Amanda van Dyke or a Director of ARCH is actually aware or has actual knowledge or would have been aware at the relevant time had that person made reasonable enquiries in the circumstance.

2 Prospectus offers and ASX listing

2.1 Prospectus lodgement

The Company must lodge the Prospectus with ASIC within 5 Business Days of the date of this deed, in a form in which the Subscriber has consented.

2.2 ARCH Offer

- (a) By the Opening Date the Company must offer to the Subscriber pursuant to the ARCH Offer under the Prospectus and on the terms and conditions in this deed:
- (i) the Subscription Shares in consideration for the Subscription Price; and
 - (ii) the Subscription Options for nil consideration.
- (b) The ARCH Offer will be subject to:
- (i) the condition in section 723(2) of the Corporations Act (to the effect that the minimum subscription for the ARCH Offer will be all of the Subscription Shares); and
 - (ii) the condition in 723(3) of the Corporations Act (requiring ASX quotation of the Subscription Shares).
- (c) The Company and the Subscriber must comply with Schedule 1.
- (d) The ARCH Offer cannot be amended without the Subscriber's prior written consent.

2.3 Public Offer

- (a) The Company must invite applications for the Public Offer Shares in accordance with this deed, the Prospectus and, to the extent reasonably practicable, the Indicative Offer Timetable.
- (b) The Company must notify the Subscriber in writing when the Company has received valid applications for all Public Offer Shares and cleared funds for the aggregate issue price of the Public Offer Shares (being \$14,000,000).
- (c) The Public Offer will be subject to:
- (i) the condition in section 723(2) of the Corporations Act (to the effect that the minimum subscription for the Public Offer will be all of the Public Offer Shares); and
 - (ii) the condition in 723(3) of the Corporations Act (requiring ASX quotation of the Public Offer Shares).
- (d) The metrics of the Public Offer (including the number of Public Offer Shares and the offer price) cannot be amended without the Subscriber's prior written consent.

2.4 Indicative Offer Timetable

The Company must use its reasonable endeavours to comply with the Indicative Offer Timetable.

2.5 Capital structure

The Company undertakes and agrees, in favour of the Subscriber, that:

- (a) as at the date of the Company's admission to the Official List, the capital structure of the Company will be as set out in Schedule 4; and
- (b) the Company will not permit any actual or proposed modification of the capital structure of the Company, prior to the Company's admission to the Official List, other than as specified in Schedule 4.

2.6 Evolution Group structure

The Company undertakes and agrees, in favour of the Subscriber, that:

- (a) as at the date of the Company's admission to the Official List, the structure of the Evolution Group will be as set out in Schedule 8, and that Evolution will hold no interest in the securities of any other entity at that time; and
- (b) the Company will not permit any actual or proposed modification of the structure of the Evolution Group, prior to the Company's admission to the Official List, other than as specified in Schedule 8.

3 Conditions

3.1 Conditions

The obligations of the Company and the Subscriber to comply with Schedule 1 are conditional on, and do not become binding unless and until the following conditions are satisfied or waived in accordance with this clause 3:

- (a) **(Prospectus lodgement)** the Prospectus being lodged by the Company with ASIC within 5 Business Days of the date of this deed in a form satisfactory to the Subscriber (in the Subscriber's absolute discretion); and
- (b) **(successful Public Offer)** the Company having received valid applications under the Prospectus for all Public Offer Shares and cleared funds for the aggregate issue price of the Public Offer Shares (being \$14,000,000),
(together the **Conditions**).

3.2 Reasonable endeavours to satisfy Conditions

The Company must use reasonable endeavours to ensure that the Conditions are satisfied as expeditiously as possible and in any event on or before the Conditions Cut Off Date.

3.3 Notice

The Company must promptly notify the Subscriber in writing if it becomes aware that any Condition has been satisfied or has become incapable of being satisfied.

3.4 Waiver

- (a) Each of the Conditions are for the benefit of the Subscriber and the Company and may only be waived with the consent of both of them.

- (b) A waiver of a Condition:
 - (i) will not be effective unless it is given in writing in relation to a particular Condition;
 - (ii) may be given unconditionally or such conditions as the Subscriber and the Company may agree;
 - (iii) will only apply to the obligations in relation to which it is expressed to be given.

4 Warranties

4.1 Warranties given by the Company to the Subscriber

Subject to the limitations in clauses 4.6 to 4.8, the Company gives the Warranties to and for the benefit of the Subscriber.

4.2 Repetition of warranties

The Warranties given by the Company are given on the date of this deed and (without limiting the events which constitute a breach of this deed) if any Warranty is not true and correct as at that date, that will constitute a breach of this deed by the Company.

4.3 Reliance

The Company acknowledges that the Subscriber enters into this deed in reliance on each Warranty.

4.4 Indemnity

The Company indemnifies the Subscriber against, and must pay the Subscriber an amount equal to, any Loss suffered or incurred by the Subscriber as a result of a breach of a Warranty or any other breach of this deed by the Company.

4.5 Independent Warranties

Each Warranty is separate and independent and not limited by reference to any other Warranty or any notice or waiver given by any party in connection with anything in this deed.

4.6 Maximum and minimum amounts

- (a) The Company is not liable for a claim for a breach of Warranty unless the amount of that claim:
 - (i) exceeds \$25,000; and
 - (ii) either alone or together with the amount of other claims that satisfy clause 4.6(a)(i), exceeds \$100,000,
 in which event, subject to clause 4.6(b), the Company is liable to the Subscriber for all of that amount including the initial \$100,000.
- (b) The parties agree that the maximum aggregate amount that the Company is required to pay to the Subscriber in respect of all Claims is limited to \$10 million.

4.7 Time limits on Warranty claims

- (a) The Company is not liable under a claim for a breach of Warranty if the Subscriber does not notify the Company of that claim:
 - (i) within 3 years after Subscription Completion in respect of claims relating to Tax; and

- (ii) within 12 months after Subscription Completion for all other claims.
- (b) A claim is not enforceable against the Company and is taken to have been withdrawn unless any legal proceedings in connection with the claim are commenced within 6 months after written notice of the claim is served on the Company.

4.8 Disclosure and knowledge

- (a) The Company is not liable in respect of a claim for breach of a Warranty if the fact, matter or circumstance giving rise to the claim is fairly disclosed in the information contained in:
 - (i) this deed; or
 - (ii) the Disclosure Letter.
- (b) The disclosures in the Disclosure Letter are set out against the particular Warranties to which the disclosure is most applicable. Those references do not limit those disclosures to the particular Warranties against which they are set out. A disclosure or qualification in the Disclosure Letter that is made by reference to any particular Warranty is deemed to be made also in respect of all other Warranties.
- (c) For the purposes of this clause 4.8, a fact, matter or circumstance is 'fairly disclosed' if sufficient information has been disclosed that an investor, experienced in subscribing for shares, would be aware of the substance and significance of the information and (if applicable) would be aware of the nature and extent of the breach of Warranty.

4.9 Consequential loss

The Company excludes all liability for any indirect loss or damage, indirect loss of profit, loss of expected savings, opportunity costs, indirect loss of business (including loss or reduction of goodwill), damage to reputation, loss or corruption of data and diminution in credit rating, in each case, regardless of whether any or all of the loss or liability arises in contract, tort (including negligence), under any statute or otherwise under or in relation to or arising out of this deed.

4.10 No limitation

Nothing in clauses 4.6 to 4.9 (inclusive) limits any other remedies that may be available to the Subscriber, including pursuant to the Corporations Act, other laws and clause 11.

5 Rights of first offer

5.1 Equity issuances

- (a) During the Investment Period, if the Company proposes to undertake an Evolution Equity Offer, the Company must give the Subscriber at least 10 Business Days' written notice (**Equity Offer Notice**) of such proposal, which notice must indicate the proposed terms and conditions of the Evolution Equity Offer (to the extent known, it being acknowledged that pricing may not be known at this time).
- (b) If the Subscriber wishes to participate in an Evolution Equity Offer (either alone or together with Nominee(s)), the Subscriber must provide written notice to the Company to that effect within 5 Business Days after the date of receipt of the Equity Offer Notice (**Participation Notice**).
- (c) Upon receipt of a Participation Notice, the Company must discuss with the Subscriber in good faith for at least 5 Business Days from receipt of the Participation Notice to identify whether the Subscriber will agree with the Company on the terms on which the Subscriber (and one or more Nominees) may participate in the Evolution Equity Offer.

- (d) If the Company receives a Participation Notice within the time period specified in clause 5.1(b), the Company must not issue any Evolution Equity Securities to third parties under the Evolution Equity Offer until either:
 - (i) the terms of the Subscriber's participation (and the participation of any Nominees) in the Evolution Equity Offer are agreed between the Company and the Subscriber (and such Nominees) under clause 5.1(c); or
 - (ii) no agreement is reached between the Company and the Subscriber (or such Nominees) by the end of the 5 Business Day period under clause 5.1(c).
- (e) If the terms of the Subscriber's participation (and such Nominees' participation, if applicable) in an Evolution Equity Offer are agreed between the Company and the Subscriber (and such Nominees, if applicable) under clause 5.1(c) but shareholder approval is required by law or the ASX Listing Rules before Evolution Equity Securities can be issued to the Subscriber or its Nominees, then the issue of Evolution Equity Securities to the Subscriber (and/or its Nominees) is conditional upon receipt of that shareholder approval and the Company must take all reasonable steps to ensure that shareholder approval is obtained as soon as reasonably possible after the time of such agreement.
- (f) For the purposes of clause 5.1(e), the Company must take all reasonable steps to procure the Company's non-interested directors unanimously recommend that shareholders vote in favour of the resolution approving the issue of such Evolution Equity Securities to the Subscriber (and such Nominees, if applicable).
- (g) Any new Evolution Equity Offer or a material variation to, or replacement of, an Evolution Equity Offer, is deemed to be a separate Evolution Equity Offer, which is subject to this clause 5.1.

5.2 Right of first offer for debt and alternative capital raisings

- (a) During the Investment Period, if any Evolution Group Member (in any capacity, including in any capacity as a joint venture participant) wishes to:
 - (i) subject to clause 5.2(i), sell minerals produced at the Chilalo Project (by way of a contract with a supply term of more than 12 months for a supply volume of more than 10% of available annual production from the Chilalo Project);
 - (ii) borrow funds to use in respect of the Chilalo Project;
 - (iii) enter into any royalty, streaming or pre-payment agreement in respect of products from the Chilalo Project; or
 - (iv) enter into any transaction analogous to those described in clauses 5.2(a)(i) to 5.2(a)(iii),

(each of the above being a **ROFO Transaction**), the Company must, or must procure the relevant Evolution Group Member to, give written notice to the Subscriber (**ROFO Notice**) of the opportunity to participate in the ROFO Transaction.
- (b) Each ROFO Notice must:
 - (i) specify such of the material parameters of the ROFO Transaction as the Company wishes to prescribe; and
 - (ii) include a statement to the effect that the Subscriber has the priority opportunity to propose commercial terms and conditions on which the Subscriber (and/or one or more named Nominees) may pursue the ROFO Transaction.
- (c) The Subscriber may elect to pursue a ROFO Transaction by giving notice to that effect to the Company (and, if the Subscriber nominates one or more Nominees to participate in the proposed ROFO Transaction, specifying those Nominees, subject to clause 5.2(i)) within 30 Business Days after the date of the Subscriber's receipt of the

ROFO Notice (**ROFO Exercise Notice**). The ROFO Exercise Notice must specify the commercial terms and conditions on which the Subscriber (and/or one or more named Nominees) is willing to pursue the ROFO Transaction.

- (d) Upon receipt of a ROFO Exercise Notice, if the commercial terms and conditions are, taken as a whole, not less favourable to the Company than prevailing market terms for the relevant ROFO Transaction (as assessed by the Company, acting reasonably), the Company undertakes to promptly negotiate in good faith with the Subscriber (and/or relevant Nominees, if applicable) and use reasonable endeavours to agree, and the Company undertakes to procure that any other relevant Evolution Group Member promptly negotiates in good faith and uses reasonable endeavours to agree, formal contracts to fully document the ROFO Transaction, on the terms and conditions proposed in the ROFO Exercise Notice.
- (e) The agreement for, and completion of, any ROFO Transaction contemplated by a ROFO Exercise Notice will be subject to and conditional on (to the extent applicable):
 - (i) any regulatory approvals required by applicable laws and the ASX Listing Rules being obtained; and
 - (ii) any shareholder approvals required under the ASX Listing Rules or the Corporations Act being obtained.
- (f) Where any regulatory or shareholder approval is required before a ROFO Transaction contemplated in a ROFO Exercise Notice can complete, the Company must, or the Company must procure that the other relevant Evolution Group Member must, take all reasonable steps to ensure that such regulatory or shareholder approval is obtained as soon as possible after the Subscriber gives the ROFO Exercise Notice (including, where applicable, the Company taking all reasonable steps to procure the Company's non-interested directors to unanimously recommend that shareholders vote in favour of the relevant resolution).
- (g) During the Investment Period the Company must not, and the Company must procure that each other Evolution Group Member does not, offer to (or enter into a legally binding agreement with) one or more third parties a ROFO Transaction unless:
 - (i) the Company has first complied with this clause 5.2 and:
 - (A) the Subscriber has not given the ROFO Exercise Notice to the Company within 30 Business Days after the date of the Subscriber's receipt of the ROFO Option Notice, or any such ROFO Exercise Notice so given is on terms and conditions that are not, taken as a whole, no less favourable to the Company than prevailing market terms for the relevant ROFO Transaction (as assessed by the Company, acting reasonably); or
 - (B) a regulatory approval which is required for the purpose of clause 5.2(e)(i) is refused by the relevant regulator after the relevant Evolution Group Member has applied for, and taken all reasonable steps to obtain, such regulatory approval; or
 - (C) a general meeting of any relevant Evolution Group Member is held for the purpose of clause 5.2(e)(ii) at which any required shareholder approval is voted on by the relevant shareholders but is not passed, provided there has not been a breach of clause 5.2(f); or
 - (D) having complied with clause 5.2(d), the parties have failed to agree the formal contracts to fully document the ROFO Transaction within 45 Business Days;
 - (ii) each such offer to a third party is made on terms and conditions which are overall no more favourable to the relevant third party than the terms offered by the Subscriber (or a Nominee) in the ROFO Exercise Notice;

- (iii) each such offer to a third party is made within 45 Business Days after the date of the relevant defeating event in clause 5.2(g)(i); and
 - (iv) each such offer to a third party is accepted by the relevant third party, and the relevant Evolution Group Member and that third party enter into legally binding documents for that ROFO Transaction within 45 Business Days after the date of their receipt of such offer.
- (h) Any new ROFO Transaction and any material variation to, or replacement of, a ROFO Transaction (other than an extension of time, or a variation of pricing to reflect changes in markets or the passage of time, in respect of a formally documented third party ROFO Transaction established in accordance with this clause 5.2) is deemed to be a separate ROFO Transaction, which must first be notified to the Subscriber by way of a ROFO Notice in accordance with this clause 5.2.
- (i) The Subscriber acknowledges that graphite and graphite products are not homogenous nor exchange-traded commodities, and graphite markets and marketing are highly specialised and reliant on satisfying buyer and end-user specifications. Accordingly:
- (i) the Company will be under no obligation to issue a ROFO Exercise Notice in respect of clause 5.2(a)(i) (or clause 5.2(a)(iv) where the ROFO Exercise Notice contemplates a transaction analogous to that described in clause 5.2(a)(a)(i)) unless the Subscriber has, during the 6 months prior to the issue (or proposed issue) of the ROFO Exercise Notice, given the Company a certificate confirming the identity of one or more Nominees that is a Qualified Chilalo Buyer; and
 - (ii) in any event, the Subscriber must not identify or nominate a Nominee in a ROFO Exercise Notice in respect of clause 5.2(a)(i) (or in respect of clause 5.2(a)(iv) where the ROFO Exercise Notice contemplates a transaction analogous to that described in clause 5.2(a)(a)(i)) unless that Nominee is a Qualified Chilalo Buyer.

5.3 Subscriber funding commitment

The Subscriber acknowledges that the Subscriber intends to allocate a minimum of US\$25,000,000 for investment into the Chilalo Project (inclusive of the A\$10,000,000 already committed by the Subscriber pursuant to the terms of this deed and the Royalty Deed), on the basis that the Subscriber and its Affiliates obtain commitments to raise US\$400,000,000 of capital. To the extent that such commitments are less than US\$400,000,000 of capital, the Subscriber's intention to allocate capital to the Chilalo Project will be reduced proportionately. For greater certainty, this clause does not constitute a binding commitment on the Subscriber to invest further funds into the Company or the Chilalo Project.

6 Evolution Board representative

6.1 Nomination of directors by the Subscriber

- (a) During the Investment Period the Subscriber may, by written notice to the Company, on one or more separate occasions:
 - (i) nominate one person to be appointed as a non-executive director of the Company; and
 - (ii) nominate a replacement of the person nominated under clause 6.1(a)(i) (or of a nominee under this clause 6.1(a)(ii)) by such written notice to the Company specifying the identity of the person to be replaced as a director and their replacement,
 (in each case the ARCH Director).

- (b) Where the Company receives a notice from the Subscriber pursuant to clause 6.1(a)(i) nominating an ARCH Director, the Company shall procure that the directors of the Company shall, as soon as reasonably practicable, appoint the ARCH Director as a director of the Company, subject to:
 - (i) there being no other ARCH Director on the Board;
 - (ii) receipt by the Company of a consent to act as a director of the Company, signed by the ARCH Director;
 - (iii) entry into a standard form appointment letter by the ARCH Director, as the Evolution Board reasonably requires; and
 - (iv) the Evolution Board being satisfied (acting reasonably) as to the good fame and character of, and with the results of the usual criminal record and bankruptcy checks concerning, the ARCH Director.
- (c) Where the Company receives a notice from the Subscriber pursuant to clause 6.1(a)(ii) nominating a replacement of the ARCH Director, the Company shall procure that the directors of the Company appoint, as soon as reasonably practicable, that replacement ARCH Director as a director of the Company, subject to:
 - (i) the existing ARCH Director ceasing to be a director of the Company (including pursuant to the Constitution, due to their resignation, or removal from the Evolution Board by Shareholder resolution or a resolution for their election to the Evolution Board not being passed at a general meeting of the Company);
 - (ii) receipt by the Company of a consent to act as a director of the Company, signed by the replacement ARCH Director;
 - (iii) entry into a standard form appointment letter by the replacement ARCH Director, as the Evolution Board reasonably requires; and
 - (iv) the Evolution Board being satisfied (acting reasonably) as to the good fame and character of, and with the results of the usual criminal record and bankruptcy checks concerning, the replacement ARCH Director.
- (d) Unless the Company is otherwise directed by the Subscriber, during the Investment Period the Company must ensure that the then serving ARCH Director is proposed for election at the next annual general meeting of the Company convened after their initial appointment and the Company must take all reasonable steps to procure the Company's non-interested directors unanimously recommend that Shareholders vote in favour of the relevant resolution for that election.
- (e) The provision of any Company information (acquired by the ARCH Director in his or her capacity as a director of the Company) to the Subscriber by the ARCH Director will be governed by the Information and Conflict Protocol. The Company must not, and must procure that the Board of the Company does not, amend the Information and Conflict Protocol without the prior written approval of the Subscriber or the ARCH Director (in each case, approval not to be unreasonably withheld).
- (f) The Subscriber's rights to nominate and replace ARCH Directors pursuant to this clause 6 may each be exercised by the Subscriber on any number of occasions, including if an ARCH Director has, at any previous time, ceased to be a director of the Company for any reason (including if they are removed from office pursuant to a resolution of Shareholders or if a resolution to elect (or re-elect) them to the Evolution Board is not passed by Shareholders).
- (g) Upon the Expiry Event occurring (and the Investment Period expiring), the Subscriber will procure that the ARCH Director promptly tenders his or her resignation to the Evolution Board.

6.2 Minimum size of the Evolution Board

With effect by no later than the Post Admission Date Deadline and continuing until the occurrence of the Expiry Event, the Company must ensure that the Evolution Board comprises at least 4 directors in total, not less than one of whom must be an independent non-executive director (as reasonably determined by the Evolution Board having regard to the Corporate Governance Principles and Recommendations published from time to time by the ASX Corporate Governance Council).

7 Other covenants

7.1 Fundamental Matters

- (a) During the ESG Investment Period the Company must not (and the Company must procure that the other Evolution Group Members and the respective board, directors and officers of each Evolution Group Member do not) undertake any action, nor allow any action or inaction, which is, or causes or contributes to, a Fundamental Matter within paragraph (a) of Schedule 2, without the Subscriber's prior written consent, unless required by law or the ASX Listing Rules.
- (b) During the ESG Investment Period the Company must not (and the Company must procure that the other Evolution Group Members and the respective board, directors and officers of each Evolution Group Member do not) undertake any action, nor allow any action or inaction, which is, or causes or contributes to, a Fundamental Matter within paragraph (b) of Schedule 2, without the Subscriber's prior written consent (not to be unreasonably withheld or delayed), unless required by law or the ASX Listing Rules.
- (c) Until the earlier of the expiry of the Investment Period and the third anniversary of the Issue Date, the Company must not (and the Company must procure that the other Evolution Group Members and the respective board, directors and officers of each Evolution Group Member do not) undertake any action, nor allow any action or inaction, which is, or causes or contributes to, a Fundamental Matter within any one or more of paragraphs (f) or (h) of Schedule 2, without the Subscriber's prior written consent in each and every case.
- (d) Subject to clause 7.2, during the Investment Period, the Company must not (and the Company must procure that the other Evolution Group Members and the respective board, directors and officers of each Evolution Group Member do not) undertake any action, nor allow any action or inaction, which is, or causes or contributes to, a Fundamental Matter within paragraph (c) of Schedule 2, without the Subscriber's prior written consent.
- (e) Until the earlier of the expiry of the Investment Period and the third anniversary of the Issue Date, the Company must not (and the Company must procure that the other Evolution Group Members and the respective board, directors and officers of each Evolution Group Member do not) undertake any action, nor allow any action or inaction, which is, or causes or contributes to, a Fundamental Matter within paragraph (d), (e) or (g) of Schedule 2, without the Subscriber's prior written consent (not to be unreasonably withheld or delayed).
- (f) To avoid doubt, the above provisions of this clause 7.1 are in addition to any shareholder approval that may be required under applicable law or the ASX Listing Rules.

7.2 Pursuing certain Fundamental Matters

- (a) Notwithstanding clause 7.1(d), at any time after the third anniversary of the Issue Date, the Company may pursue an action which is, or causes or contributes to, a

Fundamental Matter within paragraph (c) of Schedule 2 (**Regulated Action**) provided that:

- (i) the Evolution Board has formed the view that the Regulated Action is in the best interests of the Company;
 - (ii) the Company has given written notice to the Subscriber (**Regulated Action Notice**) of its intention to pursue the Regulated Action; and
 - (iii) the Company does not complete the Regulated Action the subject of the Regulated Action Notice sooner than 3 months from the date of the Regulated Action Notice.
- (b) During the 3 month period contemplated in clause 7.2(a)(iii), the Company and the Subscriber must consult in good faith with a view to the Subscriber considering (in its sole discretion) whether it supports the Regulated Action in a manner which is not inconsistent with the Subscriber's Governing Documents or so as not to cause the Subscriber to be non-compliant with the Subscriber's Governing Documents. If, notwithstanding this consultation, the Subscriber forms the view that it wishes to exit its equity investment in the Company, the Company will use reasonable endeavours to facilitate such exit. For the avoidance of doubt, nothing in this clause binds the Subscriber to take any action, whether in relation to the voting or disposal of Evolution Shares from time to time or any other action.

7.3 Access to business information

During the Investment Period:

- (a) the Company will send to the Subscriber copies of all Evolution Board papers and other documents provided to the Evolution Board at the same time as they are provided to the ARCH Director in accordance with, and to the extent permitted by, the Information and Conflict Protocol;
- (b) the Company will comply with each and every written direction by the Subscriber for the Company to cease or recommence providing, pursuant to clause 7.3(a), Evolution Board papers and other documents to the Subscriber, from time to time;
- (c) the Subscriber will be entitled to, upon reasonable notice to the Company, access and inspect (in person and have remote access, through a virtual data room operated by the Company, to) the books and records of each Evolution Group Member (including, without limitation, technical studies, working papers, budgets and cash flows and financial information) to the extent to which such information would be available to any ARCH Director; and
- (d) the Subscriber will be entitled to regular consultation with the Company's directors and management regarding the business affairs and activities of the Evolution Group.

7.4 Compliance with Subscriber's Governing Documents

Subject to compliance with applicable laws, during the ESG Investment Period the Company will use all reasonable endeavours to comply, and will procure that the Evolution Board uses all reasonable endeavours to comply, with the reasonable requests of the Subscriber for the purpose of assisting the Subscriber to ensure its compliance with the Subscriber's Governing Documents, provided that the Company will not be required to incur any additional cost (unless reimbursed by the Subscriber) nor act to its detriment.

7.5 Compliance with laws

The Company undertakes to the Subscriber that, during the Investment Period, the Company will, and will procure that each other Evolution Group Member will:

- (a) comply in all material respects with all applicable laws, including all applicable anti-bribery and anti-corruption laws; and
- (b) maintain and enforce policies and procedures designed to promote and ensure compliance with all appropriate anti-bribery and anti-corruption laws including providing adequate training to employees and contractors of the Evolution Group.

8 ESG requirements

8.1 ARCH as an ESG Shareholder

- (a) The Subscriber is, by virtue of this deed, an "ESG Shareholder" for the purposes of the ESG Committee Charter during the ESG Investment Period.
- (b) The Subscriber will cease to be an ESG Shareholder for the purposes of the ESG Committee Charter only upon the occurrence of the ESG Expiry Event and in no other circumstances and the Company must not, and must procure that the Board does not, make any decision to the contrary.

8.2 ESG Committee

- (a) During the ESG Investment Period the Company must maintain, and the Company must procure that the Evolution Board maintains, the appointment of the ESG Committee pursuant to, and in compliance with, the ESG Committee Charter.
- (b) The Company agrees to, and will procure that the Evolution Board will, consult with the ESG Committee (and consider, in good faith, the ESG Committee's recommendations) in relation to the appropriate ESG performance conditions which must be satisfied before a director or executive of an Evolution Group Member will receive any such ESG performance-based remuneration from any Evolution Group Member.
- (c) The Company agrees that directors and executives of Evolution Group Members will not be entitled to any performance-based, or other contingent, remuneration if the ESG Committee determines that the individual director or individual executive was directly responsible for causing a Material Breach or a Fundamental Breach of an ESG Policy or the ESG Program.
- (d) The Company agrees that at least one third of any performance-based, or other contingent, remuneration of directors and executives of Evolution Group Members will be conditional upon the satisfaction of ESG performance conditions, the satisfaction (or non-satisfaction) of which will be determined by the ESG Committee.
- (e) For the avoidance of doubt, the Subscriber acknowledges that:
 - (i) the ESG Committee is not a sub-committee of the Board and that the ESG Committee does not, of itself, have the power or authority of the Board in dealing with the ESG matters on which it advises; and
 - (ii) the day-to-day implementation of any ESG Policies, the ESG Program, recommendations and determinations made by the ESG Committee and approved by the Board is to be undertaken by Evolution management, subject to the ultimate oversight of the Board.

8.3 ESG Program

- (a) By the Post Admission Date Deadline, the Company must approve and adopt the ESG Program in full in the form, and containing the content, acceptable to the Subscriber, acting reasonably.
 - (b) If the Company has not approved and adopted a particular part of the ESG Program by the Post Admission Date Deadline, provided that:
-

- (i) such non approval and non-adoption is not caused by a lack of best endeavours by the Company; and
- (ii) the Company is substantially progressed towards approving and adopting the ESG Program in full,

then for so long as the Company is continuing to act expeditiously and is using its best endeavours to fulfill clause 8.3(a), the Company will be deemed not to be in breach of clause 8.3(a).

- (c) From the date of admission to the Official List (and for those parts of the ESG Program not yet adopted by the Board, from the date of adoption of the relevant part of the ESG Program), and for the duration of the ESG Investment Period, the Company must maintain, and comply with (and the Company must procure that each Evolution Group Member and the Evolution Board maintains and complies with), each part of the ESG Program (as adopted and amended from time to time).
- (d) Subject, in each and every case, to the prior written consent of the Subscriber in accordance with clause 7.1 and the prior written approval of the Board, during the ESG Investment Period the ESG Committee has powers to amend or replace any part, or all, of the ESG Committee Charter.

8.4 Obligations of the Company

- (a) The Company must promptly give, and it must procure that each other Evolution Group Member, the Evolution Board, each other Evolution Group Member's board and the directors, management and other staff of each Evolution Group Member also promptly give, all documents, other information and assistance as is reasonably requested by the ESG Committee in order for the ESG Committee to discharge its functions and make determinations.
- (b) On an ongoing basis during the ESG Investment Period, the Company must report, and it must procure that each other Evolution Group Member, the Evolution Board, each other Evolution Group Member's board and the directors, management and other staff of each Evolution Group Member also report (as soon as reasonably practicable), to the ESG Committee and the Subscriber any material non-compliance by any of them with the ESG Program or applicable laws.
- (c) Subject to clause 8.2(e), and on an ongoing basis during the ESG Investment Period, the Company agrees to, and agrees to procure that the Evolution Board will, consult with the ESG Committee (and consider, in good faith, the ESG Committee's recommendations) in relation to ESG matters.
- (d) During the ESG Investment Period, the Company must (whilst admitted to the Official List) include a summary of (i) the Evolution Group's performance against the requirements, targets and minimum standards established under the ESG Policies and the ESG Program and (ii) any determinations made by the ESG Committee during a quarter (in each case, deriving from the Quarterly ESG Report provided to the Board by the ESG Committee) in the Company's quarterly report released to the Company's shareholders and announced to the ASX market announcements platform, the contents of which is subject to the Board's discretion (acting reasonably).

8.5 Non-compliance

- (a) During the ESG Investment Period, if the ESG Committee determines that any Evolution Group Member, the Evolution Board, any other Evolution Group Member's board or any of the directors, management or other staff of an Evolution Group Member has committed a "Material Breach" of the ESG Program or any ESG Policy, then the Company is deemed to have breached this deed and, in addition to the Subscriber's other rights and remedies arising from such breach:
 - (i) with immediate effect, if the Material Breach is not capable of remedy; or

- (ii) with effect from the day which is one month after the Material Breach Determination Date, unless such non-compliance has been materially remedied, to the satisfaction of the ESG Committee and to the Subscriber's satisfaction, before that day,

the Company must take (and must procure the Evolution Board to take) all action to enforce article 11.4(a) of the Constitution, including that all directors of the Company at the Material Breach Determination Date will retire immediately prior to the end of the next annual general meeting of the Company that is to be held no less than 75 days after the Material Breach Determination Date, and they will be eligible to stand for re-election at that meeting.

- (b) During the ESG Investment Period, if the ESG Committee determines that any Evolution Group Member, the Evolution Board, any other Evolution Group Member's board or any of the staff of an Evolution Group Member has committed a "Fundamental Breach" of the ESG Program or any ESG Policy, then the Company is deemed to have breached this deed and, in addition to the Subscriber's rights and remedies arising from such breach, then with immediate effect the Company must take all action to enforce article 11.4(b) of the Constitution, including that an extraordinary general meeting of the Company will be convened to be held within 50 days of the Fundamental Breach Determination Date and all directors of the Company at the Fundamental Breach Determination Date will retire immediately prior to the end of that general meeting, and they will be eligible to stand for re-election at that general meeting.

9 Termination

9.1 Termination by either party

Either party may terminate this deed, by written notice to the other party, at any time before Subscription Completion if:

- (a) any Condition is not satisfied by the Conditions Cut Off Date;
- (b) an order is made or an effective resolution is passed for the winding up or dissolution without winding up of any Evolution Group Member;
- (c) a receiver, receiver and manager, judicial manager, liquidator, administrator, official manager or like official is appointed over the whole or a substantial part of the undertaking or property of any Evolution Group Member;
- (d) a holder of an Encumbrance takes possession of the whole or any substantial part of the undertaking or property of any Evolution Group Member;
- (e) the Public Offer Closing Date does not occur by the Conditions Cut-Off Date;
- (f) the ASX indicates to the Company that it will refuse to grant quotation of the Subscription Shares or Public Offer Shares, or will or may classify any or all of the Subscription Shares as restricted securities (as defined in the ASX Listing Rules);
- (g) a statement in the Prospectus is misleading or deceptive or likely to mislead or deceive;
- (h) there is an omission from the Prospectus of material required by any of sections 710, 711, 715A or 716 of the Corporations Act, and such statement or omission is not remedied the Company by way of a supplementary or replacement prospectus;
- (i) any of the following notifications are made in respect of one or more of the Public Offer, the ARCH Offer or the Prospectus:

- (i) ASIC issues an order (including an interim order) under section 739 of the Corporations Act and any such inquiry or hearing is not withdrawn within 3 Business Days or if it is made within 3 Business Days of the Issue Date it has not been withdrawn by the day before the Issue Date;
- (ii) ASIC holds a hearing under section 739(2) of the Corporations Act;
- (iii) an application is made by ASIC for an order under Part 9.5 of the Corporations Act in relation to one or more of the Public Offer, the ARCH Offer or the Prospectus or ASIC commences any investigation or hearing under Part 3 of the ASIC Act in relation to one or more of the Public Offer, the ARCH Offer or the Prospectus, and any such application, inquiry or hearing is not withdrawn within 3 Business Days or if it is made within 3 Business Days of the Issue Date it has not been withdrawn by the day before the Issue Date;
- (iv) any person who has previously consented to the inclusion of its name or a statement in the Prospectus (other than the Subscriber) withdraws that consent; or
- (v) any person gives a notice under section 730 of the Corporations Act in relation to the Prospectus (other than the Subscriber or an Affiliate of the Subscriber) and the contents of the notice, in the opinion of the Subscriber (acting reasonably), is materially adverse to the Company and/or the Chilalo Project;
- (j) the Company withdraws the Prospectus or any circumstance arises after lodgement of the Prospectus with ASIC that results in the Company either repaying any money received from applicants under the Public Offer (and repaying the Subscription Price to the Subscriber) or offering applicants under the Public Offer an opportunity to withdraw their application for Public Offer Shares and be repaid their application monies (and offering the Subscriber under the ARCH Offer an opportunity to withdraw its application for Subscription Securities and be repaid the Subscription Price);
- (k) the issued capital of any Evolution Group Member is altered without the prior written consent of the Subscriber (unless otherwise explicitly permitted by this deed);
- (l) a regulatory body refuses to grant, withdraws, revokes or amends any regulatory approvals required for the Company to perform its obligations under this deed such that the Company is rendered unable to perform any such obligation;
- (m) the Evolution Group ceases to hold a 100% interest in the Chilalo Project (subject to the Tanzanian government's free-carried interest of 16%); or
- (n) the Constitution, or the constitution of any other Evolution Group Member, is varied or replaced without the prior written consent of the Subscriber.

9.2 Termination by Subscriber

The Subscriber may terminate this deed, by written notice to the Company, at any time before Subscription Completion if:

- (a) the Company breaches this deed (including a breach of Warranty) or otherwise fails to comply with this deed and that breach, or other non-compliance (as the case may be), is:
 - (i) material; and
 - (ii) not remedied to the Subscriber's reasonable satisfaction by the earlier of the ARCH Offer Closing Date or 5 Business Days of its first occurrence or, in the Subscriber's reasonable opinion, that breach, or other non-compliance is incapable of remedy; or

- (b) any misrepresentation is made in an Anti-Corruption and Anti-Bribery Certificate or there is any non-compliance with the representations included in an Anti-Corruption and Anti-Bribery Certificate.

9.3 Termination by the Company

The Company may terminate this deed, by written notice to the Subscriber, at any time after the expiry of the ESG Investment Period.

9.4 Effect of Termination

If this deed is terminated by the Subscriber under this clause 9:

- (a) each of the Company and the Subscriber retains the rights it has against the other in respect of any breach of this deed occurring before termination;
- (b) the Company must immediately refund to the Subscriber the Subscription Price; and
- (c) each party is otherwise released from its obligations and liabilities under or in connection with this deed and this deed will have no further force or effect, except that the rights and obligations of each party under each of the following clauses will continue independently from the other obligations of the parties and survive termination of this deed:
 - (i) clause 1 (Definitions and interpretation);
 - (ii) clause 4.4 (Indemnity);
 - (iii) clause 9 (Termination);
 - (iv) clause 10 (Confidentiality and announcements);
 - (v) clause 11 (Non-compliance by the Company);
 - (vi) clause 13 (GST); and
 - (vii) clauses 14 and 15 (Notices and General).

9.5 No other right to terminate or rescind

No party may terminate or rescind this deed except as expressly permitted under this clause 9.

9.6 Costs reimbursement

- (a) Where the Subscriber gives a notice to the Company under item 5 of Schedule 1, or where this deed terminates prior to Subscription Completion (other than as a result of a Condition not being satisfied due to any matter or matters outside the control of the Company), the Company must pay to the Subscriber the ARCH Reimbursable Costs (exclusive of GST but inclusive of other Tax, if applicable) within 7 days of the date of receipt of such notice or of the date of such termination of this deed (as applicable).
- (b) This clause 9.6 does not limit the rights of the Subscriber in respect of any other Claims that may arise under this deed (including those which relate to the event that gave rise to the obligation for the Company to make payments under this clause 9.6).

9.7 Duty, costs and expenses

- (a) The Company must pay all Duty in respect of the execution, delivery and performance of this deed and any agreement, transaction or document entered into or signed under this deed.
- (b) Subject to clause 9.6, each party must pay its own costs and expenses in respect of the negotiation, preparation, execution, delivery and registration of this deed.

- (c) Subject to clause 9.6 and the other clauses of this deed, any action to be taken by the Subscriber or the Company in performing their obligations under this deed must be taken at their own cost and expense.

9.8 Notification obligation

The Company must immediately give notice to the Subscriber when the Company becomes aware of an existing or anticipated circumstance or occurrence which is, or may lead to, any circumstance or occurrence detailed in clause 9.1.

10 Confidentiality and announcements

10.1 Disclosure of Confidential Information

A party (**Recipient**) must not disclose any Confidential Information of another party (**Discloser**) to any person except:

- (a) with the prior written consent of the Discloser (or with the prior written consent of all parties, in the case of disclosure of the terms and conditions of this deed);
- (b) to the Recipient's Affiliates and to the directors, officers, employees, advisors, agents, external consultants and representatives of the Recipient and of its Affiliates (provided they are bound to the Recipient by obligations of confidentiality in terms materially the same as those in this clause 10);
- (c) to the extent that the Confidential Information is in the public domain without the breach by the Recipient of any duty of confidentiality, either under this deed or under any other duty of confidentiality;
- (d) subject to clause 10.3, if the Recipient is required to do so by law, a Government Agency or by a stock exchange (including under the ASX Listing Rules); or
- (e) to an existing or proposed financier to, or investor in, the Recipient (or to their respective advisors) each of whom gives an appropriate confidentiality undertaking to the Recipient for the benefit of the Discloser.

10.2 Disclosure by recipient of Confidential Information

Any Recipient disclosing Confidential Information of another party under clause 10.1 must use all reasonable endeavours to ensure that persons receiving Confidential Information from it do not disclose the information except in the circumstances permitted in clause 10.1.

10.3 Mandatory disclosures

A Recipient required to disclose Confidential Information in accordance with clause 10.1(d) must notify the Discloser of the proposed disclosure as far in advance as practicable, must use all reasonable endeavours to minimise the amount of the Discloser's Confidential Information which is disclosed and must consult with the Discloser (to the extent reasonably possible without breaching the relevant requirement of law, Government Agency or stock exchange) as to the content of the disclosure.

10.4 Prior approval of the Subscriber

Notwithstanding any other clause of this deed, each of the Company must not, and the Company must procure that each other Evolution Group Member, the Evolution Board, each other Evolution Group Member's board and the directors, management and other staff of each Evolution Group Member do not, issue any public announcement which refers to or otherwise identifies the Subscriber or any of its Affiliates without the prior written consent of the Subscriber (not to be unreasonably withheld).

11 Non-compliance by the Company

- (a) The parties agree that in the event that:
- (i) the Company breaches, or otherwise fails to comply with, this deed or the Royalty Deed (in each case in a material respect); or
 - (ii) breaches clause 7.1,
- and the Company has not remedied that breach or non-compliance to the Subscriber's reasonable satisfaction within 5 Business Days of the Subscriber giving written notice of the breach or the Subscriber (acting reasonably) considers it is incapable of remedy (such time being the "**Escrow Termination Date**") the Voluntary Escrow Deed and all rights and obligations under it are automatically and irrevocably terminated in full, without the need for any action by the parties.
- (b) Clause 11(a) is in addition to, and does not limit, any Claim the Subscriber has for monetary damages, specific performance and injunctions (all of which the parties agree are appropriate remedies available to the Subscriber) in any circumstance detailed in clause 11(a).
- (c) For the avoidance of doubt and without limiting its application, this clause 11 is enlivened by each and every incidence of a breach of, or other non-compliance with, this deed or the Royalty Deed by the Company.

12 Guarantee

12.1 Guarantee and indemnity

Until such time as Evolution is admitted to the official list of the ASX, Marvel unconditionally and irrevocably:

- (a) guarantees to the Subscriber the due and punctual performance and observance by the Company of all of the Company's obligations to pay money contained in this deed (**Guaranteed Obligations**); and
- (b) indemnifies and shall keep indemnified the Subscriber against any and all liabilities and losses suffered or incurred by the Subscriber in relation to:
 - (i) any Guaranteed Obligation (or provision which would be or become a Guaranteed Obligation if enforceable, valid and not illegal) being or becoming enforceable, invalid or illegal;
 - (ii) the Company failing, or being unable, to pay any amount or to perform any of its Guaranteed Obligations in accordance with this deed; or
 - (iii) any amount that the Company is required to pay in respect of its Guaranteed Obligations under this deed not being recoverable from the Company.

in each case, for any reason and whether or not the Subscriber knew or ought to have known about those matters.

12.2 Non-payment or non-performance

If the Company does not perform any of its the Guaranteed Obligations in accordance with this deed, then Marvel must pay that amount on demand as if it was the Company.

12.3 Demands

A demand under this clause may be made at any time and from time to time. A demand need only specify the obligation to be fulfilled.

12.4 Immediate recourse

The Guarantor waives any right it may have to require the Payee to proceed against, or enforce any other rights or claim payment from, any other person before claiming from the Guarantor under this clause 12.

12.5 Continuing obligations

The guarantee and indemnity in this clause 12:

- (a) is not wholly or partially discharged by the payment of any amount payable by the Company under this deed or the settlement of any account by the Company; and
- (b) continues until such time as Evolution is admitted to the official list of the ASX, after which this clause 12, and the obligations operating upon Marvel under it, will cease to apply in all respects.

12.6 Extent of guarantee and indemnity

This clause 12 applies and the obligations of Marvel are not reduced or discharged by (whether or not the Company or the Subscriber is aware of it or consents to it and despite any legal rule to the contrary):

- (a) any transaction or agreement, or amendment, novation or assignment of this deed, whether with or without Marvel's knowledge or consent;
- (b) a rule of law or equity to the contrary;
- (c) an insolvency event affecting a person or the death of a person;
- (d) a change in the constitution, membership, or partnership of a person;
- (e) the partial performance of the Guaranteed Obligations;
- (f) any judgment or order being obtained or made against, or the conduct of any proceedings by, the Company or another person;
- (g) one or more of the Guaranteed Obligations, this deed or any provision of this deed being void, voidable, unenforceable (whether by reason of a legal limitation, disability or incapacity on the part of the Company and whether this deed is void ab initio or is subsequently avoided), defective, released, waived, novated, enforced or impossible or illegal to perform;
- (h) any amount that the Company is required to pay under this deed not being recovered or recoverable;
- (i) the exercise or non-exercise of any right, power, discretion or remedy of the Company;
- (j) any set-off, combination of accounts or counterclaim;
- (k) any default, misrepresentation, negligence, breach of contract, misconduct, acquiescence, delay, waiver, mistake, failure to give notice or other action or inaction of any kind (whether or not prejudicial to the Company) by a party to this deed or any other person;
- (l) the Company granting any time or other indulgence or concession to, compounding or compromising with, or wholly or partially releasing the Company or Marvel of an obligation; or
- (m) another thing happening that might otherwise release, discharge or affect the obligations of Marvel under this deed.

12.7 Principal and independent obligation

Each guarantee, indemnity and other obligation of Marvel in this deed is:

- (a) a principal obligation and is not to be treated as ancillary, collateral or limited by reference to another right or obligation; and
- (b) independent of and not in substitution for or affected by another security interest or guarantee or other document or agreement which the Subscriber or another person may hold concerning the Guaranteed Obligations.

12.8 Deferral of certain rights

Until all Guaranteed Obligations have been performed, Marvel may not (either directly or indirectly) without the Subscriber's prior written consent:

- (a) claim, exercise or attempt to exercise a right of set-off, counterclaim or any other right or raise any defence against the Company which might reduce or discharge Marvel's liability under this clause 12;
- (b) claim or exercise a right of subrogation or contribution or otherwise claim the benefit of a security or guarantee, irrespective of whether or not that security or guarantee:
 - (i) relates to the Guaranteed Obligations;
 - (ii) is given by Marvel; or
 - (iii) is in favour or for the benefit of the Subscriber,
 and any money Marvel receives in breach of this clause 12(b) must be paid promptly to the Subscriber; or
- (c) unless the Subscriber has given a direction to do so (in which case Marvel must do so in accordance with the direction as trustee for the Subscriber):
 - (i) prove, claim or exercise voting rights in the Company's liquidation, or otherwise claim or receive the benefit of any distribution, dividend or payment arising out of the Company's liquidation on any account; or
 - (ii) demand, or accept payment of, any money owed to Marvel by the Company,
 and any such money it receives must be paid promptly to the Subscriber.

12.9 Prove in liquidation

Marvel irrevocably authorises the Subscriber to prove in the liquidation or other relevant insolvency event affecting the Company for all money that Marvel can claim against the Company on any account. The Subscriber need only account to Marvel for distributions it receives in excess of any Guaranteed Obligations, without interest.

12.10 Enforcement against Marvel

The Subscriber may enforce this clause 12 against Marvel without first having to resort to another guarantee or security interest or other agreement relating to the Guaranteed Obligations.

13 GST

13.1 Definitions

Words used in this clause 13 that have a defined meaning in the GST Law, have the same meaning as in the GST Law unless the context indicates otherwise.

13.2 GST

- (a) Unless expressly included, the consideration for any supply under, or in connection with, this deed does not include GST.
- (b) To the extent that any supply made under, or in connection with, this deed is a taxable supply (other than any supply made under another agreement that contains a specific provision dealing with GST), the recipient must pay, in addition to the consideration provided under this deed for that supply (unless it expressly includes GST) an amount (**additional amount**) equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. The recipient must pay the additional amount at the same time as the consideration to which it is referable.
- (c) Whenever an adjustment event occurs in relation to any taxable supply to which clauses 13.2(a) and 13.2(b) applies:
 - (i) the supplier must determine the amount of the GST component of the consideration payable; and
 - (ii) if the GST component of that consideration differs from the amount previously paid, the amount of the difference must be paid by, refunded to or credited to the recipient, as applicable.

13.3 Tax invoices

The supplier must issue a Tax Invoice to the recipient of a supply to which clause 13.2 applies no later than 7 days following payment of the GST inclusive consideration for that supply under that clause.

13.4 Reimbursements

If any party is entitled under this deed to be reimbursed or indemnified by another party for a cost or expense incurred in connection with this deed, the reimbursement or indemnity payment must not include any GST component of the cost or expense to the extent that the cost or expense is the consideration for a creditable acquisition made by the party being reimbursed or indemnified, or by its representative member.

13.5 GST acknowledgement regarding reimbursable expenses

- (a) The parties agree and acknowledge if the Company makes a payment to the Subscriber in accordance with clause 9.6, that payment is intended as compensation and is not consideration for a supply made by the Subscriber to the Company.
- (b) Notwithstanding the agreement of the parties in paragraph (a) above, if the Australian Taxation Office (or a court or tribunal) determines any of the amounts referred to in that paragraph are consideration for a taxable supply made by the Subscriber to the Company, the Company must pay the Subscriber an additional amount in accordance with clause 13.2(b) within 7 days of receipt of a Tax Invoice.
- (c) The Subscriber agrees and acknowledges that all services supplied to it by entities in Australia should be GST-free supplies under Item 2 in section 38-190(1) of the GST Act.

14 Notices

14.1 How and where Notices may be sent

A notice or other communication under this deed (**Notice**) must be in writing and delivered by hand, sent by courier or sent by email to a party at the address or email address for that party in clause 14.3 or as otherwise specified by a party by Notice.

14.2 When Notices are taken to have been given and received

- (a) A Notice sent by courier is regarded as given and received once signed for on receipt by the receiver.
- (b) An email is regarded as given and received 4 hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, within that 4 hour period, an automated message that the email has not been delivered.
- (c) A Notice delivered or received other than on a Business Day or after 5.00pm (recipient's time) is regarded as received at 9.00am on the following Business Day and a Notice delivered or received before 9.00am (recipient's time) is regarded as received at 9.00am.

14.3 Parties' details

Party	Address	Attention	Email address
Company	Level 1, Emerald House 1202 Hay Street West Perth WA 6005		
Subscriber			
Marvel	Level 1, Emerald House 1202 Hay Street West Perth WA 6005		

15 General

15.1 Governing law and jurisdiction

- (a) This deed is governed by the law in force in Western Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in Western Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed.

- (c) Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

15.2 Invalidity and enforceability

- (a) If any provision of this deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 15.2(a) does not apply where enforcement of the provision of this deed in accordance with clause 15.2(a) would materially affect the nature or effect of the parties' obligations under this deed.

15.3 Waiver

A right created under this deed may not be waived except by written notice from the party or parties granting the waiver.

15.4 Variation

A variation of any term of this deed must be in writing and signed by the parties.

15.5 Assignment of rights

Unless otherwise provided for in this deed, rights arising out of or under this deed are not assignable by a party without the prior written consent of the other party.

15.6 Further action to be taken at each party's own expense

Each party must, at its own expense (except that the Company must pay to the Subscriber the ARCH Reimbursable Costs, as specified in this deed), do all things and execute all documents necessary to give full effect to this deed and the transactions contemplated by it.

15.7 Entire agreement

This deed states all the express terms of the agreement between the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings, arrangements and agreements, express or implied in respect of its subject matter.

15.8 No merger

The Warranties, undertakings and indemnities in this deed will not merge on Completion.

15.9 Counterparts

- (a) This deed may consist of any number of counterparts, each of which when executed shall be an original and all the counterparts together shall constitute one and the same instrument.
- (b) A party who has executed a counterpart of this deed may exchange that counterpart with another party by emailing it to the other party and, if that other party requests it, promptly delivering that executed counterpart by hand or post to the other party. However, the validity of this deed is not affected if the party who has emailed the counterpart delays in delivering or does not deliver it by hand or by post.

15.10 Relationship of the parties

Nothing in this deed imposes any fiduciary duties on a party in relation to any other party.

15.11 Exercise of discretions

A party may impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this deed. Any conditions must be complied with by the party relying on the consent, approval or waiver.

15.12 **Subscriber's rights**

The Subscriber's rights under this deed (including under clauses 5, 6, 7 and 8) are not provided to enable it to directly participate in or control the management of the Company's affairs, but merely to protect its passive interest as the investor in the Subscription Securities.

Schedule 1 – ARCH Offer

1 Obligations of the Subscriber prior to the issue of the Subscription Securities

By no later than the ARCH Offer Closing Date, the Subscriber must:

- (a) **(application)** give to the Company an application form (or application forms, if applicable) by which the Subscriber applies for the Subscription Securities pursuant to the Prospectus (in such forms as are acceptable to the Subscriber, acting reasonably); and
- (b) **(subscription price)** pay the Subscription Price, being the consideration for the Subscription Shares, in the manner detailed in the relevant application form and the Prospectus.

2 Obligations of the Company prior to the issue of the Subscription Securities

The Company must hold the Subscription Price on trust for the Subscriber (in accordance with the Corporations Act) until the final issues of the Subscription Securities pursuant to item 3 of this Schedule 1 and of the Public Offer Shares.

3 Issue of Subscription Securities

On the Issue Date, the Company must issue or procure the issue of the Subscription Securities to the Subscriber free from any Encumbrance or other third party rights (ensuring that the Subscription Securities are issued prior to the issue of the Public Offer Shares, in order to ensure that there is no breach of Chapter 6 of the Corporations Act arising from the ARCH Offer).

4 Documents to be delivered by the Company

- (a) On the Issue Date, or as soon as practicable thereafter, the Company must give the Subscriber evidence satisfactory to the Subscriber (acting reasonably) of the due allotment and issue of the Subscription Securities.
- (b) Within 5 Business Days after the Issue Date, the Company must give to the Subscriber:
 - (i) an issuer-sponsored holding statement in respect of the Subscription Shares; and
 - (ii) one or more option certificates in respect of the Subscription Options.

5 Subscription Completion actions

If any action under item 3 or item 4 of this Schedule 1 does not take place by the time specified in such item, then, without prejudice to any rights available to the Subscriber as a consequence, the Subscriber may give notice to the Company requiring performance within 2 Business Days of the relevant action(s). At any time thereafter if the notified action(s) have not been performed, the Company may give a further notice that:

- (a) the Company must immediately repay the Subscription Price to the Subscriber;

- (b) to the extent that actions have already been undertaken under items 3 or 4 of this Schedule 1, the Company and the Subscriber must do everything reasonably required to reverse those actions;
- (c) the Voluntary Escrow Deed and all rights and obligations under it are automatically and irrevocably terminated in full (with no further force or effect), without the need for any action by the Company or the Subscriber, and (for the avoidance of doubt) the Subscriber is released from all obligations under or in connection with the Voluntary Escrow Deed; and
- (d) the Company must immediately return to the Subscriber all documents delivered under item 1 of this Schedule 1.

Schedule 2 – Fundamental Matters

- (a) **ESG Committee:**
 - (i) Abolishing the ESG Committee or making any variation to the composition, powers, responsibilities or mandate of the ESG Committee; or
 - (ii) amending, replacing or terminating any part, or all, of clause 3 or 6 of the ESG Committee Charter.
- (b) **ESG Committee Charter and ESG Program:**
 - (i) Subject to paragraph (a) above, amending, replacing or terminating any part, or all, of the ESG Committee Charter; or
 - (ii) amending, replacing or terminating any part, or all, of the ESG Program, terminating an ESG Policy in full, or adopting any additional document or procedure which concerns ESG matters, in any case, in a manner that is materially detrimental to the ESG credentials of the Company.
- (c) **Business activities:** Changing the nature of any Evolution Group Member's activities such that it is no longer solely focused on graphite mining and the graphite products sector.
- (d) **DFS:** Deviating in a material respect from the design, development, scale, construction or operational specifications contemplated the definitive feasibility study for the Chilalo Project (announced by Marvel to ASX on 29 January 2020).
- (e) **Executives:** Appointing a Chief Executive Officer of the Company or a functional equivalent (including the employment of a director of any Evolution Group Member as a managing director).
- (f) **Disposal not for cash:** The sale, or other disposal, by any Evolution Group Member of any interest in the Chilalo Project for consideration other than cash (excluding any interest acquired by a Government Agency, by way of "free carry" or otherwise).
- (g) **Disposal for cash:** The sale, or other disposal, by any Evolution Group Member of all of the Evolution Group's interest in the Chilalo Project for cash.
- (h) **Acquisition:** Other than in the ordinary course of business, the acquisition by any Evolution Group Member of any material (being of a value exceeding 5% of the Company's total assets) assets or business (in each case whether in whole or in part or directly or indirectly, such as by the acquisition or sale of assets or shares or other securities, or any combination).

Schedule 3 – Warranties

1 General Warranties

1.1 Registration

- (a) **(Registration)** The Company is a corporation registered and validly existing under the Corporations Act.
- (b) **(Incorporation)** Each Evolution Group Member is validly incorporated, organised and subsisting in accordance with the laws of its place of incorporation.
- (c) **(Power and capacity)** The Company has full power and capacity to enter into and perform its obligations under this deed.
- (d) **(Corporate authorisations)** All necessary authorisations for the execution, delivery and performance by the Company of this deed in accordance with its terms have been obtained.
- (e) **(No legal impediment)** The execution, delivery and performance of this deed:
 - (1) complies with the constitution and other constituent documents of the Company;
 - (2) complies with the constituent documents (as applicable) of each other Evolution Group Member; and
 - (3) does not constitute a breach of any law or obligation, or cause or result in a default under any agreement, or Encumbrance, by which the Company is, or any other Evolution Group Member is, bound and that would prevent it from entering into and performing its obligations under this deed.
- (f) **(Solvency)** With respect to each Evolution Group Member:
 - (1) it has not gone, or proposed to go, into liquidation;
 - (2) it has not passed a winding-up resolution or commenced steps for winding-up or dissolution;
 - (3) it has not received a deregistration notice under section 601AB of the Corporations Act or any communication from ASIC that might lead to such a notice or applied for deregistration under section 601AA of the Corporations Act (nor have any equivalent actions occurred under other applicable laws);
 - (4) it has not been presented or threatened with a petition or other process for winding-up or dissolution and there are no circumstances justifying a petition or other process;
 - (5) no receiver, receiver and manager, judicial manager, liquidator, administrator, official manager or like official has been appointed, or is threatened or expected to be appointed, over the whole or a substantial part of the undertaking or property of any Evolution Group Member and there are no circumstances justifying such an appointment;
 - (6) it has not entered into, or taken steps or proposed to enter into, any arrangement, compromise or composition with or assignment of the benefit of its creditors or a class of them; and
 - (7) nothing analogous to any of items (1) to (6) (inclusive) above has occurred.
- (g) **(Capital structure at the date of this deed)** As at the date of this deed, the capital structure of the Company comprises 50,000,000 Evolution Shares and no further equity, debt or hybrid securities of any class.

- (h) **(Evolution Group structure at the date of this deed)** As at the date of this deed, the structure of the Evolution Group is as set out in Schedule 8 and the Company has no other Subsidiaries and holds no other interests in the securities of any other entity.
- (i) **(Ownership)** The Subscriber will acquire at Subscription Completion:
 - (1) the full legal and beneficial ownership of the Subscription Securities free and clear of all Encumbrances;
 - (2) the Subscription Securities free of competing rights, including pre-emptive rights or rights of first refusal; and
 - (3) the Subscription Securities as fully paid securities which have no money owing in respect of them.

2 Transaction warranties

2.1 No breach of law

- (a) The execution, delivery and performance of this deed by the Company will not constitute a breach of any law, regulation or the ASX Listing Rules.
- (b) To the best of the Company's knowledge, no shareholder of any Evolution Group Member is in breach of any law, regulation, the constitution of any Evolution Group Member or the ASX Listing Rules, where such breach would reasonably be expected to have a material adverse effect on the assets, business and undertaking of any Evolution Group Member.

2.2 Admission and Quotation

- (a) The Company is not aware of any reason why, following the Company's application for admission to the Official List, the Company will not be admitted to and be listed on the Official List in accordance with the ASX Listing Rules.
- (b) The Company is not aware of any reason why, following the Company's application for admission to the Official List, the Evolution Shares (including the Subscription Shares) will not be granted quotation by the ASX.

2.3 No other agreements

As at the date of this deed, no Evolution Group Member has entered into any discussions or negotiations with any person (which were not disclosed to the Subscriber by the Company prior to the date of this deed), relating to any actual, proposed or potential transaction that would, or would reasonably be expected to, reduce the likelihood of success of the Company's application for admission to the Official List or of any of the transactions pursuant to this deed or contemplated by this deed.

2.4 Foreign investment laws

- (a) The Company (and each other Evolution Group Member) is not a "national security business", "Australian land corporation", "sensitive business", "agribusiness" or "Australian media business" for the purposes of the FIRB Act.
- (b) The Company (and each other Evolution Group Member) does not have any interest in any "national security land", "residential land", "vacant commercial land", "agricultural land", "mining or production tenement" or "exploration tenement" for the purposes of the FIRB Act.
- (c) The characteristics of the Company (and each other Evolution Group Member) and its business do not fall within any of the criteria for any mandatory or voluntary notification as described in FIRB Guidance Note 8.

- (d) The Company's "total issued securities value" for the purposes of the FIRB Act is, and will remain at the time of Subscription Completion, less than \$281 million.
- (e) The Company's "total asset value" for the purposes of the FIRB Act is, and will remain at the time of Subscription Completion, less than \$281 million.

3 Business Warranties

3.1 Material adverse change

Between 31 December 2020 and the date of this deed there has been no Evolution Material Adverse Change.

3.2 Litigation

- (a) No Evolution Group Member is a party to, nor is the Chilalo Project the subject of, any material investigation, prosecution, litigation, legal proceedings, arbitration, mediation or any other form of litigation or dispute resolution process or administrative or governmental proceedings (**Material Proceedings**).
- (b) No Material Proceedings against an Evolution Group Member or in relation to the Chilalo Project is pending or threatened and the Company is not aware of any disputes that will, or would reasonably be likely to, give rise to any Material Proceedings.

3.3 Contracts

- (a) The execution and performance of this deed by the Company will not result in a breach of, or constitute a default, or give rise to any right of termination, acceleration or cancellation under, any contract to which an Evolution Group Member is a party.
- (b) No Evolution Group Member or any other party to a contract with one or more of them is in default, of the terms and conditions of any such contract.

3.4 Title and tenements

Other than as disclosed in the Disclosure Letter:

- (a) The Evolution Group is the sole and lawful holder of the registered interest and beneficial interest in the Evolution Tenements as set out in Schedule 5 and the Evolution Tenements are free and clear of any Encumbrances.
- (b) All Evolution Tenements have been validly granted or applied for in accordance with all applicable laws, rules and regulations, including without limitation the Mining Legislation.
- (c) The Evolution Tenements are in good order and good standing.
- (d) The Evolution Tenements are not liable to cancellation or forfeiture and, where appropriate, exemptions from the expenditure conditions attaching to the Evolution Tenements have been duly obtained and all obligations under the Mining Legislation in respect of the Evolution Tenements have been materially complied with.
- (e) All rent, royalties and other payments due in respect of the Evolution Tenements has been paid.
- (f) No person other than the Evolution Group holds any rights to explore, prospect, develop or mine any part of the Evolution Tenements.
- (g) The Evolution Group holds no registered interest or beneficial interest in any mineral titles other than the Evolution Tenements.

- (h) Except for pursuant to the Royalty Deed, no Evolution Group Member is a party to any agreement or arrangement in respect of the Evolution Tenements under which it is bound to:
 - (1) share the profits with or pay any royalties to third parties; or
 - (2) waive or abandon any rights to which it may be entitled.

3.5 Disclosure

- (a) **(Information)** The information concerning the Evolution Group and the Chilalo Project provided to the Subscriber by the Company in connection with the offer, subscription and issue of the Subscription Securities or this deed or the Royalty Deed is accurate in all material respects.
- (b) **(No information deficiency)** The Company has not provided any information to the Subscriber that the Company is aware is misleading, and so far as the Company is aware, no information has been intentionally withheld from the Subscriber or its Representatives that the Subscriber's professional advisers would reasonably require to make an informed assessment of the assets and liabilities, financial position and performance, profits and losses and prospects of the Evolution Group.
- (c) **(Prospectus)** The Prospectus will, upon and from its lodgement with ASIC, contain all material required by sections 710, 711, 715A and 716 of the Corporations Act, will not contain any statement which is misleading or deceptive or likely to mislead or deceive and will otherwise comply with all applicable laws.

3.6 Financing arrangements and contracts

- (a) **(Financings)** Except for the Lender Arrangement, there are no:
 - (1) financing agreements or arrangements entered into by any Evolution Group Member for the borrowing of money;
 - (2) debentures, bonds, notes or similar debt instruments issued by an Evolution Group Member, (whether by one instrument or by all of the instruments in a series);
 - (3) guarantees given by an Evolution Group Member, or to which an Evolution Group Member is otherwise subject, in relation to any other Evolution Group Member or any other person;
 - (4) Encumbrances over the assets or securities of an Evolution Group Member; or
 - (5) financing arrangements that restrict the disposal of an Evolution Group Member.
- (b) **(No Defaults)** Other than as disclosed in the Disclosure Letter, there is no existing or unremedied breach of, or any event of default, cancellation event, prepayment event or similar event under any contract to which an Evolution Group Member is a party, and the transactions contemplated by this deed and the Royalty Deed will not cause any such breach, event of default, cancellation event, prepayment event or similar event.
- (c) **(No demands)** No notices or demands have been served that remain outstanding in relation to default or non-compliance under any contract to which an Evolution Group Member is a party.
- (d) **(Enforcement)** No legal or enforcement action has been taken, or demand has been made, by any person to enforce any Encumbrance against any Evolution Group Member, which legal or enforcement action or demand remains outstanding as at the date of this deed.

3.7 Financial Information

The Financial Information is not misleading or deceptive and does not contain any misleading or deceptive statements.

3.8 Environmental laws

- (a) The Evolution Group holds all environmental licences that are legally required for the current stage of exploration and development of the Chilalo Project.
- (b) The Evolution Group is in compliance in all material respects with the Environmental Laws in connection with the exploration, development, financing, ownership, implementation and operation of the Chilalo Project.
- (c) No Evolution Group Member has received any written notice of any material violation or alleged material violation by any Evolution Group Member or of any material liability of any Evolution Group Member under the Environmental Laws (or other laws) with respect to the Chilalo Project.
- (d) There are no material writs, injunctions, decrees, orders or judgments outstanding, or any actions, suits, proceedings, or investigations pending or, to the knowledge of the Evolution Group Members, threatened relating to the compliance by any Evolution Group Member with, or the liability of such Evolution Group Member under, the Environmental Laws with respect to the Chilalo Project.
- (e) No Evolution Group Member has caused or contributed to any material release of hazardous substances at any area of the Chilalo Project, or, to the knowledge of the Evolution Group Members, holds any real property interest at any area of the Chilalo Project:
 - (1) where a release of hazardous substances has occurred or migrated;
 - (2) where an Evolution Group Member is or has been required under the Environmental Laws to investigate or remediate such release; or
 - (3) that is subject to a restriction under the Environmental Laws on the ability of an Evolution Group Member to use such real property in the same manner it is using such real property on the date of this deed due to a presence of hazardous substances.

3.9 Mining health and safety

- (a) Each Evolution Group Member has complied in all material respects with all applicable occupational health and safety legislation.
- (b) Each Evolution Group Member:
 - (1) has not been subject to a Government Agency inspection and does not anticipate any such inspection;
 - (2) is not currently subject to, and does not anticipate receiving, an improvement notice or prohibition notice from a Government Agency; and
 - (3) is not currently subject to, and does not anticipate being subjected to, an investigation or prosecution by a Government Agency,
 in each case in relation to occupational health and safety matters.

3.10 Anti-bribery and corruption

Each of the representations and warranties of the Company and each other Evolution Group Member under the Anti-Corruption and Anti-Bribery Certificates are true and correct.

3.11 Labour relations

The Evolution Group Members are in full compliance with and, to the Company's knowledge, have not breached or incurred any liability (outside the ordinary course of business) under:

- (a) applicable labour and employment laws, including any obligations related to the payment of salaries, benefits, bonus and equity incentives to employees (as the case may be), withholding of social contributions, and health and safety conditions; and
- (b) any employment agreement, consulting agreement, collective bargaining agreement, benefit plan or any other labour-related policy, procedure or agreement.

3.12 Real estate

To the knowledge of the Company:

- (a) there are no disputes, existing or potential, that may prevent the Evolution Group Members from accessing, occupying and using the lands, properties and areas required for the exploration, exploitation and development of the Evolution Tenements or any other tenements or property in which any Evolution Group Member has an interest in; and
- (b) other than in the ordinary course of business, the Evolution Group Members are not part of any leases, subleases, licences or other agreements granting any right to the possession, use, occupancy or enjoyment of real estate properties within the Evolution Tenements or any other tenements or property in which any Evolution Group Member has an interest.

3.13 Insurance

- (a) All insurance required by law to be effected by the Evolution Group Members, and, whether required or not by law, all insurance as would normally be maintained in accordance with prudent practice for a business of a similar nature and size to that of the Evolution Group Members, has been effected by them and is current (and all relevant insurance premiums have been paid when due).
- (b) There are no pending or, to the knowledge of the Evolution Group Members, threatened material claims under any existing insurance policy.

3.14 Tax paid

Any Tax arising under any Tax Law which is due and payable in respect of any transaction, income or assets of an Evolution Group Member for all periods up to the time immediately after Subscription Completion has been paid.

3.15 Withholding tax

Any obligation on an Evolution Group Member under any Tax Law to withhold amounts at source has been complied with.

3.16 Records

Each Evolution Group Member has maintained proper and adequate records to enable it to comply in all material respects with its obligations to:

- (a) prepare and submit any information, notices, computations, returns and payments required in respect of any Tax Law;
- (b) prepare any accounts necessary for compliance with any Tax Law;
- (c) support any position taken by an Evolution Group Member; and

- (d) retain necessary records as required by any Tax Law,
and, so far as the Company is aware, such records are accurate in all material respects.

3.17 Returns submitted

- (a) Each Evolution Group Member has submitted any necessary information, notices, computations and returns to the relevant Government Agency in respect of any Tax or any Duty relating to the Evolution Group.
- (b) So far as the Company is aware, any information, notice, computation and return that has been submitted by an Evolution Group Member to a Government Agency in respect of any Tax:
- (1) discloses all material facts required to be disclosed under any Tax Law;
 - (2) is not misleading in any material particular; and
 - (3) has been submitted with the relevant Government Agency.

3.18 No Tax audit

The Company is not aware of any pending or threatened Tax or Duty audit relating to an Evolution Group Member.

3.19 No disputes

There are no disputes between an Evolution Group Member and any Government Agency in respect of any Tax or Duty.

3.20 No adverse action

No Evolution Group Member has taken any act, or failed to take any act, which may adversely affect any ruling or determination from a Government Agency in respect of Tax or Duty, which ruling or determination relates specifically to the activities or transactions of any Evolution Group Member.

3.21 Compliance with law

Other than as disclosed in the Disclosure Letter, each Evolution Group Member has complied in all material respects with all obligations imposed on them by any applicable law or any Government Agency.

Schedule 4 – Capital Structure upon admission of the Company to the Official List

	Evolution Shares	Evolution Options	Incentive Options
On issue at the time of lodgement of the Prospectus with ASIC	50,000,000	Nil	Nil
Subscription Securities	40,000,000	20,000,000	Nil
Public Offer Shares	70,000,000	Nil	Nil
Evolution Shares to be issued to S3 Consortium Pty Ltd in consideration for marketing engagement services to the Company	1,875,000	Nil	Nil
Incentive Options to be issued to the Evolution Board and key management personnel of the Company in consideration for their services to the Company	Nil	Nil	14,600,000
Evolution Options to be issued to the Joint Lead Managers in consideration for their services to the Company pursuant to the Public Offer	Nil	7,500,000	Nil
Totals upon admission of the Company to the Official List	161,875,000	27,500,000	14,600,000

Schedule 5 – Evolution Tenements

Tenement Number	Tenement Name	Expiry Date	Status	Parties	Area (km ²)
ML 569/2017	Chilalo ML	14-Feb-27	Granted – 4 th Year	Ngwena Tanzania Limited (100%)	9.81
PL 9929/2014	Chikwale	07-Jul-21	Granted - Pending renewal	Ngwena Tanzania Limited (100%)	24.02
PL 9946/2014	Machangaja	07-Jul-21	Granted - Pending renewal	Ngwena Tanzania Limited (100%)	48.50
PL 11050/2017	Chilalo West	12-Mar-24	Granted – Pending renewal	Ngwena Tanzania Limited (100%)	48.82
					131.15

Schedule 6 – Terms and Conditions of Evolution Options

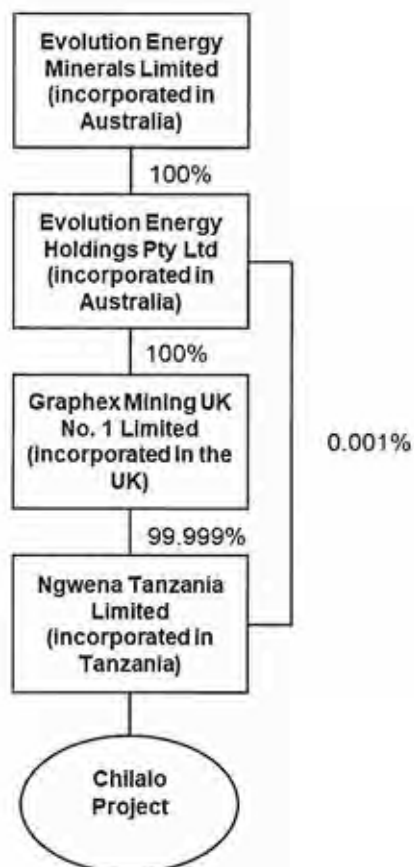
The following terms and conditions apply to the Evolution Options (each an **Option**):

- (a) Each Option will give the holder the right, but not the obligation, to subscribe for one fully paid ordinary share in the Company (a **Share**) in consideration for payment of the Exercise Price (as defined below) in accordance with the following terms.
- (b) The exercise price, being the amount payable on exercise of one Option, is \$0.25 (**Exercise Price**).
- (c) Each Option is exercisable within the exercise period (**Exercise Period**) commencing upon the issue of the Option and ending at 5:00pm (Perth time) on the three year anniversary of the date of issue of that Option (**Expiry Date**). Any Options not exercised during the Exercise Period will automatically lapse upon the Expiry Date.
- (d) Options may be exercised in whole or in part parcels during the Exercise Period by the holder:
 - (1) paying to the Company the amount (in Australian currency) of the Exercise Price multiplied by the number of Options being exercised;
 - (2) delivering to the registered office of the Company a notice of exercise in writing specifying the number of Options being exercised (in such form as is acceptable to the Company (acting reasonably)) (**Notice of Exercise**); and
 - (3) delivering to the registered office of the Company an option certificate or certificates for those Options for cancellation by the Company.
- (e) A Notice of Exercise is only effective on and from the date of receipt of the payment of the Exercise Price for each Option being exercised in cleared funds (**Exercise Date**).
- (f) Within 15 Business Days after the Exercise Date:
 - (1) the Company will allot and issue the resultant Shares pursuant to the exercise of Options free from any securities, liens, charges, encumbrances or pre-emption and ranking in full for all voting rights, dividends and other distributions; and
 - (2) the Company must give at the election of the holder of the Options, a CHESS holding statement or issuer-sponsored holding statement in respect of the Shares.
- (g) If admitted to the Official List of ASX at the time, the Company must apply to the ASX for quotation of the Shares issued upon the exercise of the Options.
- (h) There will be no entitlements inherent in the Options to participate in new issues of capital that may be offered to Shareholders during the currency of the Options.
- (i) If the Company completes a bonus issue of securities, the number of Shares over which the Options are exercisable shall be increased by the number of Shares that the option holder would have received if the Options had been exercised before the record date for the bonus issue.
- (j) In the event of a reorganisation, including the consolidation, subdivision, reduction or return, of issued capital of the Company by the Expiry Date, all rights of an Option holder are to be changed in a manner consistent with the ASX Listing Rules at the time of the reorganisation.
- (k) Other than as expressly provided under these terms and subject to compliance with the ASX Listing Rules, there is no right to a change in the exercise price of the Options or to the number of Shares over which the Options are exercisable.
- (l) Shares issued pursuant to an exercise of Options will rank, from the date of issue, in all respects equally with existing Shares.

- (m) An Option does not confer any rights to dividends or to notice of, or to vote or attend at, a meeting of Shareholders.
- (n) The Company must take all action necessary (including, without limitation, the issuance of a cleansing statement, or the issuance of a prospectus under Chapter 6D of the Corporations Act or obtaining exemptions from or modifications to the Corporations Act from ASIC) to ensure that an offer for sale of the Shares issued on exercise of an Option will not require disclosure under section 707(3) of the Corporations Act.
- (o) The Options shall be freely assignable and transferable with Board approval, subject to the provisions of Chapter 6D of the Corporations Act.
- (p) The Company will not seek official quotation of the Options. However, in accordance with the ASX Listing Rules, the Company will apply for, and take all action necessary to procure, official quotation of all Shares issued and allotted pursuant to the exercise of Options in accordance with the ASX Listing Rules.
- (q) The terms and conditions of the Options are governed by the laws of Western Australia.

Schedule 7– Indicative Offer Timetable

Event	Date
Prospectus Lodgement Date –date of lodgement of the Prospectus with ASIC.	28 September 2021
Application for admission and quotation on the ASX –date for the Company to apply to ASX for admission to the Official List and for ASX quotation of all Evolution Shares (including the Subscription Shares and Public Offer Shares).	28 September 2021
Opening Date –day for the Public Offer and ARCH Offer to commence.	7 October 2021
Public Offer Closing Date – date on which the Public Offer closes.	1 November 2021
ARCH Offer Closing Date – date on which the ARCH Offer closes.	1 November 2021
Issue Date –date for issue of all Subscription Shares pursuant to the ARCH Offer and all Public Offer Shares pursuant to the Public Offer.	9 November 2021

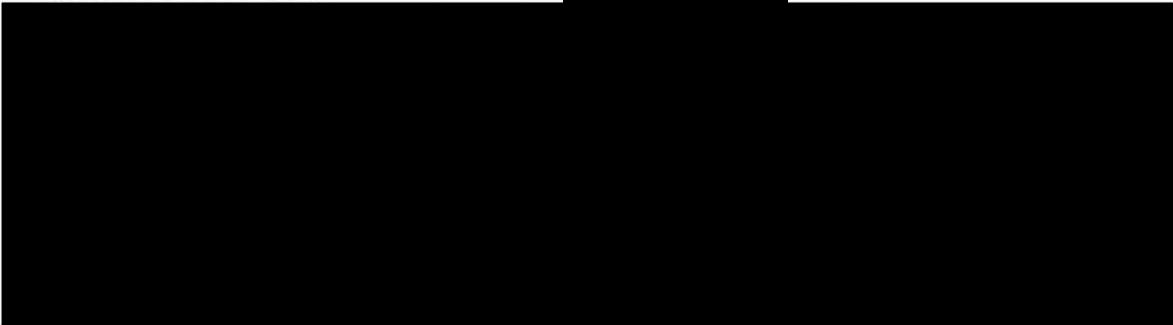
Schedule 8 – Evolution Group structure upon Evolution's admission to the Official List

Schedule 9 – ESG Program


- (a) ESG Policy
- (b) Environmental and Social Action Plan
- (c) Corporate Governance Code
- (d) Gender and Diversity Policy
- (e) Anti-Bribery and Corruption Policy
- (f) Whistleblower Policy
- (g) Occupational Health and Safety Policy
- (h) Human Resources Policy
- (i) Cultural Heritage Management Plan
- (j) Stakeholder Engagement Plan
- (k) Resettlement Action Plan
- (l) Local Content and Procurement Policy
- (m) Modern Slavery Policy
- (n) Biodiversity Action Plan
- (o) Pollution Prevention and Low Carbon Emissions Policy
- (p) Climate change physical and transitional risk assessment

Executed as a deed

Executed as a deed by Evolution Energy Minerals Limited ACN 648 703 548 in accordance with section 127 of the *Corporations Act 2001* (Cth):



Executed as a deed by Marvel Gold Limited ACN 610 319 769 in accordance with section 127 of the *Corporations Act 2001* (Cth):



Executed as a deed by:

for and on behalf of **ARCH SUSTAINABLE RESOURCES GPCO LIMITED** in its capacity as general partner for and on behalf of **ARCH SUSTAINABLE RESOURCES FUND LP**

Executed as a deed

Executed as a deed by Evolution Energy Minerals Limited ACN 648 703 548 in accordance with section 127 of the *Corporations Act 2001* (Cth):

Director

*Director/*Company Secretary

Name of Director
BLOCK LETTERS

Name of *Director/*Company Secretary
BLOCK LETTERS
*please strike out as appropriate

Executed as a deed by Marvel Gold Limited ACN 610 319 769 in accordance with section 127 of the *Corporations Act 2001* (Cth):

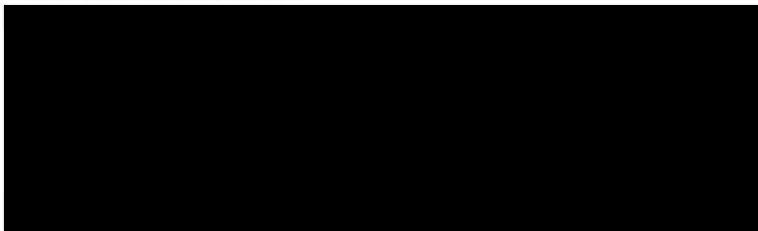
Director

*Director/*Company Secretary

Name of Director
BLOCK LETTERS

Name of *Director/*Company Secretary
BLOCK LETTERS
*please strike out as appropriate

Executed as a deed by:



Annexure 1 – ESG Committee Charter

1. Introduction

- 1.1 Evolution Energy Minerals Limited (ACN 648 703 548) ("**Evolution**" or the "**Company**") is committed to operating ethically, sustainably and in accordance with best governance practices and ensuring that its subsidiaries do the same. Evolution and its subsidiaries from time to time being the "**Evolution Group**" and "**Evolution Group Member**" means any one of them.
- 1.2 This Environment, Social and Governance Committee Charter ("**ESG Committee Charter**") sets out the Company's commitment to its Environment, Social and Governance ("**ESG**") responsibilities and defines the role, responsibilities and conduct of the Environment, Social and Governance Committee ("**ESG Committee**").
- 1.3 The Company believes that responsible management of ESG will be beneficial for investors, the communities with whom the Evolution Group interacts, Evolution staff, the environment and other direct and indirect stakeholders. Accordingly, the Company is committed to identifying, assessing and mitigating ESG risks and delivering positive and sustainable ESG outcomes.

2. Role of the ESG Committee

- 2.1 The ESG Committee is established to support and advise the board of directors of the Company ("**Board**") in relation to matters which involve ESG considerations or impact the Company's ESG credentials ("**ESG Matters**").
- 2.2 The ESG Committee's role is to:
- (a) set the direction and objectives of the Evolution Group, as well as the requirements, targets and minimum standards the Evolution Group will comply with, in relation to ESG Matters through the preparation and establishment of ESG policies that are submitted to, and approved by, the Board ("**ESG Policies**");
 - (b) prepare, review and monitor the implementation of, and compliance with, the Company's Environment and Social Action Plan and the ESG Program¹;
 - (c) monitor the implementation of the ESG Policies and the ESG Program and review, on a regular and recurring basis, Evolution's performance against the requirements, targets and minimum standards contemplated in the ESG Policies and the ESG Program;
 - (d) consult with, and provide recommendations and advice to, the Board in relation to ESG Matters, the ESG Policies and the ESG Program (including in relation to required updates and amendments to the ESG Policies and ESG Program approved by the Board);
 - (e) make assessments and determinations regarding compliance with the ESG Policies and the ESG Program, and performance against, the requirements, targets and minimum standards set under the ESG Policies and the ESG Program by the following parties (the "**ESG Parties**");

¹ The ESG Program is defined in and agreed in accordance with the Investment Deed entered into between Evolution and the ESG Shareholder on or around the date this ESG Committee Charter was first adopted.

- (i) each Evolution Group Member;
 - (ii) the Board and any other Evolution Group Member's board; and
 - (iii) any of the directors, management or other staff of an Evolution Group Member;
 - (f) report to the Board the outcomes of the ESG Committee's assessments and determinations;
 - (g) provide the Quarterly ESG Report to the Board in accordance with clause 7.3;
 - (h) provide reports and commentary which, subject to approval by the Board, will be made publicly available to shareholders and the investment community through the Australian Securities Exchange's ("ASX") periodic reporting requirements;
 - (i) make recommendations to the Board in relation to the appropriate ESG performance conditions which must be satisfied before a director or executive of Evolution or of an Evolution Group Member will receive any ESG performance-based remuneration and determine whether such performance conditions have been satisfied (or not satisfied) from time to time;
 - (j) make determinations as to whether directors and executives of Evolution Group Members have breached any of the ESG Policies or the ESG Program; and
 - (k) undertake such other actions as prescribed in this ESG Committee Charter.
- 2.3 The ESG Committee acts as an advisory body to the Board. It is not a sub-committee of the Board. In making recommendations and providing advice to the Board, the ESG Committee does not, of itself, have the power or authority of the Board in dealing with the ESG Matters on which it advises. However, each ESG Party is bound by the determinations of the ESG Committee made pursuant to clause 6 of this ESG Committee Charter, and Evolution will comply with, and Evolution will procure that all other ESG Parties comply with, those determinations.
- 2.4 The day-to-day implementation of ESG Policies, the ESG Program, recommendations and determinations made by the ESG Committee and approved by the Board is to be undertaken by Evolution management, subject to the ultimate oversight of the Board. The Board may also delegate authority in respect of such matters on such terms as it sees fit.
- 2.5 In performing its roles and responsibilities, the ESG Committee will act at all times in accordance with the duties and obligations imposed upon it by this ESG Committee Charter, the Company's Constitution and the law.
- 2.6 The ESG Committee has the authority to:
- (a) obtain reasonable independent professional or other advice in the fulfilment of its duties at the Company's cost with the approval of the Managing Director (such approval not to be unreasonably withheld where the advice is being sought in the interests of the Company and not for the personal interests of a member or members of the ESG Committee nor an ESG Shareholder); and
 - (b) request and obtain from the ESG Parties (at no cost to the Company) such resources and information as the ESG Committee may reasonably require in the fulfilment of its duties.

3. ESG Committee membership

- 3.1 Upon establishment of the ESG Committee, the ESG Committee shall comprise two (2) members:
- (a) one member will be a non-executive director of the Board; and
 - (b) one member will be a nominee of the shareholder or shareholders ("**ESG Shareholder(s)**") with which the Company has entered into legally binding ESG commitments, including in connection with an equity investment agreement ("**ESG Shareholder Nominee**").²
- 3.2 Within six (6) months of the date of first adoption of this ESG Committee Charter (and thereafter), the ESG Committee members must appoint a third member to the ESG Committee who is independent of both the Company and the ESG Shareholder(s), has an appropriate level of ESG expertise and whose appointment to the ESG Committee is approved in writing by each of the ESG Shareholder(s) and the Board (in each case, such approval not to be unreasonably withheld) ("**Independent Member**").
- 3.3 The ESG Shareholder(s) may, by written notice to the Company and the ESG Committee:
- (a) nominate any person (including, to avoid doubt, a director of the ESG shareholder(s) or a person who is not an employee or consultant of the ESG Shareholder(s)) as a replacement to the ESG Shareholder Nominee; and
 - (b) nominate an Independent Member (or a replacement Independent Member from time to time) or confirm that a nominated Independent Member (or replacement Independent Member from time to time) is acceptable to the ESG Shareholder(s) (such confirmation not to be unreasonably withheld).
- 3.4 Upon receipt of a written notice under clause 3.3(a), the Company and the ESG Committee will promptly procure that the ESG Shareholder Nominee referred to in the written notice is appointed to the ESG Committee, provided always that the ESG Shareholder(s) will be limited to a single nominee.
- 3.5 The right to nominate and replace the ESG Shareholder Nominee may be exercised by the ESG Shareholder(s) on any number of occasions, including if an ESG Shareholder Nominee has, at any previous time, ceased to be a member of the ESG Committee for any reason.
- 3.6 The ESG Committee members may appoint additional members to the ESG Committee with the prior written approval of each of the ESG Shareholder(s) and the Board.
- 3.7 ESG Committee members may resign from the ESG Committee at any time and the ESG Committee members may vote to remove ESG Committee members from their position with the approval of the ESG Shareholder(s). Any member of the ESG Committee so removed may be replaced (by a person other than the person so removed) by the persons or bodies having the power of appointment under clause 3.1 or 3.3 (subject to the terms of clause 3.1 and 3.3).

² The Board will, acting reasonably, determine when and whether any such commitment exists by reference to the Investment Deed entered into between Evolution and the ESG Shareholder on or around the date this ESG Committee Charter was first adopted (including the circumstances in which the shareholder or shareholder(s) cease to be an ESG Shareholder).

- 3.8 The Chair of the ESG Committee is to be elected by the ESG Committee from amongst the ESG Committee members from time to time.

4. Responsibility for ESG Matters

- 4.1 The ESG Committee will recommend to the Board:
- (a) the directions and objectives of Evolution with respect to ESG; and
 - (b) the requirements, targets and minimum standards with respect to ESG Matters which Evolution must comply with,
- which will take the form of ESG Policies. To avoid doubt, no ESG Policy will have any force or effect unless and until approved by each of the Board (at a duly convened meeting of the Board) and the ESG Shareholder(s) (such approval not to be unreasonably withheld).
- 4.2 The ESG Committee will also recommend to the Board amendments and variations to existing ESG Policies adopted by the Board (including the removal of any part, or all, of an ESG Policy), which should be made to ensure that Evolution's approach to ESG and ESG Matters is current and remains relevant to the Company's operations. No amendment or variation to an ESG Policy will have any force or effect unless and until approved by the Board (at a duly convened meeting of the Board).
- 4.3 The ESG Committee will be responsible for the ESG Matters determined by the ESG Committee and approved by the Board and the ESG Shareholder(s) from time to time (such approval not to be unreasonably withheld).
- 4.4 In respect of ESG performance-based remuneration, the ESG Committee will be responsible for:
- (a) recommending to the Board the appropriate ESG performance conditions which must be satisfied before a director or executive of an Evolution Group Member will receive any such ESG performance-based remuneration from an Evolution Group Member; and
 - (b) determining whether the ESG performance conditions attached to any such ESG performance-based remuneration of a director or executive of an Evolution Group Member (as approved by the Board) have been satisfied (or not satisfied).
- 4.5 The Board may refer additional ESG Matters to the ESG Committee from time to time.

5. ESG Committee meetings

- 5.1 Proceedings and meetings of the ESG Committee will be governed by the provisions of the Company's Constitution for regulating meetings and proceedings of the Board in so far as they are applicable and not inconsistent with this ESG Committee Charter.
- 5.2 Unless otherwise agreed, at least four ESG Committee meetings must be held each calendar year (on a quarterly basis), with extra meetings to be called as and when requested by one or more members of the ESG Committee.
- 5.3 ESG Committee meetings are to be held at a time and place to be determined by the ESG Committee, provided that at least five business days' notice of the meeting is given to members of the ESG Committee specifying the business to be transacted (and provided that teleconference facilities are provided to enable members to attend each meeting via teleconference, pursuant to clause 5.13). The ESG Committee may meet at shorter notice if considered necessary by the Chairperson of the ESG Committee.

- 5.4 The Company will give all documents, other information and assistance as is requested by the ESG Committee in order for the ESG Committee to properly discharge its functions and responsibilities under this ESG Committee Charter.
- 5.5 The ESG Committee may appoint a secretary ("**Secretary**") to the ESG Committee, who will be responsible for taking minutes of ESG Committee meetings and otherwise coordinating the conduct and operation of the ESG Committee.
- 5.6 Any ESG Committee member may call a meeting, or request the Secretary to call a meeting, of the ESG Committee.
- 5.7 A quorum of a meeting of the ESG Committee will be two ESG Committee members.
- 5.8 In the absence of the Chairperson of the ESG Committee, the members the ESG Committee that are present shall elect one of them as Chairperson for that meeting.
- 5.9 All determinations, questions and other matters, including the appointment of further members to the ESG Committee in accordance with clause 3.6, shall be determined by the majority vote of those ESG Committee members attending the meeting.
- 5.10 The ESG Committee Chairperson will not have a casting vote.
- 5.11 A standing invitation to attend ESG Committee meetings (as an observer) will be issued to the Chief Executive Officer, or equivalent, of the Company ("**CEO**") (and / or a delegate of the CEO) and all members of the Board. Other individuals may be invited to attend meetings of the ESG Committee at the discretion of the ESG Committee Chairperson from time to time.
- 5.12 The ESG Shareholder Nominee may provide the ESG Shareholder with any information (whether confidential or otherwise) acquired by the ESG Shareholder Nominee in his or her capacity as a member of the ESG Committee.
- 5.13 A meeting of the ESG Committee may be called and held using any technology (and no consent is required from any member of the ESG Committee in order for any member to attend an ESG Committee meeting using technology, such as by telephone or videoconference). If a meeting of the ESG Committee is held in two or more places linked together by any technology:
 - (a) an ESG Committee member present at one of the places is taken to be present at the meeting, except for when their technological link is disconnected; and
 - (b) the Chairperson of that meeting may determine at which place the meeting will be taken to have been held.

6. Compliance review and determinations

- 6.1 The ESG Committee will be responsible for the review of the Evolution Group's performance against the requirements, targets and minimum standards under the ESG Policies approved by the Board (from time to time) and the ESG Program. For the avoidance of doubt, the ESG Committee will take into account the performance of the ESG Parties as a whole in reviewing Evolution's performance against the ESG Policies and the ESG Program.
- 6.2 The ESG Committee will, on a quarterly basis, assess and determine whether the ESG Parties have complied with the ESG Policies and the ESG Program, and the ESG Committee will report its

determination in writing to the Board and the ESG Shareholder. In undertaking its assessment and determination, particularly where the ESG Committee is considering a determination of a breach or non-compliance as contemplated in clause 6.5, the ESG Committee must consult with the CEO and take into account all reasonable submissions and explanations provided by the CEO, including proposals for rectification, remediation or other courses of conduct related to ESG Matters.

- 6.3 The Company must promptly give, and it must procure that each other ESG Party also promptly gives, all documents, other information and assistance as is reasonably requested by the ESG Committee in order for the ESG Committee to discharge its functions and make determinations under this clause 6.
- 6.4 On an ongoing basis, the Company must report, and it must procure that each other ESG Party also reports (as soon as reasonably practicable) to the ESG Committee any material non-compliance by any ESG Party with the ESG Policies, the ESG Program or applicable laws.
- 6.5 If the ESG Committee determines that any ESG Party has not complied with the ESG Program or any ESG Policy, including the requirements, targets or minimum standards detailed therein, the ESG Committee must also make a determination by simple majority vote of the members of the ESG Committee as to whether the non-compliance constitutes:
- (a) a non-material breach of the ESG Program or an ESG Policy or ESG Policies, being a breach that does not fall within paragraphs (b) or (c) below;
 - (b) a material breach of the ESG Program or an ESG Policy or ESG Policies ("**Material Breach**"); or
 - (c) a fundamental breach of the ESG Program or an ESG Policy or ESG Policies ("**Fundamental Breach**").
- 6.6 For the ESG Committee to make a determination of a Material Breach, the breach (or breaches) must be having a significant and ongoing adverse impact on the Evolution Group's ESG credentials (in the reasonable opinion of the ESG Committee) and:
- (a) if the breach is (or breaches are) capable of being remedied - the Evolution Group must have failed to remedy the relevant breach (or breaches) within 6 months after receiving written notice from the ESG Committee; or
 - (b) if the breach is (or breaches are) not capable of being remedied – the Evolution Group must have failed to take appropriate mitigating action with respect to a breach (or breaches) within 6 months after receiving notice from the ESG Committee.
- 6.7 For the ESG Committee to make a determination of a Fundamental Breach, the breach (or breaches) must:
- (a) result from an intentional, deliberate or grossly negligent act or omission on part of an ESG Party; and
 - (b) have a materially adverse and ongoing impact on the Evolution Group's ESG credentials (in the reasonable opinion of the ESG Committee),
- and constitute one or more of the following:
- (c) a criminal offence under applicable law, the maximum penalty for which includes a prison sentence (with or without penalties); or
 - (d) a breach of a convention of the United Nations.

- 6.8 If the ESG Committee reasonably determines that a director or executive of an Evolution Group Member is directly responsible for causing a Material Breach and/or a Fundamental Breach of an ESG Policy and/or the ESG Program, that director or executive will not be entitled to any performance-based, or contingent, remuneration.
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7. Reporting

- 7.1 The ESG Committee Chairperson, or a delegate, will report to the Board following each meeting of the ESG Committee. The report to the Board must:

- (a) ensure the Board is aware of the key issues discussed by, and the decisions of, the ESG Committee;
- (b) communicate any recommendations on specific decisions or action with respect to ESG Matters that the Board should consider taking;
- (c) identify any matters that could reasonably lead to a determination of a breach of the ESG Program or an ESG Policy, including the giving of written notice of a breach (or breaches) which may give rise to a Material Breach to the Board; and
- (d) communicate any other relevant information with respect to ESG Matters which the Board should be aware of by reference to the ESG Policies approved by the Board (from time to time) and the ESG Program.

- 7.2 The ESG Committee will also provide the report prepared in accordance with clause 7.1 to the ESG Shareholder(s).

- 7.3 Separate to the report prepared in accordance with clause 7.1, and during such time as the Company is admitted to the official list of the ASX, the ESG Committee must prepare a quarterly report on the Evolution Group's performance against the requirements, targets and minimum standards established under the ESG Policies and the ESG Program and any determinations made by the ESG Committee during that quarter ("**Quarterly ESG Report**") and provide the Quarterly ESG Report to the Board.

- 7.4 The Company must include a summary of (i) the Evolution Group's performance against the requirements, targets and minimum standards established under the ESG Policies and the ESG Program and (ii) any determinations made by the ESG Committee during a quarter (in each case, deriving from the Quarterly ESG Report provided to the Board) in the Company's quarterly report released to the Company's shareholders and the ASX, the contents of which is subject to the Board's discretion (acting reasonably).

- 7.5 Each member of the ESG Committee must keep any and all confidential information concerning the:

- (a) business or affairs of the Company; and
- (b) business or affairs of the ESG Committee,

which is made available to the ESG Committee member in their capacity as a member of the ESG Committee strictly confidential and not disclose or use any such information except where:

- (c) the disclosure is made to an Evolution Group Member or any director of an Evolution Group Member; or
- (d) the disclosure is otherwise contemplated as being permitted in this ESG Committee

Charter.

- 7.6 To the extent that this ESG Committee Charter contemplates the provision of any information to a person or entity that is not Evolution, an Evolution Group Member, or a representative of Evolution or an Evolution Group Member, then the obligation to provide such information is subject to confidentiality restrictions acceptable to Evolution.

8. Review and approval

- 8.1 The ESG Committee will conduct a review of the ESG Policies made under this ESG Committee Charter as it considers appropriate from time to time and otherwise upon request of the Board or a member of the ESG Committee.
- 8.2 The ESG Committee will evaluate its performance each year having regard to the principles and requirements of this ESG Committee Charter and recommend any changes it considers appropriate to the Board and the ESG Shareholder.
- 8.3 This ESG Committee Charter can only be amended by resolution of the Board of the Company in accordance with the terms of the Company's Constitution, provided that the ESG Shareholder has previously consented in writing to each such amendment.

Rev	Description	Prepared By	Reviewed By	Approved By	Date
A	Issued for Use	[●]	[●]	Board	[●] 2021
Document No [●]					

Annexure 2 – Information and Conflict Protocol

Nominee Director Information and Conflict Protocol

Evolution Energy Minerals Limited
(ACN 648 703 548)
(Company)

EVOLUTION
ENERGY MINERALS

1. Background

- 1.1 The Company is an Australian public company whose shares are listed on the Australian Securities Exchange.
- 1.2 This protocol has been adopted by a written resolution of the board of directors of the Company (**Board**) on 23 September 2021 (**Adoption Date**) on the basis that it is in the best interests of both the Company and each nominee director (**Nominee**) who has been appointed as a nominee of a significant investor with a 'substantial shareholding' in the Company (**Appointor**).

2. Purpose

- 2.1 The purpose of this protocol is to set out procedures for the Board, and the Company's committees (including for the avoidance of doubt, the ESG Committee established pursuant to the ESG Committee Charter and constitution of the Company), to manage any actual or perceived conflicts that may arise for a Nominee, and to manage the disclosure of Confidential Information which a Nominee may receive.
- 2.2 This protocol aims to:
- (a) protect the interests of the Company while recognising the commercial reality of a Nominee's position with respect to both the Company and the Nominee's Appointor; and
 - (b) assist a Nominee by ensuring that any actual or perceived conflict between the Nominee's duties to the Company and their duties to their Appointor (**Conflict of Interest**) is managed in an effective, open and transparent manner.

3. Corporate governance framework

- 3.1 In broad terms, the duties of the Company's directors are to direct and control the business and administration of the Company and to act in the best interests of the Company as a whole. A director has a number of duties under the Corporations Act 2001 (Cth) (**Corporations Act**) and the general law, including:
- (a) a duty to act with reasonable care and diligence in carrying out his or her functions as a director; and
 - (b) a duty as a fiduciary to act in good faith in the best interests of the Company.
- 3.2 As a general rule, directors owe a fiduciary duty to the Company, not the shareholders or creditors of the Company. The fiduciary nature of the position means that directors must:
- (a) maintain the confidentiality of confidential information obtained in the course of the directorship; and

- (b) avoid conflicts between their duty to the company and an extraneous duty or other interest or responsibility.
 - 3.3 A Nominee owes the same duties to the Company as other directors of the Company. In performing their duties, a Nominee may have regard to their Appointor's interests, provided that, in doing so, they do not preference those interests over the interests of the Company as a whole (i.e. they must still act in the best interests of the Company).
 - 3.4 In addition to the above, section 195 of the Corporations Act applies where a director has a "material personal interest" in a matter being considered at a Board meeting (including Board committee meetings). Where this section applies, the director is required to withdraw themselves from the relevant meeting while the matter is being considered, and abstain from voting on the matter, except where the other directors (i.e. those who do not have a material personal interest in the matter) resolve otherwise or where a prescribed exception applies. Where a Nominee is an employee of their Appointor, or otherwise derives a substantial proportion of their income from their Appointor, the Nominee may have a material personal interest in a matter in which the Appointor has a material interest. However, the existence of a material personal interest is fact specific and must be considered by the Nominee on a case-by-case basis.
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4. Fiduciary override

Nothing in this protocol:

- (a) limits the duties and requirements of a director under the Corporations Act and the general law;
 - (b) requires a director (including a Nominee) to do anything, or refrain from doing anything, where to do so would, in the reasonable opinion of the director, constitute a breach by the director of their duties as a director of the Company; or
 - (c) permits the Company or a director (including a Nominee) to do anything, or refrain from doing anything, where to do so would cause a Nominee to breach the Nominee's duties as a director of the Company.
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5. Status of this Protocol

- 5.1 The Board (as at the Adoption Date) has agreed to comply with this protocol. The Board agrees to procure that any person that is to be appointed as a director of the Company after the Adoption Date is made aware of this protocol, and agrees to comply with it, before becoming a director of the Company.
- 5.2 To avoid any doubt, and without limiting section 5.1 above, this protocol:
 - (a) contemplates that the person who is a Nominee for an Appointor may change from time to time; and
 - (b) applies to all directors of the Company, including the current Nominees and any future Nominees (irrespective of whether any future Nominee has expressly agreed to comply with this protocol).
- 5.3 The Board agrees that, to the extent of any inconsistency, this protocol prevails over:
 - (a) the Board Charter and Corporate Governance Policies adopted by the Board from time to

time; and

- (b) any other documentation which relates to the subject matter of this protocol, except that any deed of indemnity, access and insurance between the Company and a director prevails over this protocol (to the extent of any inconsistency).

6. Nominees

6.1 Conflict of Interest

- (a) A Nominee must give notice to the Board if, in respect of a matter that is to be considered by or is otherwise before the Board, the Nominee considers that he or she has a Conflict of Interest (such matter being a **Sensitive Matter**).
- (b) Whether or not a Nominee gives notice under section 6.1(a), the other members of the Board may form the opinion (acting reasonably and with the benefit of external legal advice) that a Nominee has (or Nominees have) a Conflict of Interest in respect of a matter to be considered by, or which is otherwise before, the Board, in which case:
 - (i) the Board will notify the relevant Nominee (or Nominees) of the Board's opinion, outlining reasons and providing the Nominee (or Nominees) a copy of the supporting legal advice and all information related to the matter that is required to enable the Nominee (or Nominees) to properly consider the matter and otherwise comply with their duties as directors of the Company;
 - (ii) if the Nominee (or Nominees) does not agree with the Board's opinion that the Nominee (or Nominees) has a Conflict of Interest, then the Board will afford the relevant Nominee (or Nominees) an opportunity to obtain personal external legal advice from a reputable solicitor agreed between the Board and the Nominee (or Nominees) (**Nominee Lawyer**), the reasonable legal fees of which will be paid by the Company (directly or via reimbursement to the Nominee (or Nominees)), on whether the Nominee (or Nominees) indeed have a Conflict of Interest; and
 - (iii) if that external legal advice given to the Nominee (or Nominees) by the Nominee Lawyer is to the effect that the Nominee has (or that the Nominees have) a Conflict of Interest in respect of the relevant matter, then that matter is a Sensitive Matter for the purposes of this protocol.
- (c) The Board acknowledges that the following circumstances may (but do not necessarily) constitute a Sensitive Matter on the basis that they may give rise to a Conflict of Interest:
 - (i) (**Control transactions**) a potential transaction affecting the control of the Company, whether by way of takeover bid, scheme of arrangement, share buy-back, significant equity placement or otherwise, that may affect the Appointor's interests differently to the interest of other shareholders;
 - (ii) (**Competing transactions**) any proposed transaction by or activity of the Company, including the acquisition of assets or securities, that may directly or indirectly compete with the activities or interests of the Appointor (for example, potential M&A transactions where the Appointor may be a potential bidder for the same asset as the Company);
 - (iii) (**Other transactions**) any other proposed transaction with the Appointor where the Appointor's interest in that transaction is not held in common with other shareholders of the Company (for example, where the Appointor may be a potential counterparty to the transaction with the Company); or

- (iv) **(Disputes)** any dispute with the Appointor where the Appointor's interest is not held in common with other shareholders of the Company.
- (d) If:
 - (i) a Nominee gives notice to the Board of a Sensitive Matter in respect of the Nominee;
 - (ii) the Nominee (or Nominees) agrees with the Board's opinion pursuant to section 6.1(b) that the Nominee (or Nominees) has a Conflict of Interest; or
 - (iii) a Sensitive Matter in respect of a Nominee (or Nominees) is determined pursuant to section 6.1(b)(iii),

to assist the Board in dealing with the Sensitive Matter in the most efficient and effective way, the Board may establish a sub-committee to consider the Sensitive Matter (**Sub-committee**).

6.2 Participation in Board and committee deliberations

- (a) The Board agrees that:
 - (i) if a Nominee gives notice to the Board of a Sensitive Matter in respect of the Nominee;
 - (ii) if the Nominee (or Nominees) agrees with the Board's opinion pursuant to section 6.1(b) that the Nominee (or Nominees) has a Conflict of Interest; or
 - (iii) if there is a Sensitive Matter in respect of a Nominee (or Nominees) determined pursuant to section 6.1(b)(iii),

each relevant Nominee:

 - (iv) **(not present)** must not be present at a Board meeting or committee meeting (or any relevant part of such meeting) when the Sensitive Matter is being considered; and
 - (v) **(not vote)** must not vote as a director or committee member on the Sensitive Matter,

except with the express prior consent of the Board or to the extent the full Board is required by law to determine a particular matter (for example, a proposed resolution considered by the full Board to approve the issue of a target's statement under section 639(1) of the Corporations Act) or where a prescribed exception applies pursuant to the law.
- (b) Without limiting section 6.2(a) above, if the Board has established a Sub-committee to consider a Sensitive Matter in respect of a Nominee, the Board agrees that each relevant Nominee will not be a member of, or will not be present in any meetings of, the Sub-committee established in relation to the Sensitive Matter.
- (c) Sections 6.2(a) and 6.2(b) above do not prevent a Nominee from:
 - (i) complying with the Nominee's duties as a director of the Company;
 - (ii) providing any assistance or advice to the Board in relation to a Sensitive Matter upon request of the Board; or
 - (iii) drawing the Board's attention to a material issue that the Nominee is aware of and should be considered by the Board in dealing with a Sensitive Matter.

6.3 Access to information

- (a) Subject to section 6.3(b) below, the Board agrees that, if:
- (i) a Nominee gives notice to the Board of a Sensitive Matter in respect of the Nominee;
 - (ii) the Nominee (or Nominees) agrees with the Board's opinion pursuant to section 6.1(b) that the Nominee (or Nominees) has a Conflict of Interest; or
 - (iii) there is a Sensitive Matter in respect of a Nominee (or Nominees) determined pursuant to section 6.1(b)(iii),
- then:
- (iv) that Nominee will not be provided with any sensitive information relating to the Sensitive Matter that is confidential in nature and that is not in the public domain (**Sensitive Information**), including, but not limited to:
 - (A) sections of Board minutes that record the consideration of the Sensitive Matter;
 - (B) extracts of minutes of Board Committees concerning consideration of the Sensitive Matter;
 - (C) drafts of documentation prepared by the Company in relation to the Sensitive Matter (for example, a draft target's statement in relation to a takeover bid);
 - (D) any legal or financial advice provided to the Board or the Subcommittee (or any other committee) in relation to the Sensitive Matter; and
 - (E) such other internal or external Sensitive Information which in the opinion of the majority of the Board may be relevant or potentially relevant to the Sensitive Matter; and
 - (v) the company secretary will ensure that all Sensitive Information is removed from each relevant Nominee's board pack before board packs are distributed to directors.
- (b) Notwithstanding section 6.3(a), a Nominee is entitled to receive ongoing progress reports from the Chairman of the Board in respect of a Sensitive Matter in respect of the Nominee, with any Sensitive Information removed, to the extent the Nominee is required to have access to the information to enable the Nominee to comply with his or her duties as a director of the Company.

7. Confidential Information

7.1 Definitions relating to Confidential Information

In this protocol:

- (a) references to the **Company** include references to any subsidiary of the Company (unless the context requires otherwise); and
- (b) **Confidential Information** means all or any information concerning the business or affairs of the Company which is made available to a Nominee in their capacity as a director (or potential director) of the Company (including as a member of the ESG Committee) that is

confidential in nature, but Confidential Information does not extend to:

- (i) information that is or becomes public knowledge (other than as a result of breach of this protocol);
- (ii) information that was made available to the Nominee by a person other than by or on behalf of the Company, provided such person is not known by the Nominee, after having reasonable investigations, to be bound by any obligation of confidence to the Company in respect of that information; or
- (iii) information already known to the Nominee or their Appointor other than as a result of a breach by any person of an obligation of confidence.

7.2 Provision of information to Appointor by Nominee

- (a) A Nominee must keep all Confidential Information strictly confidential and not disclose or use any such Confidential Information except as permitted by law and this protocol.
- (b) However, a Nominee may disclose Confidential Information to their Appointor, except where the Confidential Information is, by its nature, competitively sensitive information of the Company vis-à-vis the Appointor.
- (c) A Nominee must procure that the Appointor keeps all Confidential Information disclosed to it by the Nominee confidential.

8. Review and changes to this Protocol

This protocol may be amended, qualified or withdrawn by a resolution of the Board (subject to any contractual requirement for the Company to first obtain the consent of an Appointor).

Rev	Description	Prepared By	Reviewed By	Approved By	Date
A	Issued for Use			Board	
Document No CG003					
Document No CG003					