

## Form 603

Corporations Act 2001  
Section 671B

### Notice of initial substantial holder

To Company Name/Scheme INFINITY MINING LIMITED

ACN/ARSN 609 482 180

#### 1. Details of substantial holder (1)

Name Alexander John Peden and Mary Louisa Peden

ACN/ARSN (if applicable) \_\_\_\_\_

The holder became a substantial holder on 14/06/2024

#### 2. Details of voting power

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

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
Fully paid ordinary shares ( <b>Shares</b> )	23,419,337	23,419,337	19.72% (based on 118,753,390 Shares on issue)

#### 3. Details of relevant interests

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

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
Alexander John Peden and Mary Louisa Peden	Relevant interest arises under section 608(2) of the <i>Corporations Act 2001</i> (Cth) ( <b>Corporations Act</b> ).	23,419,337 Shares

#### 4. Details of present registered holders

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

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
Macarthur Australia Limited ACN 616 032 298	Macarthur Australia Limited ACN 616 032 298	Macarthur Australia Limited ACN 616 032 298	22,562,422 Shares
Macarthur Minerals Limited ACN 103 011 436	Macarthur Minerals Limited ACN 103 011 436	Macarthur Minerals Limited ACN 103 011 436	856,915 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	
Alexander John Peden and Mary Louisa Peden	14/06/2024		Pursuant to Annexure A: Specific Security Deed	23,419,337 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
Not applicable	

**7. Addresses**

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

Name	Address
Alexander John Peden	c/- Level 30, 1 Eagle Street, Brisbane
Mary Louisa Peden	c/- Level 30, 1 Eagle Street, Brisbane

**Signature**

Print name Alexander John Peden capacity Substantial Holder

sign here  date 14/06/2024

Print name Mary Louisa Peden capacity Substantial Holder

sign here  date 14/06/2024

**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 to Form 603: Specific Security Deed**

This is Annexure A referred to in the Form 603 (Notice of Initial Substantial Holder), signed by:

Print name Alexander John Peden capacity Substantial Holder

sign here *A. J. Peden* date 14/06/2024

Print name Mary Louisa Peden capacity Substantial Holder

sign here *M. L. Peden* date 14/06/2024

# Specific Security Deed - Shares

Ref: CAR:318071  
Version:  
Date: 11/06/2024

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DATED

14 June 2024

## PARTIES

- **Alexander John Peden and Mary Louisa Peden** of c/- Level 30, 1 Eagle Street, Brisbane

(jointly and severally the **Secured Party**)

- **Macarthur Minerals Limited ABN 93 103 011 436** of 7 555 Coronation Drive , Toowong, Brisbane, Queensland

**Macarthur Australia Limited ACN 616 032 298** of 'Suite 1g Building 1 Kings Row' Office Park 40 McDougall Street Milton Qld 4064

(jointly and severally the **Grantor**)

## BACKGROUND

- The Secured Party has provided financial accommodation to the Borrower.
- In consideration of the covenants contained in this Deed, the Grantor has agreed to charge the Secured Property in favour of the Secured Party on the terms of this Deed to secure the payment of both any advances already made to the Borrower and those contemplated to be made in the future, the financial accommodation made or to be made and otherwise the obligations of the Borrower from time to time to the Secured Party.

## DEED

### 1. Interpretation and Definitions

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1.1 In this Deed, the following words mean:

**ASIC** means the Australian Securities and Investments Commission;

**Attorney** means an attorney appointed under a Transaction Document;

**Authorisation** means any consent, approval, authorisation, certificate, consent, exemption, filing, licence, permit, notarisation, notice, registration or waiver, however described, and any renewal of or variation to any of them, and includes any requirement of any Government Agency having jurisdiction in connection with the activities contemplated by a Transaction Document;

**Authorised Officer** means any officer of the Secured Party whose title or office includes the word 'manager', 'director', "executive", "chief", "head", "counsel" or "president" and any other person appointed by the Secured Party to act as an Authorised Officer for the purposes of the Transaction Documents;

**Borrower** means **Macarthur Minerals Limited ABN 93 103 011 436**;

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Brisbane;

**Controller** has the same meaning given to that term in the Corporations Act;

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

**Default** means an Event of Default;

**Distribution** means, in respect of the Shares, any:

- (a) dividend or other distribution;
- (b) share buyback, reduction of capital or redemption, purchase, retirement or other acquisition of any shares or warrants issued;
- (c) fees or payments to directors (other than reasonable director's fees), a Related Party or shareholders;

**Effective Date** means the date of this Deed;

**Event of Default** means each of the following events, whether or not it is within the control of the Obligors:

- (a) **(non-payment)** an Obligor fails to pay an amount that is due and owing under the Loan Agreement when due;
- (b) **(Insolvency Event)** an Insolvency Event occurs in respect of a Grantor or Borrower;
- (c) **(loss of priority)** a Security Interest created by or purportedly created by the Security does not have or ceases to have first ranking priority or becomes ineffective to secure the payment of the money or compliance with the obligations which it purports to secure;
- (d) an Event of Default (as that term is defined in the Loan Agreement) occurs under the Loan Agreement.

**Exceptional Distribution** means a Distribution of the following kind:

- (a) a reduction of capital;
- (b) a buy-back of shares under a buy-back scheme or otherwise; or
- (c) any Distribution under a scheme of arrangement.

**External Administrator** means an administrator, Controller, trustee, provisional liquidator, liquidator or any other person (however described) holding or appointed to an analogous office or acting in an analogous capacity;

**Financial Indebtedness** means any debt or other monetary liability in respect of moneys borrowed or raised or any financial accommodation including under or in connection with any:

- (a) bank bill, debenture, bond, note or loan stock or other similar instrument;
- (b) acceptance or documentary credit;
- (c) receivable sold or discounted (otherwise than on a non-recourse basis);
- (d) agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or service;



- (e) finance, capital or operating lease, hire purchase, credit sale or conditional sale agreement;
- (f) agreement for the payment of capital or premium on the redemption of any preference shares;
- (g) guarantee;
- (h) obligation to deliver goods or provide services paid for in advance by a financier; or
- (i) other amount raised under any other transaction having the commercial effect of a borrowing,

irrespective whether the debt or liability:

- (j) is present or future;
- (k) is actual, prospective, contingent or otherwise;
- (l) is at any time ascertained or unascertained;
- (m) is owed or incurred alone or severally or jointly or both with any other person; or

comprises any combination of the above.

**Government Agency** means any government or government department, any governmental, semi-governmental or judicial authority or person, any statutory body or authority or body exercising any administrative or legislative function or that has legal power to require another person to act or not to act in a particular way and includes ASIC;

**GST** means GST as defined in the GST Act or other relevant legislation and regulations;

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999*;

**Insolvency Event** means, in respect of a person:

- (a) an order is made, or the person passes a resolution or takes any other steps, for its winding up;
- (b) an application is made for its winding up and, if the application is capable of being set aside is not set aside within 10 Business Days of being made;
- (c) any of the following occurs:
  - (i) an External Administrator is appointed or any steps are taken to appoint an External Administrator; or
  - (ii) a resolution is passed to appoint an External Administrator, to the person or any asset of the person unless, in the case of an appointment, the Secured Party is satisfied that the appointment of the External Administrator is capable of being set aside, and is set aside with 10 Business Days;
- (d) the person:

- (i) suspends payment of its debts generally;
- (ii) is unable, or states that it is unable, to pay its debt when they fall due;
- (iii) takes any action seeking protection from creditors or bankruptcy; or
- (iv) is presumed by Law to be insolvent;
- (e) the person enters into or takes any step to enter into any compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (f) the person implements a merger, demerger or scheme of arrangement with any person;
- (g) if a registered corporation under the Corporations Act, the person is deregistered, or any steps are taken to deregister the person under the Corporations Act;
- (h) any analogous event, circumstance, matter or thing,

unless, in the case of paragraphs (a),(b),(c),(e),(f) or (g) it occurs as part of a solvent reconstruction with the prior written approval of the Secured Party.

**Law** means:

- (a) any applicable law including legislation, ordinances, regulations, by-laws and other subordinate legislation;
- (b) any Authorisation of or by any Government Agency having jurisdiction in connection with the activities contemplated by a Transaction Document, including any condition or requirement under it;
- (c) any applicable ASIC policy or direction, regulatory guide, policy statement, practice note, guidance note, class order or other instrument issued by ASIC; and
- (d) any applicable code of practice.

**Loan Agreement** means an Unsecured Loan Deed entered into on or about 30 August 2023 between the Secured Party and Borrower as varied on or about the date of this Deed;

**Marketable Security** has the meaning given to that term in section 9 of the Corporations Act and includes a unit or other interest in a trust, partnership, joint venture, fund or managed investment;

**Money Owning** means all debts and monetary liabilities of the Obligors owing to the Secured Party under or in connection with the Transaction Documents or this Deed at any time and in any capacity, irrespective of whether the debts or liabilities:

- (a) are present or future;
- (b) are actual, prospective, contingent or otherwise;
- (c) are at any time ascertained or unascertained;

- (d) are owed or incurred by or on account of an Obligor alone, or severally or jointly with any other person;
- (e) are owed to or incurred by or on account of a Secured Party alone, or severally or jointly with any other person;
- (f) are owed to any other person as agent (whether disclosed or not) for or on behalf of a Secured Party;
- (g) are owed or incurred as principal, interest, fees, charges, Taxes, damages (whether for breach of contract or tort or incurred on any other ground), losses, costs or expenses, or on any other account;
- (h) are owed to or incurred for the account of a Secured Party directly or as a result of:
  - (i) the assignment or transfer to a Secured Party of any debt or liability of an Obligor (whether by way of assignment, transfer or otherwise); or
  - (ii) any other dealing with any such debt or liability;
- (i) are owed to or incurred for the account of a Secured Party before the date of this Deed, or before the date of assignment of this Deed to the Secured Party by any other person or otherwise; or
- (j) comprise any combination of the above.

**New Rights** means in respect of a Grantor any present or future right of the Grantor:

- (a) to or in any money, dividend (including return of capital), interest, offer, bonus, option or other Marketable Security or any entitlement to subscribe for any of them;
- (b) resulting from any substitution, conversion, redemption, forfeiture, cancellation, reclassification, consolidation or subdivision; or
- (c) resulting from a reduction of capital, liquidation or scheme of arrangement, in connection with the Shares.

**Nominated Account** means the bank account opened by the Grantor in accordance with clause 4.2;

**Obligor** means the Borrower, each Grantor and any other person who is or may be responsible for any of the Money Owing under the Loan Agreement, any present or future Security Interest granted in favour of the Secured Party or otherwise;

**Permitted Restriction** means:

- (a) a Permitted Security Interest; or
- (b) a Restriction disclosed in writing to and accepted by the Secured Party.

**Permitted Security Interest** means a Security Interest approved in writing by the Secured Party;

**PPS Law** means the *Personal Property Securities Act 2009* (Cth) and the regulations made under the *Personal Property Securities Act 2009* (Cth);

**PPSR** means the Personal Property Securities Register established under section 147 of the PPS Law;

**Receiver** means a receiver or receiver and manager appointed under this Deed. If two or more persons are appointed: the expression "Receiver" refers to each of those persons severally as well as to two or more of them jointly;

**Related Entity** means has the meaning given to that term under the Corporations Act;

**Relevant Entity** means Infinity Mining Limited ABN 73 609 482 180;

**Relevant Interest** has the meaning given to that term in section 9 of the Corporations Act;

**Restriction** means any agreement, obligation or arrangement that restricts, or entitles another person to rights of pre-emption or refusal for, a sale, assignment or other dealing with the Shares;

**Secured Property** means the Grantor's rights, title and interest in and to the Shares together with any rights attached to the Shares, including the right to receive Dividends;

**Security** means the security created or expressed to be created by the terms of this Deed;

**Security Interest** means:

- (a) a security interest under the PPS Law, a mortgage, pledge, lien, charge (fixed or floating), caveat, assignment by way of security, hypothecation, title retention arrangement, preferential right, trust arrangement or other arrangement (including any set-off, sale and repurchase agreement or flawed-asset arrangement) having the same or equivalent commercial effect as a grant of security; or
- (b) an agreement to create or give any arrangement referred to in paragraph (a) of this definition.

**Shares** means the following shares owned by the Grantor in the Relevant Entity together with all proceeds, products, increases, substitutions and replacements of or from such Shares (provided that at all times the Shares the subject of this Agreement must be less than 20% of the total shares on issue in the Relevant Entity (**Cap**) and any increases will be reduced, but only to the extent necessary to stay within the Cap):

Broker	Grantor	Holding Bal	HIN
MACQUARIE	Macarthur Minerals Ltd	241,790	095645101
MACQUARIE	Macarthur Australia Ltd	22,562,422	121429438
CPS CAPITAL	Macarthur Minerals Ltd	615,125	112075372
	<b>TOTAL</b>	<b>23,419,337</b>	

**Subsidiary** means a subsidiary as defined in section 46 of the Corporations Act;

**Tax** means any tax (including GST), levy, impost, deduction, charge, duty, compulsory loan or withholding and any related interest, penalty, fine or expense imposed by any Government Agency;

**Transaction Document** means:

- (a) this Deed;
- (b) the Loan Agreement;
- (c) each document or agreement entered into or given under any of the above;  
and
- (d) any other document agreed by the Secured Party and any Obligor to be a Transaction Document for the purposes of this agreement.

**Transfer** means, in respect of any Shares, an executed document of transfer sufficient to transfer all the legal and beneficial ownership of the Shares to the Secured Party or its nominee.

## 1.2 Construction

In this Deed, unless a contrary intention appears, a reference to:

- (a) a document being "in the agreed form" means in a form agreed between the Secured Party and the Grantor.
- (b) an "agreement" includes any legally binding arrangement, concession, contract, deed or franchise (in each case whether oral or written);
- (c) an "amendment" includes any amendment, supplement, variation, novation, modification, replacement or restatement and 'amend', 'amending' and "amended" will be construed accordingly;
- (d) a "consent" includes an authorisation, approval, exemption, licence, order, permission or waiver;
- (e) a "filing" includes any filing, registration, recording or notice;
- (f) a "guarantee" includes:
  - (i) an indemnity; and
  - (ii) any other obligation (whatever called) of any person:
    - (A) to pay, purchase, provide funds (whether by the advance of money, the purchase of or subscription for shares or other investments, the purchase of assets or services, the making of payments under an agreement or otherwise) for the payment of, indemnify against the consequences of default in the payment of, or otherwise be responsible for, any indebtedness of any other person; or
    - (B) to be responsible for the performance of any obligations by or the solvency of any other person,

and "guaranteed" and "guarantor" will be construed accordingly;
- (g) "including" means including without limitation and does not limit what else might be included and "includes" and "included" will be construed accordingly;
- (h) "indebtedness" includes any obligation (whether incurred as principal, guarantor or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

- (i) "losses" includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and 'loss' will be construed accordingly;
- (j) a "month" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:
  - (i) if any such period would otherwise end on a day which is not a Business Day, it will end on the next Business Day in the same calendar month or, if none, on the preceding Business Day; and
  - (ii) if a period starts on the last Business Day in a calendar month, or if there is no numerically corresponding day in the month in which that period ends, that period will end on the last Business Day in that later month,
 and references to "months" will be construed accordingly;
- (k) a "person" includes any person, individual, firm, company, corporation, government, state or agency of a state or any undertaking or other association (whether or not having separate legal personality) or any two or more of the foregoing;
- (l) "principal" includes in relation to a Bank Bill, the amount stated on the Bank Bill as the maximum amount payable under the Bank Bill;
- (m) "property" or an "asset" includes any real or personal, present or future, tangible or intangible property or asset and any right, interest, revenue or benefit in, under or derived from the property or asset (including uncalled share capital);
- (n) a "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental body, agency, department or regulatory, self-regulatory or other authority or organisation; and
- (o) the "winding-up" of any person includes its dissolution and/or termination and/or any equivalent or analogous proceedings under the law of any jurisdiction in which that person is incorporated, registered, established or carries on business or to which that person is subject.

### **1.3 Other references**

In this Deed, unless a contrary intention appears:

- (i) a reference to any person is, where relevant, deemed to be a reference to or to include, as appropriate, that person's successors and permitted assignees or transferees;
- (ii) references to clauses and schedules are references to, respectively, clauses of and schedules to this agreement and references to this agreement include its schedules;
- (iii) a reference to (or to any specified provision of) any agreement or document (including the Transaction Documents) is to be construed as a reference to that agreement or document (or that provision) as it may be amended from time to time, but excluding for this purpose any amendment which is contrary to any provision of any Transaction Document;

- (iv) any term defined in a Transaction Document not defined in this document has the meaning given to it in the Transaction Document;
- (v) a reference to a statute, statutory instrument or accounting standard or any provision thereof is to be construed as a reference to that statute, statutory instrument or accounting standard or such provision thereof, as it may be amended or re-enacted from time to time;
- (vi) a time of day is a reference to Brisbane, Queensland time;
- (vii) the index to and the headings in this agreement are inserted for convenience only and are to be ignored in construing this agreement;
- (viii) words importing the plural will include the singular and vice versa;
- (ix) a Default subsists until either remedied to the Secured Party's satisfaction or waived by the Secured Party in writing.

#### **1.4 PPS Law terms incorporated**

In this Deed the following words and expressions have the same meanings as are given to them in the PPS Law (unless the context requires otherwise): "account", "after-acquired property", "control", "document of title", "financing statement", "perfection", "proceeds", "security interest" and "verification statement".

#### **2. Multiple Grantors**

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If more than one person enters into this Deed as a "Grantor", or a term is used in this Deed to refer to more than one "Grantor", then unless otherwise specified in this Deed:

- (a) a covenant or agreement on the part of two or more persons binds them jointly and severally; or
- (b) any other reference to that party or that term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking relates to each of them separately.

#### **3. Effective Date**

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- (a) The Grantor and the Secured Party agree to that this Deed will take effect on and from the Effective Date.
- (b) Clause 3(a) does not affect any other right or benefit of the Secured Party or obligation or liability of the Grantor that has arisen under or in connection with the Transaction Documents before the Effective Date.

#### **4. Security**

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##### **4.1 Security**

- (a) Each of the Grantors, as collateral security for and to secure the due and punctual payment of the Money Owed and the performance of the obligations under the Transaction Documents by the Borrower, grants a security interest in all its Secured Property to the Secured Party.

- (b) The security interest granted under this Deed operates as an equitable mortgage.
- (c) Subject to paragraph (d), in the event that, during the term of this Deed, any share, dividend, distribution, reclassification, readjustment, new issuance or other change to any part of the Secured Property is declared or made in the capital structure of the Relevant Entity, all new, substituted and additional shares, or other securities, issued by reason of any such change shall become part of the Secured Property and shall be endorsed to, delivered to (together with any relevant certificates of title) and held by the Secured Party under the terms of this Deed in the same manner as the Secured Property originally secured by this Deed.
- (d) At all times the Shares the subject of this Agreement must not exceed the Cap and if the Cap will be exceeded, the new, substituted and additional shares or other securities added to the Secured Property will be reduced, but only to the extent necessary to stay within the Cap.
- (e) Subject to paragraph (d), the Grantor will if required by the Secured Party or the PPS Law, upon obtaining ownership of any additional Shares in the Relevant Entity, promptly (and in any event within five (5) Business Days following the date on which the Grantor obtains such ownership) deliver to the Secured Party a deed duly executed by the Grantor in substantially the same form as this Deed in respect of any such additional Shares.

#### 4.2 Nominated Account and proceeds

- (a) The Secured Party may on the occurrence of an Event of Default when notified in writing by the Secured Party require the Grantor to open and maintain a Nominated Account with a bank and branch approved by the Secured Party (**Nominated Bank**) and:
  - (i) nominated officers of the Secured Party must be signatories to the Nominated Account;
  - (ii) withdrawals can only be made from the Nominated Account with the signature of one of those officers (and can be made without the consent of the Grantor);
  - (iii) depositing an amount in the Nominated Account will not result in any person coming under a present liability to pay the Grantor or any Related Entity of the Grantor (for the purposes of clause 341(3)(d) of the PPS Law).
- (b) The Grantor must, whilst an Event of Default occurs, immediately (and until notified otherwise by the Secured Party) deposit in the Nominated Account any proceeds that the Grantor receives in respect of its Secured Property.
- (c) The Grantor must give all notices and directions and execute all necessary documents as requested by the Secured Party to ensure clauses 4.2(a) and (b) are complied with.
- (d) A power created under this clause 4.2 is not waived by any failure or delay in exercise, or by the partial exercise, of that power.
- (e) The Grantor must obtain an agreement from the Nominated Bank (with the Grantor and the Secured Party) that:
  - (i) it will comply with and give effect to the terms set out in clause 4.2(a);



- (ii) it will not repay any money in the Nominated Account to the Grantor or any other person without the prior written consent of the Secured Party and the Secured Party may direct disposition of funds from the Nominated Account without the consent of the Grantor;
- (iii) it has no Security Interest in and it waives all rights of set-off and combination in respect of, the Nominated Account of the Grantor;
- (iv) if it has a Security Interest in the Nominated Account of the Grantor, it must not exercise any power or right under that Security Interest in respect of the Nominated Account of the Grantor and agrees that its Security Interest is subordinated in right and priority to the Security; and
- (v) it agrees that the laws specified in clause 24.8(b) will govern the Secured Party's security interest in the Nominated Account.

#### **4.3 Priority**

- (a) The parties intend that the Security takes effect as a first ranking Security Interest which takes priority over all other Security Interests over the Secured Property other than:
  - (i) in respect of any Security Interest mandatorily preferred by law to have priority; and
  - (ii) as otherwise provided in any Transaction Document or agreed by the parties in writing.
- (b) Nothing in this Deed will be construed as an agreement by the Secured Party to subordinate the Security to any other Security Interest or other interest affecting any Secured Property at any time.

#### **4.4 Attachment not postponed**

Nothing in this Deed may be taken as an agreement that the Security attaches at a later time than the time contemplated by section 19(2) of the PPS Law.

#### **5. Continuing security**

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The Security:

- (a) is a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Money Owing or any other matter or thing;
- (b) is in addition to any other security or other right which the Secured Party may now or after the date of this Deed hold for any of the Money Owing or performance of any of the obligations under the Transaction Documents;
- (c) will not be merged, nor in any way exclude, prejudice or be affected by any other security or other right which the Secured Party may now or after the date of this Deed hold for payment of any of the Money Owing or performance of any of the obligations under the Transaction Documents; and
- (d) may be enforced against the Grantor without first having recourse to any other rights of the Secured Party.

## **6. Further assurance**

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### **6.1 General**

The Grantor must, at its own expense and cost, promptly following request by the Secured Party, execute such documents, deeds and other agreements and otherwise take whatever action the Secured Party may reasonably require:

- (a) to give full effect to this Deed;
- (b) to perfect, protect and maintain the security created (or intended to be created) by this Deed and to ensure its enforceability, validity and priority against any other person, including:
  - (i) registration of a financing statement on the PPSR (and maintaining that registration) or registering, recording or filing this Deed in such places as the Secured Party may at any time consider necessary or desirable;
  - (ii) ensuring the removal of any financing statement which is registered against the Grantor in respect of other Security Interests registered against any of the Secured Property other than a Permitted Security Interest;
  - (iii) complying with clause 8.3(b);
  - (iv) ensuring the Secured Party's Security Interest in respect of any Marketable Security is recorded by any relevant clearing house or securities depository or on the records maintained by or on behalf of the relevant issuer, or on the records of any sponsor, nominee or agent that holds a Marketable Security for the Grantor;
- (c) to facilitate the realisation or enforcement of the Security;
- (d) to facilitate the exercise of any of the Secured Party's rights, powers or discretions under this Deed;
- (e) to ensure that this Deed is stamped for the proper amount in any jurisdiction in which this Deed is required to be stamped;
- (f) to confer on the Secured Party security over the Secured Property (in whatever jurisdiction situated) equivalent or similar to the security intended to be conferred by this Deed; or
- (g) to enable the Secured Party to better exercise its rights over the Secured Property,

including, without limitation, the execution of additional Security Interests over the Secured Property (including legal mortgages), ancillary guarantees and other documents, the conversion of charges to assignments, equitable security to legal security, the execution of any Transfer, conveyance, assignment or assurance whatsoever and the giving of all notices, orders, instructions and directions whatsoever.

### **6.2 Corresponding provisions**

Any document required to be executed by the Grantor under clause 6.1 will be in form and substance satisfactory to the Secured Party.

## 7. Representations and warranties

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### 7.1 Representations and warranties

The Grantor represents and warrants to the Secured Party that as at the Effective Date:

- (a) **(Transaction Documents)** each representation and warranty provided by it under any Transaction Document is true and correct when made or repeated or deemed made or repeated;
- (b) **(power)** it has full legal capacity and power:
  - (i) to own its assets and carry on its business as each are now being conducted; and
  - (ii) to enter into, deliver and perform its obligations under, this Deed and the Transaction Documents to which it is expressed to be a party and to carry out transactions contemplated by those documents;
- (c) **(corporate authorisation)** if it is a corporate Grantor, it has taken all action necessary to authorise the execution, delivery and performance of this Deed (as well as each transaction contemplated by this Deed) and the transactions contemplated by this Deed are for its commercial benefit;
- (d) **(obligations binding)** this Deed constitutes its legally binding obligations, enforceable against it in accordance with its terms, subject to any necessary stamping and registration, equitable principles, statute of limitations and Laws affecting creditors' rights generally;
- (e) **(no contravention)** its execution of, exercise of rights, or performance of obligations under, this Deed will not:
  - (i) contravene any Law to which it or its property is subject or any order of any Government Agency binding on it or any of its property;
  - (ii) unless it is an individual, contravene its constitutional documents or any Authorisation or require that any Authorisation be obtained;
  - (iii) contravene any undertaking or instrument binding on it or any of its property;
  - (iv) require it to make a payment or delivery in respect of any Financial Indebtedness before the scheduled date for that payment or delivery; or
  - (v) cause any limitation on its power to incur Financial Indebtedness to be exceeded;
- (f) **(legal owner)**
  - (i) it is the legal owner of its Secured Property and has sufficient rights and the ability to grant a security interest in its Secured Property to the Secured Party;
  - (ii) on it acquiring any asset forming part of its Secured Property, it will be the legal owner of that asset and has sufficient rights and the ability to grant a security interest in that asset to the Secured Party,

and no person other than the Secured Party holds or is entitled to hold an interest in its Secured Property other than in respect of a Permitted Security Interest;

- (g) **(Security):**
  - (i) this Deed creates the Security Interests purported to be created by it over the assets purported to be encumbered by it;
  - (ii) the Security has been, or in the case of after-acquired property on its acquisition will be, perfected; and
  - (iii) the Security has the priority contemplated by this Deed;
- (h) **(transferability)** subject to the administration and insolvency provisions of the Corporations Act, the Shares are transferable and directors of the Relevant Entity do not have any power, under the constitution or any Law or obligation by which it is or they are bound, to prevent its Shares from being transferred to the Secured Party or as it may direct to a Related Entity pursuant to this Deed or to decline to register any relevant Transfer to the Secured Party or a Related Entity of the Secured Party;
- (i) **(no escrow)** the Shares are not subject to any escrow or other conditions imposed by the Corporations Act or under the rules of any stock exchange;
- (j) **(Shares fully paid)** the Shares are, or upon acquisition will be, fully paid;
- (k) **(perfection by control)** no person other than the Secured Party has a Security Interest over the Secured Property which is perfected by control; and
- (l) **(not a trustee)** unless the Grantor is expressed to be a trustee in this Deed, it is not a trustee of any trust or settlement, and is not entering into the Transaction Documents in its capacity as trustee of any trust or settlement; and
- (m) **(Shares):**
  - (i) **(no alienation)** other than with the prior written consent of the Secured Party, no sale, transfer, disposal or other alienation (including the grant of any Security Interest other than a Permitted Security Interest in respect of) of the Shares has occurred or has been authorised;
  - (ii) **(fully paid)** all of the Shares are or will be fully paid as at the date that the Grantor first acquires a Relevant Interest in those Shares;
  - (iii) **(Shares properly issued)** the Shares have been properly and validly issued in accordance with the Corporations Act and the constitution of the relevant company;
  - (iv) **(certificates)** all of the Shares issued are evidenced by a certificate;
  - (v) **(constitutional documents)** the copies of the constitutional documents of the relevant company given to the Secured Party before the date of this Deed are true, complete and up to date;
  - (vi) **(no Restriction)** the Shares are free from any Restriction other than a Permitted Restriction.

- (n) **(solvency)** it:
  - (i) is solvent and there are no reasonable grounds to suspect that it is, or will be, unable to pay its debts as and when they become due and payable; and
  - (ii) will continue to be able to pay all its debts as and when they become due and payable.

## **7.2 Repetition of representations and warranties**

The representations and warranties given under this Deed:

- (a) survive the execution of each Transaction Document; and
- (b) are repeated by each Grantor on each date on which representations and warranties are repeated under the Transaction Documents, with reference to the facts and circumstances subsisting at that date.

## **7.3 Reliance on representations and warranties**

Each Grantor acknowledges that the Secured Party has entered into each Transaction Document and agreed to provide the financial accommodation under the Transaction Documents in reliance on the representations and warranties provided under this Deed.

## **8. Undertakings**

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### **8.1 Term of undertakings**

Unless the Secured Party otherwise agrees in writing, until:

- (a) the commitment of the Secured Party to provide financial accommodation under the Transaction Documents is cancelled;
- (b) the Money Owing is unconditionally repaid in full; and
- (c) each Security is discharged and released,

each Grantor must, at its own cost, comply with its obligations under this Deed.

### **8.2 Negative pledge and disposal restrictions**

- (a) The Grantor must not create, agree to create or permit to subsist any Security Interest over all or any part of the Secured Property, other than a Permitted Security Interest.
- (b) The Secured Party may, at any time while an Event of Default subsists, give a notice to the Grantors stating that the Grantors may not deal with the Secured Property described in the notice.
- (c) The Grantor must not sell, transfer, lease, lend, assign or otherwise dispose of or part with possession of any of the Secured Property or the right to receive or to be paid the proceeds arising on the disposal of the same (or agree or attempt to do so).
- (d) The Grantor must not enter into any arrangement under which money or the benefit of an account may be set-off, applied or combined where the arrangement relates to the raising of Financial Indebtedness or the

acquisition of an asset (other than netting or set-off arrangements in the ordinary course of its ordinary banking arrangements for the purpose of netting debit and credit balances).

- (e) Where by law the Secured Party may not restrict the creation of any Security Interest over an asset ranking after the Security Interest granted under this Deed or any other security granted by the Grantor, paragraph (a) will not restrict that creation, but before creating that Security Interest the Grantor must ensure that the holder of that Security Interest enters into a deed of priority in form and substance satisfactory to the Secured Party.

### 8.3 Undertakings

- (a) **(Transaction Documents)** The Grantor must fully and punctually perform its obligations under this Deed and the Transaction Documents to which it is a party and ensure that no Event of Default occurs in respect of it.
- (b) **(maintenance of status and authorisation)** The Grantor will:
  - (i) do all things necessary to maintain its corporate existence; and
  - (ii) obtain and maintain in full force and effect all consents and filings required for the conduct of its business; and
  - (iii) comply with all laws applicable to it;
- (c) **(secured party)** The Grantor must take all reasonable steps to identify, protect and perfect with the highest priority available any security interest in respect of which the Secured Party is or is to become a secured party under the PPS Law.
- (d) **(Control)** The Grantor must do anything that the Secured Party may reasonably require to enable it to control the Secured Property in accordance with section 26 or 27 of the PPS Law as relevant.
- (e) **(Notifications)** The Grantor must notify the Secured Party as soon as it becomes aware of:
  - (i) any registration or information in a registration under the PPS Law in respect of the Security being or becoming incorrect;
  - (ii) any security interest being registered on the PPSR in respect of any of the Secured Property.
- (f) **(removal from register and certificate/uncertificated shares)** The Grantor must not, without the Secured Party's written consent:
  - (i) request or consent to the removal of any Shares from the register on which they are recorded or registered as at the date of this Deed;
  - (ii) take any steps to convert a certificated Share into an uncertificated Share (or vice versa).

- (g) **(Voting powers and proceeds)**
- (i) Provided that an Event of Default is not subsisting, the Grantor may do any of the following without the prior consent of the Secured Party:
- (A) exercise any voting powers it has as holder of the Shares as it sees fit, provided that it does so prudently and does not otherwise cause or permit a breach of any of the Grantor's or Borrower's obligations under the Transaction Documents; and
- (B) retain any proceeds of a Distribution (other than Exceptional Distributions).
- (ii) If an Event of Default subsists, the rights of the Grantor under clause 8.3(g)(i) immediately cease, and:
- (A) the Secured Party is entitled to exercise all voting rights in respect of the Shares to the exclusion of the Grantor; and
- (B) the Grantor must pay over amounts of any proceeds, or otherwise must ensure that any proceeds are paid directly to the Nominated Account.
- (h) **(Registration on Default) If:**
- (i) an Event of Default is subsisting; and
- (ii) the Secured Party gives notice to the Grantor requiring it to do so,
- the Grantor must do everything necessary to ensure that its Shares are registered in the name of the Secured Party or its nominee in accordance with any directions contained in that notice.
- (i) **(Distributions and New Rights)**
- (i) The Grantor must immediately notify the Secured Party of any Distributions or New Rights acquired by or accruing to it, or to which it becomes entitled, after the date of this Deed.
- (ii) The Grantor must, at its cost, exercise or take up all Distributions and, at the request of the Secured Party, exercise or take up all New Rights (such a request to be made if failure to exercise or take up the New Rights could, in the opinion of the Secured Party, result in the Secured Property or this Deed being prejudicially affected or materially lessened in value).
- (iii) The Grantor must promptly after receipt deposit all Exceptional Distributions in the Nominated Account.
- (j) **(comply with constitution)** do everything that it is required to do (including the payment of calls or instalments) as holder of the Shares; and
- (k) **(not amend the constitution)** ensure that no amendment is made to the constitution of the company(s) that the Shares relate to, without the Secured Party's prior written consent.

#### **8.4 Title documents and chattel paper**

- (a) The Grantor must deposit with the Secured Party (or as it directs) all deeds, certificates, registers and other documents of title relating to the Secured Property (**Title Documents**), together with executed blank transfers in respect of the Secured Property, and all other documents relating to the Secured Property which the Secured Party from time to time requires within 7 days of written notice from the Secured Party.
- (b) If the Security granted under this Deed is enforced, the Secured Party is entitled:
  - (i) to deal with the title documents as if it was the absolute and unencumbered owner of the Secured Property to which the title documents relate; and
  - (ii) in exercising a power of sale, to deliver any Title Document to a purchaser of the Secured Property to which it relates.

#### **8.5 Retention of documents**

Subject to clauses 10.2(e) and 10.2(f), the Secured Party may retain any document of title, chattel paper or any other document delivered to it under clause 8.4 or otherwise until the Security is released and, if for any reason it ceases to hold any such documents of title, chattel paper or other document before that time, it may by notice to the Grantor require that the relevant document be redelivered to it and the Grantor will promptly comply (or procure compliance) with that notice.

### **9. Attorney**

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#### **9.1 Appointment**

For consideration received, the Grantor irrevocably appoints the Secured Party, each Authorised Officer of the Secured Party and each Receiver under this Deed as its Attorney. Each Attorney may act independently or together. Upon request by the Secured Party, the Grantor must ratify anything an Attorney does under clause 9.2.

#### **9.2 Powers**

An Attorney may:

- (a) do anything which:
  - (i) the Grantor can lawfully authorise an attorney to do in connection with the Transaction Documents or the Secured Property;
  - (ii) the Attorney believes is expedient to give effect to any of the Secured Party's or Receiver's rights; and
  - (iii) the Grantor ought to have and has not done this Deed or under a Transaction Document after any period of notice has expired by which the Grantor should have done that required thereunder,

(these things may be done in the Grantor's or the Attorney's name and they include perfecting the Security, signing and delivering deeds, selling or transferring the Secured Property, otherwise dealing with the Secured Property in accordance with this Deed and starting, conducting and defending legal proceedings concerning such things);



- (b) complete, in favour of the Secured Party, any nominee of the Secured Party or any purchaser, any transfer or other instrument executed in blank by or on behalf of the Grantor and deposited with the Secured Party as security under this Deed;
- (c) delegate their powers (including this power) and revoke a delegation; and
- (d) exercise their powers even if this involves a conflict of duty or they have a personal interest in doing so.

### **9.3 Exercise of powers**

An Attorney may only exercise its powers under clause 9.2(a)(i) whilst an Event of Default subsists however a breach of this clause 9.3 does not affect the validity of the Attorney's act.

### **9.4 Acknowledgement**

The Grantor acknowledges that any person dealing with any Attorney or a person purporting to be an Attorney under this power:

- (a) is entitled to rely on execution of any document by that person as conclusive evidence that:
  - (i) the person holds the office set out in the power;
  - (ii) the power of attorney has come into effect;
  - (iii) the power of attorney has not been revoked; and
  - (iv) the right or power being exercised or being purported to be exercised is properly exercised and that the circumstances have arisen to authorise the exercise of that right and power; and
- (b) is not required to make any enquiries in respect of any of the matters set out in clause 9.4(a).

## **10. Enforcement and powers of the Secured Party**

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### **10.1 Exercise of powers generally**

The Secured Party may exercise its powers under clause 10 and clause 11 at any time a Default subsists:

- (a) whether or not it has demanded payment of the Money Owing;
- (b) in the manner and at the times it wishes;
- (c) irrespective of any omission, neglect or delay; and
- (d) notwithstanding that any liability in respect of an instrument giving rise to the Money Owing has not matured.

### **10.2 Termination of transactions and payment of prior security holders**

While a Default subsists, the Secured Party may:

- (a) terminate or reverse any transaction or arrangement entered into by the Secured Party at the express or implied request or with the express or implied consent of the Grantor;
- (b) enter into any transaction and make any payment to extinguish any actual or contingent liability incurred by the Secured Party at the express or implied request or with the express or implied consent of the Grantor;
- (c) convert (directly or indirectly) the currency of any obligations of the Grantor to the Secured Party to another currency;
- (d) pay any other creditor, encumbrancee, credit support Secured Party or holder of a Security Interest in respect of the Secured Property any amount required to discharge or purchase (with or without a transfer of its security) its debt;
- (e) deal with all documents of title and chattel paper as if it was the absolute and unencumbered owner of the Secured Property to which the documents of title relate and of the chattel paper; or
- (f) in exercising a power of sale, deliver any documents of title to a purchaser of the Secured Property to which the document of title relates.

### **10.3 The Secured Party's general powers on default**

If a Default subsists and regardless of whether the Secured Party has appointed a Receiver, the Secured Party may, in addition to anything else the law allows the Secured Party to do, exercise any of the rights, powers and remedies:

- (a) conferred by this Deed on a Receiver (whether expressly or impliedly), including without limitation, those rights, powers set out or referred to in clause 11.6, each of which is to be interpreted as if the reference to a Receiver is a reference to the Secured Party; and
- (b) of a secured party with a Security Interest in, or a mortgagee or an absolute owner of, the Secured Property,

including, without limitation, registering a transfer of the Shares into the name of the Secured Party or a nominee of the Secured Party, entering into receipt of the Distributions, interest payments, distributions and other amounts from the Secured Property and otherwise dealing with and exercising all of the rights and privileges in connection with the Secured Property to which a registered owner of the Secured Property is entitled.

### **10.4 Dealing with assets**

Any right of the Grantor to deal, for any purpose, with any asset, right or undertaking forming part of the Secured Property, other than by or through a Receiver appointed under this Deed, immediately ceases if:

- (a) the Secured Party declares that the Money Owing is immediately due and payable;
- (b) the Secured Party takes any step to enforce the Security; or
- (c) any Event of Default occurs and is subsisting.

**10.5 Exercise of powers by agent**

The Secured Party may exercise its powers under this Deed or general law by itself or through any agent.

**10.6 Fees charged by the agent**

The reasonable fees charged by any agent in connection with the exercise by the Secured Party of its powers under this Deed must be paid by the Grantor.

**10.7 Exercise of powers under PPS Law**

Where the Secured Party or a Receiver exercises a power conferred under Chapter 4 of the PPS Law and otherwise than under Chapter 4, the Secured Party only exercises the power under Chapter 4 if it states it is exercising under Chapter 4 in writing at the time of exercising the power.

**10.8 Enforcement despite earlier payment**

This Deed may be enforced:

- (a) even if the Secured Party accepts a payment of interest or other amount after the occurrence of an Event of Default; and
- (b) without the need for any notice to, or of any consent or agreement of, a Grantor or any other person.

**10.9 Assistance in realisation**

After this Deed has become enforceable, each Grantor must take all action required by the Secured Party to assist it in the realisation of the Secured Property belonging to the Grantor and the exercise of any power including, but not limited to:

- (a) executing all transfers, conveyances, assignments and assurances in connection with any of the Secured Property owned by it;
- (b) performing or causing the performance of all things necessary or desirable under the law in force in any place where the Secured Property, or any part of it, is situated so as to assist the Secured Party in the manner described above; and
- (c) giving all notices, orders, directions and consents required by the Secured Party.

**11. Status, powers, removal and remuneration of Receiver**

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**11.1 Appointment of a Receiver**

While a Default subsists, or if so requested by the Grantor, the Secured Party may (notwithstanding the occurrence of an event of insolvency in relation to the Grantor):

- (a) appoint any person (or persons) to be a Receiver (or Receivers) of all or any part of the Secured Property;
- (b) remove that Receiver or those Receivers;
- (c) if a Receiver is removed, retires or dies, appoint another or others in his or her place; and

- (d) in the case of removal or retirement of a Receiver, reappoint that person.

Each party agrees that if a Receiver is appointed under this Deed on the basis of a Default which subsequently ceases to subsist, the Default is taken to continue to subsist for the purposes of the Receiver's appointment under this Deed.

#### **11.2 More than one Receiver**

If the Secured Party appoints two or more persons to be the Receiver, the Secured Party may appoint them to act jointly, severally or jointly and severally. If it is not specified in the instrument of appointment, the Receivers are appointed to act severally.

#### **11.3 Payment of Receiver**

The Secured Party may fix the reasonable remuneration of a Receiver at an amount agreed between the Secured Party and the Receiver and direct payment of that remuneration and any costs, charges and expenses of the Receiver out of the proceeds of any realisation of the Secured Property.

#### **11.4 Notice or lapse of time required**

- (a) If notice or lapse of time is required under any statute before the Secured Party can exercise its power of sale or any other rights available to it under this Deed or by law, then that notice or lapse of time is dispensed with.
- (b) Clause 11.4(a) only applies if the relevant statute allows notice or lapse of time to be dispensed with.
- (c) If the relevant statute does not allow notice or lapse of time to be dispensed with, but allows it to be shortened, then for the purposes of this Deed, the period of notice or lapse of time is one day.

#### **11.5 Receiver as agent**

Each Receiver will be the agent of the Grantor which will be solely responsible for its acts or defaults, and for its remuneration and expenses, and be liable on any agreements or engagements made or entered into by it. The Secured Party will not be responsible for any misconduct, negligence or default of a Receiver.

#### **11.6 Powers of Receiver**

Subject to any express limitation of a Receiver's powers in their terms of appointment, a Receiver may:

- (a) take possession of the Secured Property;
- (b) collect, get in and receive any income or proceeds in respect of the Secured Property and, for that purpose, take any proceedings in the name of the Grantor or otherwise;
- (c) generally manage the Secured Property;
- (d) make any arrangement or compromise or enter into or cancel any contracts in connection with the Secured Property;
- (e) obtain registration of the Shares in the Secured Party's or its nominee's name and do everything necessary to enable the Secured Party or its nominee to receive the New Rights unless otherwise directed by the Secured Party;

- (f) sell or concur in selling or otherwise dispose of or deal with, all or any of the Secured Property, without being responsible for loss or damage. Any such sale or disposition may be made for cash payable by instalments, loan stock, other debt obligations, shares or securities of another company, or other valuable consideration;
- (g) do anything which it considers would help improve or enhance the value of the Secured Property, obtain income or returns from it or make it saleable or more saleable;
- (h) exercise all voting and other rights attaching to the Secured Property;
- (i) redeem any prior Security Interests on or relating to the Secured Property and settle and pass the accounts of the person entitled to those prior Security Interests, so that any accounts so settled and passed will (subject to any manifest error) be conclusive and binding on the Grantor and the money so paid will be deemed to be an expense properly incurred by the Receiver;
- (j) in connection with the Secured Property, appoint and discharge employees, officers, managers, agents, professionals and others for any of the purposes of this Deed and/or to guard or protect the Secured Property upon terms as to remuneration or otherwise as they may think fit;
- (k) bring, prosecute, enforce, defend and discontinue all actions and proceedings or submit to arbitration in relation to all or any of the Secured Property;
- (l) settle, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person relating to any of the Secured Property;
- (m) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this clause 11.6, or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Property, and use the name of the Grantor for all such purposes;
- (n) exercise any or all of the rights and powers given by law to mortgagees in possession, receivers or receivers and managers;
- (o) exercise any or all of the rights and powers of the Secured Party under this Deed and at Law (other than the power to appoint Receivers); and
- (p) do anything else the Law allows an owner or a receiver and manager of property and assets such as the Secured Property to do, including selling it,

and in each case may use the name of the Grantor and exercise the relevant power in any manner which they may think fit.

#### **11.7 Removal of Receiver**

The Secured Party may by notice remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason.

#### **11.8 Termination**

The Secured Party may give up possession of any Secured Property and terminate any receivership or agency at any time.

## **12. Statutory Powers**

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### **12.1 Powers in augmentation**

The powers conferred on the Secured Party by law:

- (a) except as specified in clause 23.2, are in addition to the Powers conferred by this Deed or any Transaction Document;
- (b) to the extent permitted by law, may be exercised immediately upon an Event of Default occurring and at any time whilst it subsists; and
- (c) are excluded or varied only so far as they are inconsistent with the express terms of this Deed or any Transaction Document.

### **12.2 Exercise of rights by Secured Party**

If the Secured Party exercises a power in connection with this Deed or any Transaction Document, that exercise is taken not to be an exercise of a power under the PPSA unless the Secured Party states otherwise at the time of exercise. However, this clause 12.2 does not apply to a power which can only be exercised under the PPSA.

### **12.3 Notice not required**

To the extent permitted by law (but without prejudice to any express lawful requirement in a Transaction Document) each Grantor waives:

- (a) its rights to receive any notice that is required by:
  - (i) any provision of the PPSA (including a notice of a verification statement); or
  - (ii) any other law before a secured party or Receiver exercises a right, power or remedy; and
- (b) any time period that must otherwise lapse under any law before the Secured Party exercises a right, power or remedy.

If the law which requires a period of notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer).

However, nothing in this clause 12.3 prohibits the Secured Party or any Receiver from giving a notice under the PPSA or any other law.

## **13. Application of moneys**

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### **13.1 Order of application**

All moneys received by the Secured Party or any Receiver appointed under this Deed which is available for distribution in or towards payment or repayment of the Money Owing will be applied in the following order:

- (a) **(first)** in payment of all amounts which, to the extent required by law, have priority over the payments specified in the balance of this clause 13.1;

- (b) **(second)** in payment of all costs, charges, expenses and losses incurred, and payments made or incurred, by the Secured Party or the Receiver in or incidental to the exercise or performance or attempted exercise or performance of any power under this Deed;
- (c) **(third)** in payment of remuneration to the Receiver at such market rates as may be agreed between the Receiver and the Secured Party (acting reasonably) at or any time after the Receiver's appointment;
- (d) **(fourth)** in payment and discharge, in order of their priority, of any Security Interests of which the Secured Party is aware and which have priority to the Security under this Deed;
- (e) **(fifth)** in or towards satisfaction of payment of the Money Owing to the Secured Party and applied in accordance with clause 13.2; and
- (f) **(sixth)** in payment only to the extent required by law, in order of their priority, of any other Security Interests in respect of the Secured Property of which the Secured Party is aware and which are due and payable in accordance with their terms; and
- (g) **(seventh)** the surplus (if any) will be paid to the Grantor or other persons entitled to it, without interest. The Secured Party may pay the surplus to the credit of an account in the name of a Grantor in the books of any bank and having done so is under no further liability in respect of that surplus.

### **13.2 Application against indebtedness**

Any moneys received or realised by the Secured Party from the Grantor or a Receiver under this Deed may be applied by the Secured Party to any item of account or liability or transaction forming part of the Money Owing to which they may be applicable in any order or manner which the Secured Party may determine.

### **13.3 Suspense account**

Until the Money Owing is paid in full, the Secured Party may place and keep (for such time as it will determine) any money received pursuant to this Deed or on account of the Grantor's liability in respect of the Money Owing in an interest bearing, separate suspense account (to the credit of either the Grantor or the Secured Party as the Secured Party will think fit) and the Receiver may retain the same for the period which it and the Secured Party consider expedient without having any obligation to apply all or any part of that money in or towards discharge of the Money Owing.

### **13.4 Amounts contingently due**

- (a) If, at the time of a distribution of any money under clause 13.1, any part of the Money Owing is contingently owing, the Secured Party may retain an amount equal to the amount contingently owing or any part of it.
- (b) If the Secured Party retains any amount under clause 13.4(a), it may place that amount on short-term interest bearing deposit until the amount contingently owing becomes actually due and payable or otherwise ceases to be contingently owing at which time the Secured Party must:
  - (i) pay to the Secured Party the amount which has become due to it; and
  - (ii) apply the balance of the amount retained, together with any interest on the amount contingently owing, in accordance with clause 13.1.

## **14. Protection of third parties**

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### **14.1 No obligation to enquire**

No purchaser from, or other person dealing with, the Secured Party or any Receiver (or their agents) will be obliged or concerned to enquire whether:

- (a) the right of the Secured Party or any Receiver to exercise any of the powers conferred by this Deed has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power; or
- (b) any of the Money Owing remains outstanding or be concerned with notice to the contrary and the title and position of such a purchaser or other person will not be impeachable by reference to any of those matters.

### **14.2 Receipt conclusive**

The receipt of the Secured Party or any Receiver will be an absolute and a conclusive discharge to a purchaser, and will relieve him of any obligation to see to the application of any moneys paid to or by the direction of the Secured Party or any Receiver.

## **15. Protection of Secured Party and Receiver**

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### **15.1 No liability**

Neither the Secured Party nor any Receiver will be liable in respect of any of the Secured Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers unless caused by its gross negligence, wilful default or breach of any obligation under the Transaction Documents.

### **15.2 Possession of Secured Property**

Without prejudice to clause 15.1, if the Secured Party or the Receiver enters into possession of the Secured Property, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession.

### **15.3 Liability of Grantor**

The Grantor will be deemed to be a principal debtor for the Money Owing and the Secured Property will be deemed to be a principal security for the Money Owing. The liability of the Grantor under this Deed and the Security will not be impaired by any forbearance, neglect, indulgence, extension of time, release, surrender or loss of securities, dealing, variation or arrangement by the Secured Party, or by any other act, event or matter whatsoever whereby the liability of the Grantor (as a surety only) or the Security (as secondary or collateral security only) would, but for this provision, have been discharged.

### **15.4 Preservation**

- (a) The fact that the Secured Party does not exercise, or delays the exercise of, any right, power or remedy does not affect any of its other rights, powers or remedies.
- (b) The fact that the Secured Party delays the exercise of any right, power or remedy does not constitute a waiver of that right, power or remedy.



- (c) The fact that the Secured Party exercises a right, power or remedy does not prevent the Secured Party from exercising that right, power or remedy again.
- (d) This Deed does not operate to extinguish or prejudice any right, power or remedy of the Secured Party under a Transaction Document or a negotiable instrument.

#### **15.5 Moratorium legislation**

A moratorium does not apply to a Transaction Document or the recovery of the Money Owing except if:

- (a) the Secured Party agrees in writing that it does; or
- (b) it cannot be excluded by law.

#### **15.6 Reinstating or replacing rights**

If any payment made to the Secured Party in reduction of the Money Owing is repaid or conceded to be void, voidable or repayable for any reason, then, despite any release, settlement or discharge in connection with the Money Owing:

- (a) that payment does not discharge the relevant liability; and
- (b) the Secured Party may recover the amount of that payment from the Grantor; and
- (c) the Grantor must:
  - (i) immediately do all acts and things the Secured Party requires to replace or reinstate any Transaction Document and any rights the Secured Party has under them which has been released in connection with that payment; and
  - (ii) indemnify the Secured Party against and pay on demand all reasonable costs and expenses in connection with replacing or reinstating any Transaction Document and any rights the Secured Party has under them.

#### **15.7 Effect of release**

A full or partial release of this Deed by the Secured Party does not release the Grantor from personal liability under the Transaction Documents until the Secured Party receives the Money Owing, regardless of any:

- (a) receipt given, pay out figure quoted or other form of account stated; or
- (b) error or miscalculation by the Secured Party.

### **16. Third party provisions**

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#### **16.1 Independent obligations**

This Deed is enforceable against the Grantors, upon an Event of Default:

- (a) without the Secured Party first enforcing any other security;
- (b) whether or not the Secured Party has:

- (i) made demand upon a Grantor;
  - (ii) given notice to a Grantor or any other person in respect of any thing; or
  - (iii) taken any other steps against a Grantor or any other person;
- (c) despite the occurrence of any event described in clause 16.2.

**16.2 Unconditional nature of obligations**

- (a) This Deed and the obligations of the Grantors under this Deed are absolute, binding and unconditional in all circumstances.
- (b) The Transaction Documents and the obligations of the Grantors under each Transaction Document to which they are party are not released, discharged or otherwise affected by anything which but for this provision might have that effect, including:
  - (i) the grant to any person of any time, waiver, covenant not to sue or other indulgence;
  - (ii) the release (including a release as part of any novation) or discharge of any person;
  - (iii) the cessation of the obligations, in whole or in part, of any person under any Transaction Document or any other document or agreement;
  - (iv) the liquidation of any person;
  - (v) any arrangement, composition or compromise entered into by the Secured Party or any person;
  - (vi) any Transaction Document or any other document or agreement being in whole or in part illegal, void, voidable, avoided, unenforceable or otherwise of limited force or effect;
  - (vii) any extinguishment, failure, loss, release, discharge, abandonment, impairment, compound, composition or compromise, in whole or in part, of any Transaction Document or any other document or agreement;
  - (viii) any security being given to the Secured Party by any person;
  - (ix) any alteration, amendment, variation, supplement, renewal or replacement of any Transaction Document or any other document or agreement;
  - (x) any moratorium or other suspension of any power;
  - (xi) the Secured Party exercising or enforcing, delaying or refraining from exercising or enforcing, or being not entitled or unable to exercise or enforce, any power;
  - (xii) the Secured Party obtaining a judgment against any person for the payment of any of the Money Owing;

- (xiii) any transaction, agreement or arrangement that may take place with the Secured Party or any other person including the execution of a Transaction Document;
- (xiv) any payment to the Secured Party, including any payment which at the payment date or at any time after the payment date is, in whole or in part, illegal, void, voidable, avoided or unenforceable;
- (xv) any failure to give effective notice to any person of any Default under any Transaction Document or any other document or agreement;
- (xvi) any legal limitation, disability, death or incapacity of any person;
- (xvii) any breach of any Transaction Document or any other document or agreement;
- (xviii) the acceptance of the repudiation of, or termination of, any Transaction Document or any other document or agreement;
- (xix) any Money Owing being irrecoverable for any reason;
- (xx) any disclaimer by any person of any Transaction Document or any other document or agreement;
- (xxi) any assignment, novation, assumption or transfer of, or other dealing with, any Powers or any other rights or obligations under any Transaction Document or any other document or agreement;
- (xxii) the opening of a new account of any person (whether alone or with others) with the Secured Party or any other person or any transaction on or relating to the new account;
- (xxiii) any prejudice (including material prejudice) to any person as a result of:
  - (A) any thing done, or omitted to be done, by a Grantor, the Secured Party or any person;
  - (B) the Secured Party or any other person selling or realising any property the subject of a Security Interest at less than the best price;
  - (C) any failure or neglect by the Secured Party or any other person to recover the Money Owing from any person or by the realisation of any property the subject of another security in favour of the Secured Party; or
  - (D) any other thing;
- (xxiv) the receipt by the Secured Party of any dividend, distribution or other payment in respect of any liquidation;
- (xxv) the capacity in which a Grantor executed a Transaction Document not being the capacity disclosed to the Secured Party before the execution of the Transaction Document;
- (xxvi) any other act, omission, matter or thing whatsoever, whether negligent or not;

- (xxvii) any Transaction Document or any other document or agreement not being valid or executed by, or binding on, any person; or
- (xxviii) any increase in the Money Owing for any reason (including as a result of anything referred to above).

16.3 Clause 16.2(a) applies irrespective of:

- (a) the consent or knowledge or lack of consent or knowledge, of the Secured Party or any other person, of any event described in clause 16.2(b); or
- (b) any rule of law or equity to the contrary.

## **17. No competition**

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17.1 Until the Money Owing has been paid in full and each Security has been discharged, the Grantors are not entitled to:

- (a) be subrogated to the Secured Party or any other holder of a Permitted Security Interest;
- (b) claim or receive the benefit of:
  - (i) any Security Interest, guarantee or other document or agreement of which the Secured Party has the benefit (including any Transaction Document);
  - (ii) any moneys held by the Secured Party; or
  - (iii) any power;
- (c) accept, procure the grant of, or allow to exist any Security Interest (other than a Permitted Security Interest) in favour of a Grantor from any other person over any of the Secured Property;
- (d) either directly or indirectly prove in, claim in competition with the Secured Party or receive the benefit of any distribution, dividend or payment arising out of or relating to the liquidation of a Grantor;
- (e) make a claim in competition with the Secured Party or exercise or enforce any right, power or remedy (including under a Security Interest or guarantee or by way of contribution) against a Grantor;
- (f) exercise or attempt to exercise any right of set-off against a Grantor;
- (g) realise any Security Interest in favour of a Grantor from a Grantor;
- (h) realise any Security Interest in favour of another person from a Grantor; or
- (i) raise any defence or counterclaim in reduction or discharge of its obligations under the Transaction Documents.

17.2 No Grantor may do or seek, attempt or purport to do anything referred to in clause 17.1.

17.3 If required by the Secured Party, a Grantor must prove in any liquidation of any debtor of the Grantor for all moneys owed to the Secured Party.

- 17.4 All moneys recovered by a Grantor from any liquidation of a debtor of the Grantor or under any Security Interest from another person must be received by the Grantor for the Secured Party to the extent of the unsatisfied liability of the Grantor under the Transaction Documents.

## **18. Costs, expenses and indemnities**

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### **18.1 Costs and expenses**

The Grantor must on demand pay to the Secured Party and any Receiver the amount of all reasonable costs and expenses (including legal fees and other out-of-pocket expenses and any GST thereon) incurred by any of them in connection with the perfection, preservation, enforcement or attempted perfection, preservation or enforcement of any of their rights under any Transaction Document (and any documents referred to in any Transaction Document) or in respect of any of the Secured Property.

### **18.2 Tax**

The Grantor must pay any Tax which is payable in respect of a Transaction Document (including in respect of the execution, delivery, performance, release, discharge, amendment or enforcement of a Transaction Document).

### **18.3 Indemnity**

Each Grantor indemnifies the Secured Party against any loss the Secured Party incurs or is liable for in connection with:

- (a) the occurrence of any Default;
- (b) the Secured Party exercising its powers consequent upon or arising out of the occurrence of any Default;
- (c) the divestiture of the Secured Property;
- (d) any failure by the Grantor or the Borrower to pay any amount due under a Transaction Document on its due date;
- (e) the payment or recovery of an amount in connection with the Transaction Documents in a currency other than the currency required under the Transaction Document; and
- (f) the Transaction Documents or any of the matters, things, events or circumstances contemplated by them,

including all legal costs and expenses and the fees of any consultants on a full indemnity basis. A certificate signed by an officer of the Secured Party detailing the amount of any loss covered by any indemnity in this Deed is conclusive evidence unless the contrary is proved.

### **18.4 Continuing indemnities**

- (a) Each indemnity of the Grantor in a Transaction Document is a continuing obligation of the Grantor, separate from their other obligations and remains in full force and effect until the Money Owing has been fully and finally repaid and each Security Interest granted by an Obligor in favour of the Secured Party is finally discharged.
- (b) Each indemnity of the Grantor survives the termination of any Transaction Document.

- (c) Any settlement or discharge of any claim under any indemnity in a Transaction Document will be conditional on no payment made under that indemnity being avoided or set aside or ordered to be refunded by virtue of any provision of any enactment relating to bankruptcy, insolvency or liquidation.

## **19. Cumulative powers and avoidance of payments**

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### **19.1 Cumulative powers**

The powers which this Deed confers on the Secured Party and any Receiver appointed under this Deed are cumulative, without prejudice to their respective powers under any Law, and may be exercised as often as the relevant person thinks appropriate. The Secured Party or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever. The respective powers of the Secured Party and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

### **19.2 Amounts avoided**

If any amount paid by the Grantor in respect of the Money Owed is capable of being avoided or set aside on the liquidation or administration of the Grantor or otherwise, then for the purposes of this Deed that amount will not be considered to have been paid.

### **19.3 Discharge conditional**

Any settlement or discharge between the Grantor and the Secured Party will be conditional upon no security or payment to the Secured Party by that Grantor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of the Secured Party under this Deed) the Secured Party will be entitled to recover from that Grantor the value which the Secured Party has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

## **20. Ruling off accounts**

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If the Secured Party receives notice of any subsequent Security Interest or other interest affecting any of the Secured Property (except as permitted by the Transaction Documents) it may open a new account for the Grantor in its books. If it does not do so then, as from the time it receives that notice, all payments made by the Grantor to it (in the absence of any express appropriation to the contrary) will be treated as having been credited to a new account of the Grantor and not as having been applied in reduction of the Money Owed.

## **21. Delegation**

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The Secured Party may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this Deed to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit. The Secured Party will not be liable or responsible to the Grantor or any other person for any losses arising from any act, default, omission or misconduct on the part of any delegate.

## **22. Redemption of prior Security Interests**

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The Secured Party may, at any time an Event of Default subsists, redeem any prior Security Interest on or relating to any of the Secured Property or procure the transfer of that Security Interest to itself, and may settle and pass the accounts of any person entitled to that prior Security Interest. Any account so settled and passed will (subject to any manifest error) be conclusive and binding on the Grantor. The Grantor will on demand pay to the Secured Party all principal monies and interest and all losses incidental to any such redemption or transfer.

## **23. Supervening legislation**

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### **23.1 General**

To the full extent permitted by law, all legislation which at any time directly or indirectly:

- (a) lessens, varies or affects in favour of a Grantor any obligation under this Deed; or
- (b) delays, prevents or prejudicially affects the exercise by an Enforcing Party of any Power,

is excluded from this Deed.

### **23.2 Exclusion of PPS Law provisions**

Without limiting clause 23.1, to the extent permitted by law:

- (a) for the purposes of sections 115(1) and 115(7) of the PPS Law:
  - (i) the Secured Party (or any Attorney or Receiver) need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) or 135 of the PPS Law; and
  - (ii) sections 142 and 143 of the PPS Law are excluded;
- (b) for the purposes of section 115(7) of the PPS Law, the Secured Party need not comply with sections 132, 136(5) and 137(3) of the PPS Law;
- (c) if the PPS Law is amended after the date of this Deed to permit a Grantor and the Secured Party to agree to not comply with or to exclude any other provisions of the PPS Law, the Secured Party may notify a Grantor that any of these provisions are excluded, or that the Secured Party need not comply with any of these provisions; and
- (d) each Grantor agrees not to exercise its rights to make any request of the Secured Party under section 275 of the PPS Law, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.
- (e) To the extent not prohibited by the PPS Law, the Grantor waives its rights to receive any notice otherwise required to be given by the Secured Party under section 157 (verification statements) or any other provision of the PPS Law.

## **24. Miscellaneous**

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### **24.1 Set-off**

The Secured Party may, at its own election and at any time (without notice to any Obligor) set-off any other obligations (whether or not then due for performance) owed by the Secured Party to the Obligors, against any liability of the Obligors to the Secured Party under the Transaction Documents.

### **24.2 No marshalling**

The Secured Party is not required to look to any other Security Interest before exercising any of its powers under this Deed. The doctrine of marshalling does not apply to the Secured Party or to a Grantor in relation to the exercise of any power under this Deed.

### **24.3 Consent to registration**

The Grantor acknowledges and agrees that the Secured Party may register financing statements in relation to any Security Interest contained within the Transaction Documents. The cost of any such registration will be borne by the Grantor.

### **24.4 Covenant to release**

Once all the Money Owed has been paid in full and the Secured Party does not have any contingent liability to advance further monies to, or incur liability on behalf of, any Obligor, the Secured Party will, at the request and cost of the Grantor, take any action which may be necessary to release the Secured Property from the security constituted by this Deed.

### **24.5 Power to remedy**

If the Grantor fails to comply with any of its obligations under a Transaction Document and that failure is not remedied to the satisfaction of the Secured Party within 5 days, it will allow (and irrevocably authorises) the Secured Party or any person which the Secured Party nominates to take any action on behalf of that Grantor which is necessary to ensure that those obligations are complied with.

### **24.6 Confidentiality**

- (a) For the purposes of section 275(6) of the PPS Law, the parties agree not to disclose any information following a request made under section 275(1) of the PPS Law (other than as required by section 275(7)(b) to (e)).
- (b) The Grantor agrees that it may not authorise (under section 275(7)(c) of the PPS Law) or request (under section 275(7)(d) of the PPS Law) the Secured Party to make a disclosure unless otherwise agreed with the Secured Party.
- (c) This clause 24.6 does not prevent the Secured Party from making any disclosure:
  - (i) that the Secured Party believes is necessary to comply with any of its obligations under any Law; or
  - (ii) in connection with the exercise of any of its rights under the Transaction Documents.



## **24.7 Notices**

- (a) Any notice, demand, consent or other communication given or made under this Deed must be:
  - (i) clearly readable;
  - (ii) signed by the party giving or making it (or signed on behalf of that party by its Authorised Officer); and
  - (iii) left at the address or sent by pre-paid security post (air mail if outside Australia) to the address or to the fax number of the recipient, in each case, as set out in the parties' details at the beginning of this agreement.
- (b) A party may change its address or fax number for the purpose of service by giving notice of that change to the other party.
- (c) Any communication will be taken to be received by the recipient:
  - (i) in the case of a letter, on the 3rd (7th, if sent outside the country in which the letter is posted) Business Day after the date of posting;
  - (ii) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile communication was sent in its entirety to the fax number of the recipient; and
  - (iii) if the time of dispatch of a facsimile is not on a Business Day, or is after 5.00 pm (local time) on a Business Day, it will be taken to have been received at the commencement of business on the next Business Day.

## **24.8 Governing law**

- (a) This Deed is governed by, and construed in accordance with, the laws of Queensland.
- (b) Without limiting clause (a), for the purposes of section 237 of the PPS Law, the laws of the Commonwealth of Australia as that law applies in the jurisdiction of Queensland govern the Security to the extent it is permitted to apply to the Secured Property under that section.
- (c) The parties irrevocably submit to the non-exclusive jurisdiction of the courts of Queensland.
- (d) The parties irrevocably waive any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

## **24.9 Invalidity**

- (a) Any provision of, or the application of any provision of, any Transaction Document which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, any Transaction Document which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

#### **24.10 Restricted collateral**

- (a) If the Security granted under this Deed with respect to any Secured Property would otherwise be ineffective with respect to the Secured Property:
  - (i) if it would render the security interest with respect to that Secured Property effective, the security interest will operate as a fixed charge with respect to the Secured Property; and
  - (ii) failing which, it will operate as a floating charge with respect to that Secured Property.
- (b) If clause 24.10(a) applies, each Grantor must promptly obtain any consents and do anything else needed to ensure the Security can apply to that Secured Property and not operate as a floating charge.

#### **24.11 Amendment**

This Deed may only be amended or varied in writing signed by the parties.

#### **24.12 Assignment**

- (a) Subject to any Transaction Document, the Secured Party may assign its rights under this Deed without the consent of the Grantor.
- (b) The Grantor must not assign any of its rights under this Deed without the prior written consent of the Secured Party.

#### **24.13 Counterparts**

This Deed may be executed in any number of counterparts. All counterparts taken together will be deemed to constitute one instrument.

#### **24.14 Electronic delivery of document**

If a party delivers an executed counterpart of this Deed or any other document executed in connection with it ("**Relevant Document**") by facsimile or other electronic means:

- (a) the delivery will be deemed to be an effective delivery of an originally executed counterpart; and
- (b) the party may, if requested by the other party to do so, still be obliged to deliver an originally executed counterpart, but the failure to do so will not affect the validity or effectiveness of the Relevant Document.

#### **24.15 Attorneys**

Each attorney who executes this Deed declares that the attorney has no notice of any revocation, suspension or variation of the power of attorney appointing that attorney.

#### **24.16 Authority to complete blanks**

Each Grantor agrees that the Secured Party may complete and fill in any blanks in this Deed or any document connected with it (including assignments, transfers, financing statements, financing change statements, amendment demands or any Corporations Act or PPS Law forms).

**Executed as a Deed**

**SIGNED SEALED AND DELIVERED** by **Macarthur Minerals Limited ABN 93 103 011 436** in accordance with the *Corporations Act 2001* (Cth) and/or as authorised agent/s and each signing party warrants to each other party that that party has requisite authority:



.....  
Signature of Director



.....  
Signature of ~~Director~~/Secretary

**Cameron McCall**  
.....

Name of Director

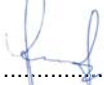
**Mima Wirakara**  
.....

Name of ~~Director~~/Secretary

**SIGNED SEALED AND DELIVERED** by **Macarthur Australia Limited ACN 616 032 298** in accordance with the *Corporations Act 2001* (Cth) and/or as authorised agent/s and each signing party warrants to each other party that that party has requisite authority:



.....  
Signature of Director



.....  
Signature of ~~Director~~/Secretary

**Cameron McCall**  
.....

Name of Director

**Mima Wirakara**  
.....

Name of ~~Director~~/Secretary

**SIGNED SEALED AND DELIVERED** by  
**Alexander John Peden** in the presence of:

.....  
.....

.....  
**Alexander John Peden**

**Executed as a Deed**

**SIGNED SEALED AND DELIVERED** by **Macarthur Minerals Limited ABN 93 103 011 436** in accordance with the *Corporations Act 2001* (Cth) and/or as authorised agent/s and each signing party warrants to each other party that that party has requisite authority:

.....  
Signature of Director

.....  
Signature of Director/Secretary

.....  
Name of Director

.....  
Name of Director/Secretary

**SIGNED SEALED AND DELIVERED** by **Macarthur Australia Limited ACN 616 032 298** in accordance with the *Corporations Act 2001* (Cth) and/or as authorised agent/s and each signing party warrants to each other party that that party has requisite authority:

.....  
Signature of Director

.....  
Signature of Director/Secretary

.....  
Name of Director

.....  
Name of Director/Secretary

**SIGNED SEALED AND DELIVERED** by  
**Alexander John Peden** in the presence of:

.....  
  
.....  
**Alexander John Peden**

**SIGNED SEALED AND DELIVERED** by  
**Mary Louisa Peden** in the presence of:

*M. C. Peden*

.....  
Mary Louisa Peden