

Execution Version

# Scheme implementation agreement

**Resimac Limited**

Resimac

**Homeloans Limited**

Homeloans

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# Scheme implementation agreement

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**Dated** 20 July 2016

**Parties** **Resimac Limited ACN 002 997 935** of Level 9, 45 Clarence Street Sydney NSW 2000 (**Resimac**)

**Homeloans Limited ACN 095 034 003** of Level 5, 50 St Georges Terrace, Perth WA 6000 (**Homeloans**)

## Background

- A. As part of the proposed merger of the businesses of Resimac and Homeloans, Homeloans proposes that it will acquire all of the Resimac Shares pursuant to a scheme of arrangement under section 411 of the Corporations Act between Resimac and the holders of Resimac Shares, and Scheme Shareholders will be issued new Homeloans Shares as Scheme Consideration.
- B. The Scheme is subject to satisfaction or waiver of the Conditions, including the approval by Homeloans Shareholders of the issue of the new Homeloans Shares to Scheme Shareholders.
- C. Resimac has agreed to propose the Scheme and issue the Scheme Book, and Homeloans has agreed to convene the Homeloans Shareholder Meeting.
- D. Resimac and Homeloans have agreed to implement the Scheme and the Transaction on the terms and conditions of this agreement.

## Operative provisions

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### 1. Definitions and interpretation

#### 1.1 Definitions

In this agreement:

**Accounting Standards** means:

- (a) accounting standards as that term is defined in the Corporations Act;
- (b) the requirements of the Corporations Act in relation to the preparation and content of financial reports; and
- (c) if and to the extent that any matter is not covered by the accounting standards or requirements referred to in paragraphs (a) or (b), other relevant accounting standards and generally accepted accounting principles applied from time to time in Australia for a business similar to that conducted by the relevant entity as at the date of this agreement.

**Alternative Homeloans Proposal** means a proposed transaction or arrangement (whether by way of takeover, share acquisition, scheme of arrangement, capital reconstruction, acquisition of assets or otherwise) under which a person other than Resimac, the Scheme Shareholders or any of their Related Bodies Corporate could, if the proposed transaction or arrangement is entered into or completed substantially in accordance with its terms:

- (a) acquire Control of, or otherwise merge or amalgamate with, the Homeloans Group;

- (b) acquire, whether alone or together with its Associates, a Relevant Interest in any shares of Homeloans, as a result of which the Third Party, together with any Associates, will have:
  - (i) if those persons did not have Relevant Interests in 15% or more of the shares in Homeloans in aggregate immediately prior to the Alternative Homeloans Proposal, Relevant Interests in 15% or more of the shares in Homeloans in aggregate; or
  - (ii) if those persons already had Relevant Interests in 15% or more of the shares in Homeloans in aggregate immediately prior to the Alternative Homeloans Proposal, Relevant Interests in not less than 3% more of the shares in Homeloans in aggregate than they had immediately prior to the Alternative Homeloans Proposal; or
- (c) directly or indirectly acquire, have a right to acquire or otherwise acquire an economic interest in all or a substantial part of the business, assets or undertaking of the Homeloans Group.

**Alternative Resimac Proposal** means a proposed transaction or arrangement (whether by way of takeover, share acquisition, scheme of arrangement, capital reconstruction, acquisition of assets or otherwise) under which a person other than Homeloans or any of its Related Bodies Corporate would, if the proposed transaction or arrangement is entered into or completed substantially in accordance with its terms:

- (a) acquire Control of, or otherwise merge or amalgamate with, the Resimac Group; or
- (b) directly or indirectly acquire, have a right to acquire or otherwise acquire an economic interest in all or a substantially all of the business, assets or undertaking of the Resimac Group.

**Announcement** means an announcement by the parties in the form agreed between the parties prior to signing of this agreement or as otherwise agreed in writing.

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

**Associate** has the meaning given in section 12 of the Corporations Act.

**ASX** means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it known as the Australian Securities Exchange.

**Authorisation** means any licence, consent, approval, permit, registration, accreditation, certification or other authorisation given or issued by any Regulatory Authority or any other person.

**Beneficiary** means a present or former director or officer of the Resimac Group in respect of whom the Policy applies.

**Board Composition Resolution** means a resolution for the purposes of Article 13.3 of the constitution of Homeloans to appoint the persons to the Homeloans Board referred to in clause 4.10(a)(iii) and 4.10(b) (to the extent those independent directors are identified and agreed in time to be included in the Board Composition Resolution).

**Business Day** means a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally in Sydney and Melbourne.

**Call Options** means the call option deeds entered into by Resimac in relation to Homeloans Shares on or about the date of this agreement.

**Condition** means each condition specified in clause 3.1.

**Confidentiality Deed** means the Confidentiality, Standstill and Exclusivity Deed between Homeloans and Resimac dated on or about 6 January 2016.

**Control** has the meaning given in the Corporations Act.

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

**Court** means the Federal Court, New South Wales Registry, or such other court of competent jurisdiction as Resimac and Homeloans agree in writing.

**Claim** means any claim, demand or cause of action however arising in relation to:

- (a) any provision of a Transaction Document; or
- (b) the Scheme or Transaction.

**Deed Poll** means a deed poll to be executed by Homeloans in favour of the Scheme Shareholders, substantially in the form set out in Annexure B or in such other form as Resimac and Homeloans agree in writing.

**Effective** means, when used in relation to the Scheme, the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme.

**Effective Date** means the date on which the Scheme becomes Effective.

**Encumbrance** means any security for the payment of money or performance of obligations, including a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement or contractual right of set-off, whether registered or unregistered, including any Security Interest, but in all cases excludes a Permitted Encumbrance.

**End Date** means the later to occur of:

- (a) 31 January 2017; and
- (b) such other date agreed in writing between Resimac and Homeloans.

**Escrow Deed** means the escrow deed set out in Annexure C.

**Escrow Shares** means any Homeloans Shares issued upon the vesting of any Homeloans Performance Rights on issue as at the date of this agreement other than those Homeloans Performance Rights which:

- (a) were issued as part of the 2015 short term incentive tranche vesting on 1 September 2016; and
- (b) are not held by Scott McWilliam or Ian Parkes.

**Exclusivity Period** means the period commencing on the date of this agreement and ending on the earliest of:

- (a) the End Date;
- (b) the date this agreement is terminated in accordance with its terms; and
- (c) the Implementation Date.

**Fairly Disclosed** means disclosed in sufficient detail so as to enable a reasonable and sophisticated buyer or seller (or one of its Representatives) experienced in transactions similar

to the Transaction and experienced in a business similar to any business conducted by the Resimac Group or Homeloans Group, to identify the nature and scope of the relevant matter, event or circumstance.

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

**First Court Date** means the first day of the hearing of an application made to the Court for an order pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

**Homeloans FY16 Dividend** means a dividend being a cash amount not exceeding \$0.02 per Homeloans Share (which may be franked to the extent franking credits are available).

**Homeloans Board** means the board of directors of Homeloans.

**Homeloans Break Fee** means \$1,000,000.

**Homeloans Data Room** means the virtual data room established by Homeloans for the purpose of the Transaction and operated by ansarada.

**Homeloans Director** means a director of Homeloans.

**Homeloans Due Diligence Materials** means the information disclosed by or on behalf of the Homeloans Group, including:

- (a) in the Homeloans Data Room;
- (b) in management presentations and interviews and management discussions with directors and employees of Resimac;
- (c) in responses to requests for information; and
- (d) in written correspondence with Resimac's advisers,

to Resimac and its Representatives prior to the date of this agreement.

**Homeloans Group** means Homeloans and each of its Subsidiaries.

**Homeloans Indemnified Parties** means the Homeloans Group and their respective past, present and future, directors, officers and employees.

**Homeloans Leadership Team** means Scott McWilliam and Ian Parkes.

**Homeloans Long Term Incentive Plan** means the long term incentive plan rules disclosed in folder 06.02 of the Homeloans Data Room in respect of the Homeloans Group.

**Homeloans Material Adverse Change** means an event, matter, or circumstance which individually or when aggregated with other such events, matters, or circumstances has had, or could reasonably be expected to have the effect of:

- (a) diminishing the value of the consolidated net assets of the Homeloans Group (calculated in accordance with the accounting policies and practices applied by Homeloans as at the date of this agreement) by more than 10% compared with the consolidated net assets reported as at 30 June 2015;
- (b) diminishing the annual consolidated PBT of the Homeloans Group (calculated in accordance with the accounting policies and practices applied by Homeloans as at the date of this agreement) on a recurring basis by more than \$1,000,000 in each financial year; or



- (c) without limiting paragraphs (a) and (b), otherwise materially adversely affecting the business, assets, financial condition, results, operations, reputation or prospects of the Homeloans Group (as a whole),

other than an event, matter or circumstance, to the extent that it:

- (d) is required in respect of the Transaction or is contemplated by the Transaction Documents (including any transaction costs incurred by the Homeloans Group);
- (e) occurs with Resimac's prior written consent (not to be unreasonably withheld or delayed);
- (f) results from a change in the accounting policies or practices applied by Homeloans as required by law or applicable Accounting Standards;
- (g) results from a change to legislation or regulation, including in relation to Tax; or
- (h) arises from a change in national or international political, financial or economic conditions, including a disruption to the existing financial markets or economic conditions of Australia, the United Kingdom or the United States of America, or a change in interest or foreign currency exchange rates.

**Homeloans NOM Information** means all information included in the Homeloans Notice of Meeting, other than the Resimac NOM Information and the Independent Expert's Report.

**Homeloans Notice of Meeting** means the notice of meeting, explanatory statement and proxy form in relation to the Homeloans Shareholder Meeting and the Homeloans Shareholder Resolutions.

**Homeloans Performance Right** means a right granted under an Homeloans Long Term Incentive Plan to acquire a Homeloans Share subject to the terms of such plan.

**Homeloans Prescribed Occurrence** means the occurrence of, or agreement to do, any of the following events:

- (a) **(Conversion)** Homeloans converts all or any of its securities into a larger or smaller number of securities;
- (b) **(Reduction of Capital)** Homeloans or another member of the Homeloans Group (other than a wholly-owned Subsidiary of Homeloans) resolves to reduce its capital in any way or resolves to re-classify, combine, split, redeem or re-purchase directly or indirectly any of its shares;
- (c) **(Buy-back)** Homeloans or another member of the Homeloans Group (other than a wholly-owned Subsidiary of Homeloans):
  - (i) enters into a buy-back agreement under the Corporations Act; or
  - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) **(Issuing or granting securities or options)** any member of the Homeloans Group issues shares, or grants an option over its shares or agrees to make such an issue or grant such an option other than the issue of Homeloans Shares in satisfaction of Homeloans Performance Rights granted before the date of this agreement (provided that the issue of any Escrow Shares is conditional upon the holder of those Escrow Shares first executing an Escrow Deed) or an issue to Homeloans or a wholly-owned Subsidiary of Homeloans;

- (e) **(Securities or other instruments)** any member of the Homeloans Group issues, or agrees to issue, convertible notes or any other security convertible into shares other than to Homeloans or a wholly-owned Subsidiary of Homeloans;
- (f) **(Distribution)** any member of the Homeloans Group agrees to pay, declares or pays a dividend or any other form of distribution of profits or return of capital to its members, other than to Homeloans or a wholly-owned Subsidiary of Homeloans or the Homeloans FY16 Dividend provided that:
  - (i) it is not declared or determined until the earlier of the Effective Date and 31 October 2016; and
  - (ii) there has not at that time been any breach of clause 13.1(g).
- (g) **(Encumbrances)** any member of the Homeloans Group creates any material Encumbrance over the whole, or a substantial part, of the business or property of the Homeloans Group other than in the ordinary course of business;
- (h) **(Insolvency Event)** an Insolvency Event occurs in relation to any member of the Homeloans Group;
- (i) **(Acquisitions and disposals)** any member of the Homeloans Group acquires or disposes of, or agrees to acquire or dispose of, any assets, business or shares, whether in one or a number of such related transactions, for an aggregate amount for all related transactions exceeding \$500,000, other than in the ordinary course of business;
- (j) **(Contracts and commitments)** any member of the Homeloans Group enters into any new contract or commitment, or a number of related such contracts or commitments, involving expenditure by or liability or indebtedness on the Homeloans Group of an amount of more than \$500,000 over the term of the relevant contracts or commitments, excluding any loans or mortgages entered into in the ordinary course of business of the Resimac Group;
- (k) **(Employee plans)** any member of the Homeloans Group enters into, varies, terminates or accelerates any rights under, any employee incentive or benefit plan or program (including as a result of the Homeloans Board exercising any discretion but excluding any acceleration of the vesting or exercise of the Homeloans Performance Rights in connection with the Transaction provided that the issue of any Escrow Shares is conditional upon the holder of those Escrow Shares first executing an Escrow Deed);

other than, in each case, an event, occurrence, change or matter to the extent that it:

- (l) is required in respect of the Transaction or is contemplated by the Transaction Documents (including any transaction costs incurred by the Homeloans Group);
- (m) occurs with Resimac's prior written consent (not to be unreasonably withheld or delayed);
- (n) results from a change, announced after the date of this agreement, in the accounting policies or practices applied by Homeloans as required by law or applicable Accounting Standards; or
- (o) results from a change, announced after the date of this agreement, to legislation or regulation, including in relation to Tax.

**Homeloans Recommendation** has the meaning given in clause 8.3(a)(i).

**Homeloans Scheme Book Information** means:

- (a) all information regarding Homeloans and its Related Bodies Corporate that is required by the Corporations Act and the Regulatory Guides to be included in the Scheme Book including all the information that would be required under sections 636(1)(c), (f), (g), (h), (i), (k), (l) and (m) of the Corporations Act to be included in a Homeloans' statement if Homeloans were offering the Scheme Consideration as consideration under a takeover bid;
- (b) the information to be incorporated in the Scheme Book with respect to the Merged Group, including pro forma financial information except to the extent that it comprises information provided by Resimac to Homeloans for the purposes of Homeloans preparing the information with respect to the Merged Group; and
- (c) any other information that the parties agree is Homeloans Scheme Book Information for the purposes of this agreement,

but does not include the any information specifically provided by Resimac to Homeloans for the purpose of including in the Homeloans Scheme Book Information and the Independent Expert's Report.

**Homeloans Share** means fully paid ordinary shares in the capital of Homeloans.

**Homeloans Share Register** means the register of members of Homeloans maintained by or on behalf of Homeloans in accordance with section 168(1) of the Corporations Act.

**Homeloans Shareholder** means a person who is registered in the Homeloans Share Register as a holder of Homeloans Shares.

**Homeloans Shareholder Meeting** means the general meeting of Homeloans Shareholders to be convened by Homeloans to consider and, if thought fit, pass the Homeloans Shareholder Resolutions, on and subject to the terms and conditions of this agreement.

**Homeloans Shareholder Resolutions** means the following resolutions to be put at the Homeloans Shareholder Meeting:

- (a) an ordinary resolution approving, for the purposes of section 611(7) of the Corporations Act, the issuance by the Homeloans of the Scheme Consideration to the Scheme Shareholders pursuant to the Scheme, and the acquisition by any person of a Relevant Interest in Homeloans Shares as a consequence of Ingot Capital Management Pty Ltd being issued with Homeloans Shares pursuant to the Scheme;
- (b) the Listing Rules Resolution (to the extent required by ASX only); and
- (c) the Board Composition Resolution.

**Homeloans Third Party Consents** means the third party consents and notifications which the parties agree in writing are "Homeloans Third Party Consents" on or about the date of this agreement.

**Homeloans Voting Intention** has the meaning given in clause 8.3(a)(ii).

**Homeloans Warranties** means the warranties made by Homeloans set out in clause 13.1.

**Implementation Date** means the date which is 3 Business Days after the Record Date or such other date as Resimac and Homeloans agree in writing.

**Indemnified Loss** means, in relation to any fact, matter or circumstance, all losses, costs, damages, expenses and other liabilities arising out of or in connection with that fact, matter or circumstance including all reasonable legal and other professional expenses on a solicitor-client basis incurred in connection with investigating, disputing, defending or settling

any claim, action, demand or proceeding relating to that fact, matter or circumstance (including any claim, action, demand or proceeding based on the terms of this agreement).

**Independent Expert** means the independent expert to be engaged by Homeloans to express an opinion on whether the Transaction is fair and reasonable to the Homeloans Shareholders.

**Independent Expert's Report** means the report from the Independent Expert in respect of the Transaction.

**Insolvency Event** means in relation to an entity:

- (a) a controller (as defined in section 9 of the Corporations Act), trustee, receiver, or a receiver and manager, being appointed in relation to the entity, or a substantial part, of the property of the entity;
- (b) a liquidator, provisional liquidator, administrator or similar officer of the entity being appointed;
- (c) any application (not withdrawn, dismissed or set aside within 14 days) to a court for an order, an order is made, a meeting is convened or a resolution is passed for the purpose of:
  - (i) appointing a person referred to in paragraphs (a) to (b) (inclusive) of this definition;
  - (ii) winding up, dissolving or deregistering the entity;
  - (iii) proposing or implementing a scheme of arrangement with its creditors or any class of them, or a compromise or other arrangement with its creditors or any class of them;
- (d) the entity being or becoming unable to pay its debts as and when they fall due;
- (e) the entity ceasing, or threatening to cease to, carry on the business that it conducts as at the date of this agreement; or
- (f) anything analogous referred to in paragraphs (a) to (e) (inclusive) of this definition, or which has a substantially similar effect, occurs with respect to a person under any law including, without limitation, Chapters 7 and 11 of the United States Bankruptcy Code of 1978, as amended, or any similar United States federal or state law for the relief of debtors, any other bankruptcy, insolvency liquidation or similar laws of general application.

**In The Best Interests** means, in respect of the conclusion of the Independent Expert in relation to the Transaction, a conclusion that the Transaction is:

- (a) fair and reasonable to Homeloans Shareholders;
- (b) not fair but reasonable to Homeloans Shareholders; or
- (c) in the best interests of Homeloans Shareholders.

**Listing Rules** means the official listing rules of the ASX.

**Listing Rules Resolution** means an ordinary resolution of Homeloans Shareholders approving, for the purposes of Listing Rule 11 and for all other purposes, the acquisition of the Scheme Shares by Homeloans, and the issuance by Homeloans of the Scheme Consideration to, and the acquisition of the Scheme Consideration by, the Scheme Shareholders, as part of the Transaction.

**Merged Group** means the group comprising of the combination of the Homeloans Group and Resimac Group following implementation of the Transaction.

**PBT** means consolidated profit before tax, excluding, in the case of Homeloans, any impact from a change in assumptions or methodology in relation to the valuation of future trailing commissions receivable and payable and, adjusted in the case of both Resimac and Homeloans, to exclude the impact of one-off or non-recurring items (and to exclude, in the case of Resimac, the impact of mark-to-market accounting treatment of derivative positions).

**Permitted Encumbrance** means:

- (a) any netting or set-off arrangement entered into by any member of the Resimac Group or the Homeloans Group (as applicable) in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Resimac Group or the Homeloans Group (as applicable);
- (b) any lien arising by operation of law or in favour of a Regulatory Authority and in the ordinary course of trading so long as the debt it secures is paid when due or contested in good faith and appropriately provisioned;
- (c) any repairers', mechanics', workmens', bankers', solicitors' or other like lien arising in the ordinary course of business;
- (d) any Encumbrance granted under any title retention arrangement or any hire purchase or conditional sale arrangements or any similar arrangement entered into by any member of the Resimac Group or the Homeloans Group (as applicable) in the ordinary course of trading on the supplier's usual terms of sale (or on terms more favourable to the members of the Resimac Group or the Homeloans Group (as applicable)) so long as the debt it secures is paid when due or contested in good faith and sufficient reserves of liquid assets have been set aside to pay the debt if the contest is unsuccessful;
- (e) any security interest of the kind referred to in s12(3) of the PPSA; or
- (f) any Encumbrance, arrangement or transaction securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Encumbrance, or any such arrangement or transaction, other than any permitted under paragraphs (a) to (f) above) does not exceed \$1,000,000 in relation to the Resimac Group, or \$500,000 in relation to the Homeloans Group (or the equivalent of those amounts in another currency or currencies).

**Policy** means the Resimac Group directors and officers insurance policy in effect at the date of this agreement.

**Record Date** means 5.00 pm (Sydney time) on the date which is 5 Business Days after the Effective Date or such other time and date agreed in writing between Homeloans and Resimac.

**Regulator's Homeloans NOM Draft** has the meaning given in clause 4.3(g).

**Regulator's Scheme Book Draft** has the meaning given in clause 4.1(e).

**Regulatory Authority** means:

- (a) any government or local authority, any department, minister or agency of any government and any other governmental, administrative, fiscal, monetary or judicial body; and

- (b) any other authority, agency, commission or similar entity having powers or jurisdiction under any law or regulation or the listing rules of any recognised stock or securities exchange,

and includes ASX, ASIC and Australia's Foreign Investment Review Board.

**Regulatory Condition** means each of the Conditions in clause 3.1(a) and clause 3.1(b).

**Regulatory Guides** means all regulatory guides published by ASIC and in force at the date of this agreement.

**Regulatory Review Period** means:

- (a) in relation to the Scheme Book, the period from the date on which Resimac provides the Regulator's Scheme Book Draft to ASIC in accordance with clause 4.1(e) to the date on which ASIC provides a letter indicating whether or not it proposes to appear to make submissions, or will intervene to oppose the Scheme, when the application made to the Court for orders under section 411(1) of the Corporations Act convening the Scheme Meeting to consider the Scheme is heard; and
- (b) in relation to the Homeloans Notice of Meeting, the period from the date on which Homeloans provides the Regulator's Homeloans NOM Draft to ASIC or ASX (as applicable) in accordance with clause 4.3(g) to the date on which ASIC or ASX (as applicable) confirms it has no comments, or no further comments, on the Homeloans Notice of Meeting.

**Related Body Corporate** of a corporation means a related body corporate of that corporation within the meaning of section 50 of the Corporations Act.

**Relevant Interest** has the meaning given in the Corporations Act.

**Representatives** means, in relation to a party, all officers, employees, professional advisers and agents of the party or of its Related Bodies Corporate.

**Resimac Board** means the board of directors of Resimac.

**Resimac Break Fee** means \$1,000,000.

**Resimac Data Room** means the virtual data room established by Resimac for the purpose of the Transaction and operated by ansarada.

**Resimac Director** means a director of Resimac.

**Resimac Due Diligence Materials** means the information disclosed by or on behalf of the Resimac Group, including:

- (a) in the Resimac Data Room;
- (b) in management presentations and interviews and management discussions with directors and employees of Homeloans;
- (c) in responses to requests for information; and
- (d) in written correspondence with Homeloans' advisers,

to Homeloans and its Representatives prior to the date of this agreement.

**Resimac Group** means Resimac and each of its Subsidiaries.

**Resimac Group Long Term Incentive Plan** means the long term incentive plan rules contained in Resimac Data Room document 09.04 in respect of the Resimac Group.

**Resimac Indemnified Parties** means the Resimac Group and their respective past, present and future, directors, officers and employees.

**Resimac Leadership Team** means Mary Ploughman, Warren McLeland and [Neal Hawkins](#).

**Resimac Material Adverse Change** means an event, matter, or circumstance which individually or when aggregated with other such events, matters, or circumstances has had, or could reasonably be expected to have the effect of:

- (a) diminishing the value of the consolidated net assets of the Resimac Group (excluding the Resimac SPVs) (calculated in accordance with the accounting policies and practices applied by Resimac as at the date of this agreement) by more than 10% compared with the consolidated net assets reported as at 30 June 2015;
- (b) diminishing the annual consolidated PBT of the Resimac Group (excluding the Resimac SPVs) (calculated in accordance with the accounting policies and practices applied by Resimac as at the date of this agreement) on an recurring basis by more than \$3,000,000 in each financial year; or
- (c) without limiting paragraphs (a) and (b), otherwise materially adversely affecting the business, assets, financial condition, results, operations, reputation or prospects of the Resimac Group (excluding the Resimac SPVs) (as a whole),

other than an event, matter or circumstance, to the extent that it:

- (d) is required in respect of the Transaction or is contemplated by the Transaction Documents (including any transaction costs incurred by the Resimac Group) or arises in connection with the entry into, or the exercise of, any Call Option;
- (e) occurs with Homeloans' prior written consent (not to be unreasonably withheld or delayed);
- (f) results from a change in the accounting policies or practices applied by Resimac as required by law or applicable Accounting Standards;
- (g) results from a change to legislation or regulation, including in relation to Tax; or
- (h) arises from a change in national or international political, financial or economic conditions, including a disruption to the existing financial markets or economic conditions of Australia, the United Kingdom or the United States of America or a change in interest or foreign currency exchange rates.

**Resimac NOM Information** means:

- (a) all information regarding Resimac and its Related Bodies Corporate that is required by the Corporations Act and the Regulatory Guides to be included in the Homeloans Notice of Meeting; and
- (b) information provided by Resimac to Homeloans for the purposes of Homeloans preparing the information to be incorporated in the Notice of Meeting with respect to the Merged Group, including pro forma financial information; and
- (c) any other information that the parties agree in writing is Resimac NOM Information for the purposes of this agreement

but does not include any information specifically provided by Homeloans to Resimac for the purpose of including in the Resimac NOM Information and the Independent Expert's Report.



**Resimac Prescribed Occurrence** means the occurrence of, or agreement to do, any of the following events:

- (a) **(Conversion)** Resimac converts all or any of its securities into a larger or smaller number of securities;
- (b) **(Reduction of Capital)** Resimac or another member of the Resimac Group (other than a wholly-owned Subsidiary of Resimac) resolves to reduce its capital in any way or resolves to re-classify, combine, split, redeem or re-purchase directly or indirectly any of its shares;
- (c) **(Buy-back)** Resimac or another member of the Resimac Group (other than a wholly-owned Subsidiary of Resimac):
  - (i) enters into a buy-back agreement under the Corporations Act; or
  - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) **(Issuing or granting shares or options)** any member of the Resimac Group issues shares, or grants an option over its shares or agrees to make such an issue or grant such an option, other than to Resimac or a wholly-owned Subsidiary of Resimac;
- (e) **(Securities or other instruments)** any member of the Resimac Group issues, or agrees to issue, convertible notes or any other security convertible into shares, other than to Resimac or a wholly-owned Subsidiary of Resimac;
- (f) **(Encumbrances)** any member of the Resimac Group (other than a Resimac SPV) creates any material Encumbrance over the whole, or a substantial part, of the business or property of the Resimac Group (excluding the Resimac SPVs) other than in the ordinary course of business;
- (g) **(Insolvency Event)** an Insolvency Event occurs in relation to any member of the Resimac Group (other than a Resimac SPV);
- (h) **(Acquisitions and disposals)** any member of the Resimac Group (other than a Resimac SPV) acquires or disposes of, or agrees to acquire or dispose of, any assets, business or shares, whether in one or a number of such related transactions, for an aggregate amount for all related transactions exceeding \$1,000,000 (other than an acquisition or disposal between any of Resimac and its wholly-owned Subsidiaries);
- (i) **(Employee plans)** any member of the Resimac Group enters into, varies or terminates any employee incentive or benefit plan or program;
- (j) **(Contracts and commitments)** any member of the Resimac Group (other than a Resimac SPV) enters into any new contract or commitment, or a number of related such contracts or commitments, outside the ordinary course of business and involving expenditure by or liability or indebtedness on the Resimac Group of an amount of more than \$1,000,000 over the term of the relevant contracts or commitments, excluding any loans or mortgages entered into in the ordinary course of business of the Resimac Group;
- (k) **(Distribution)** any member of the Resimac Group agrees to pay, declares or pays a dividend or any other form of distribution of profits or return of capital to its members, other than to Resimac or a wholly-owned Subsidiary of Resimac;



other than, in each case, an event, occurrence, change or matter to the extent that it:

- (l) is required in respect of the Transaction or is contemplated by the Transaction Documents (including any transaction costs incurred by the Resimac Group) or arises in connection with the entry into, or the exercise of, any Call Option;
- (m) occurs with Homeloans' prior written consent (not to be unreasonably withheld or delayed);
- (n) results from a change, announced after the date of this agreement, in the accounting policies or practices applied by Resimac as required by law or applicable Accounting Standards; or
- (o) results from a change, announced after the date of this agreement, to legislation or regulation, including in relation to Tax.

**Resimac Recommendation** has the meaning in clause 8.1(a)(i).

**Resimac Scheme Book Information** means all information included in the Scheme Book, other than the Homeloans Scheme Book Information and the Independent Expert's Report.

**Resimac Shareholder** means a person who is registered in the Resimac Share Register as a holder of Resimac Shares.

**Resimac Shares** means fully paid ordinary shares in the capital of Resimac.

**Resimac Share Register** means the register of members of Resimac maintained by or on behalf of Resimac in accordance with section 168(1) of the Corporations Act.

**Resimac SPV** means any other entity the sole purpose of which is to issue mortgage backed securities or asset backed securities (each as defined in the Duties Act 2001 (Qld)) and to carry on related activities (including acquiring assets and granting security over its assets) through transactions sponsored by Resimac (or a Subsidiary of Resimac).

**Resimac Third Party Consents** means the third party consents and notifications which the parties agree in writing are "Resimac Third Party Consents" on or about the date of this agreement.

**Resimac Voting Intention** has the meaning in clause 8.1(a)(ii).

**Resimac Warranties** means the warranties made by Resimac set out in clause 13.4.

**Resimac Warranty Claim** means any Claim by the Buyer arising out of a breach of a Warranty (including, for the avoidance of doubt, under clauses 13.4 and 13.6).

**Revised Proposal** has the meaning given to that term in clause 9.5.

**Scheme** means a scheme of arrangement under Part 5.1 of the Corporations Act between Resimac and the Scheme Shareholders substantially in the form set out in Annexure A or in such other form as Resimac and Homeloans agree in writing.

**Scheme Book** means the explanatory memorandum to be prepared by Resimac pursuant to section 412 of the Corporations Act in respect of the Scheme in accordance with the terms of this agreement and to be dispatched to the Resimac Shareholders.

**Scheme Consideration** means, subject to clause 5.2, for each Scheme Share held by a Scheme Shareholder at the Record Date, 12.84 new Homeloans Shares.

**Scheme Meeting** means the meeting of Resimac Shareholders to be convened by the Court in relation to the Scheme pursuant to section 411(1) of the Corporations Act.

**Scheme Resolutions** means the resolutions required to approved the Scheme.

**Scheme Share** means a Resimac Share on issue as at the Record Date.

**Scheme Shareholder** means a person who holds Resimac Shares as at the Record Date.

**Second Court Date** means the first day of hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

**Security Interest** has the meaning given in sections 12(1) or 12(2) of the Personal Property Securities Act 2009 (Cth).

**Subsidiary** means a subsidiary within the meaning given to that term in the Corporations Act.

**Superior Homeloans Proposal** means a bona fide Alternative Homeloans Proposal involving the acquisition of existing Homeloans Shares by way of a takeover bid made under Chapter 6 of the Corporations Act or a scheme of arrangement between Homeloans and Homeloans Shareholders which in the reasonable determination of the Homeloans Board, acting in good faith, and after consulting with its external legal and financial advisors, would, if it is completed substantially in accordance with its terms, be more favourable to Homeloans Shareholders (as a whole) than the Transaction, having regard to all other terms of the Alternative Homeloans Proposal, including without limitation, conditionality and certainty of funding, and provided that an Alternative Homeloans Proposal cannot be a Superior Homeloans Proposal if it is subject to a due diligence or financing condition.

**Superior Resimac Proposal** means a bona fide Alternative Resimac Proposal involving the acquisition of existing Resimac Shares which in the reasonable determination of the Resimac Board, acting in good faith, and after consulting with its external legal and financial advisors, would, if it is completed substantially in accordance with its terms, be more favourable to Resimac Shareholders (as a whole) than the Transaction, having regard to all other terms of the Alternative Resimac Proposal, including without limitation, conditionality and certainty of funding, and provided that an Alternative Resimac Proposal cannot be a Superior Resimac Proposal if it is subject to a due diligence or financing condition.

**Tax** means any tax, levy, excise, duty, charge, surcharge, contribution, withholding tax (including royalty withholding tax), impost or withholding obligation of whatever nature, whether direct or indirect, (including any tax payable under a country's foreign source income attribution or anti-tax-deferral rules) by whatever method collected or recovered, together with any fees, penalties, fines, interest or statutory charges in any country or jurisdiction.

**Third Party** means a person other than Homeloans, Resimac or any Resimac Shareholder, or their respective Related Bodies Corporate.

**Timetable** means the indicative timetable in relation to the Scheme and the Transaction set out in Schedule 1, or such other indicative timetable as Resimac and Homeloans agree in writing.

**Transaction** means:

- (a) the acquisition by Homeloans of the Scheme Shares for the Scheme Consideration; and
- (b) the issue by Homeloans of the Scheme Consideration to, and the acquisition of an interest in the Scheme Consideration by, Scheme Shareholders,

pursuant to the Transaction Documents.

**Transaction Documents** means:

- (a) this agreement;
- (b) the Scheme; and
- (c) the Deed Poll.

**Treasurer** means the Treasurer of the Commonwealth of Australia.

## 1.2 Best and reasonable endeavours

Any provision of this agreement which requires a party to use best endeavours or all reasonable endeavours to procure that something is performed or occurs or does not occur does not include any obligation:

- (a) to pay any money or to provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person except for payment of any applicable fee for the lodgement or filing of any relevant application with any Regulatory Authority; or
  - (b) to commence any legal action or proceeding against any person,
- except where that provision expressly specifies otherwise.

## 1.3 Business Day

If the day on which any act to be done under this agreement is a day other than a Business Day, that act must be done on the following Business Day except where this agreement expressly specifies otherwise.

## 1.4 Interpretation

In this agreement headings are for convenience only and do not affect interpretation and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word of any gender includes the corresponding words of any other gender;
- (b) the word **including** or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) a reference to a **person** includes an individual, the estate of an individual, a corporation, an authority, an association or parties in a joint venture, a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (g) a reference to a party, clause, schedule, exhibit, attachment, or annexure is a reference to a party, clause, schedule, exhibit, attachment, or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments, and annexures to it;
- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed

**(obsolete body)**, means the agency or body which performs most closely the functions of the obsolete body;

- (i) a reference to a statute includes any regulations or other instruments made under it (**delegated legislation**) and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (j) a reference to **\$** or **dollar** is to Australian currency;
- (k) if a word or phrase is not given a defined meaning in clause 1.1 but is defined in or for the purposes of the Corporations Act, it has the same meaning when used in this agreement;
- (l) a reference to a date or time is to that date or time in Sydney, Australia; and
- (m) this agreement must not be construed adversely to a party just because that party prepared it or caused it to be prepared.

## 2. Obligations in relation to Transaction

### 2.1 Resimac to propose Scheme

- (a) Resimac agrees to propose the Scheme on and subject to the terms and conditions of this agreement.
- (b) Homeloans agrees to assist Resimac to propose the Scheme on and subject to the terms and conditions of this agreement.

### 2.2 Homeloans to convene Homeloans Shareholder Meeting

- (a) Homeloans agrees to convene the Homeloans Shareholder Meeting, and put the Homeloans Shareholder Resolutions to the Homeloans Shareholder Meeting, on and subject to the terms and conditions of this agreement.
- (b) Resimac agrees to assist Homeloans to convene the Homeloans Shareholder Meeting, and put the Homeloans Shareholder Resolutions to the Homeloans Shareholder Meeting, on and subject to the terms and conditions of this agreement.

### 2.3 Resimac and Homeloans to implement Scheme and the Transaction

Resimac and Homeloans agree to implement the Scheme and the Transaction on and subject to the terms and conditions of this agreement.

## 3. Conditions precedent

### 3.1 Conditions

Subject to this clause 3, the Scheme will not become Effective, and the obligations of the parties under clause 4 are not binding, until each of the conditions listed in the first column of the following table are either satisfied or waived in accordance with clause 3.6:

Condition	Right to benefit & waive	Responsibility to satisfy
(a) <b>(ASIC and ASX consents)</b> before 8.00 am on the Second Court Date, ASIC and ASX issue or provide consents or approvals or do	Homeloans and Resimac	Homeloans and Resimac

Condition	Right to benefit & waive	Responsibility to satisfy
such other acts which Homeloans and Resimac agree are reasonably necessary to implement the Scheme and the Transaction. If such consents, approvals or doing of other acts are subject to conditions those conditions must be acceptable to Homeloans and Resimac, acting reasonably;		
(b) <b>(FIRB)</b> before 8.00 am on the Second Court Date, the Treasurer gives a no objection notification under the FATA in respect of all relevant actions required to implement the Scheme (including taking into account the Call Options) and the period during which those actions may be taken, as specified in the notification, have not elapsed, or the relevant periods specified in the FATA have elapsed such that the Treasurer is prohibited by section 77 of the FATA from making an order or decision in respect of the Scheme and implementation of the Scheme is not prohibited by section 82 of the FATA;	Homeloans and Resimac	Resimac
(c) <b>(No restraint)</b> no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction preventing the Transaction from being implemented is in effect as at 8.00 am on the Second Court Date;	Homeloans and Resimac	Homeloans and Resimac
(d) <b>(Change in control - Resimac)</b> as at 8.00 am on the Second Court Date, all Resimac Third Party Consents have been obtained or provided (as applicable) in a form and subject to conditions acceptable to Homeloans, acting reasonably, and have not been withdrawn, cancelled or revoked;	Homeloans and Resimac	Resimac
(e) <b>(Change in control - Homeloans)</b> as at 8.00 am on the Second Court Date, all Homeloans Third Party Consents have been obtained or provided (as applicable) in a form and subject to conditions acceptable to Resimac, acting reasonably, and have not been withdrawn, cancelled or revoked;	Resimac and Homeloans	Homeloans
(f) <b>(No Resimac Material Adverse Change)</b> no Resimac Material Adverse Change occurs between the date of this agreement and 8:00 am on the Second Court Date, and which continues to exist as at 8.00 am on the Second Court Date;	Homeloans	Resimac
(g) <b>(No Homeloans Material Adverse Change)</b> no Homeloans Material Adverse Change occurs, or becomes known to Resimac,	Resimac	Homeloans

Condition	Right to benefit & waive	Responsibility to satisfy
between the date of this agreement and 8:00 am on the Second Court Date, and which continues to exist as at 8.00 am on the Second Court Date;		
(h) <b>(No Resimac Prescribed Occurrence)</b> no Resimac Prescribed Occurrence occurs between the date of this agreement and 8.00 am on the Second Court Date, and which has not been remedied as at 8.00 am on the Second Court Date;	Homeloans	Resimac
(i) <b>(No Homeloans Prescribed Occurrence)</b> no Homeloans Prescribed Occurrence occurs, or becomes known to Resimac, between the date of this agreement and 8.00 am on the Second Court Date, and which has not been remedied as at 8.00 am on the Second Court Date;	Resimac	Homeloans
(j) <b>(Homeloans Shareholder approval)</b> before 8.00am on the Second Court Date, Homeloans Shareholders pass the Homeloans Shareholder Resolutions (other than the Board Composition Resolution) by the majorities required under section 611(7) of the Corporations Act and the other applicable provisions of the Homeloans constitution, the Corporations Act and the Listing Rules (as applicable);	None	Homeloans
(k) <b>(Resimac Shareholder approval)</b> Resimac Shareholders approve the Scheme by the majorities required under section 411(4)(a)(ii) of the Corporations Act;	None	Resimac
(l) <b>(Court approval)</b> the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act;	None	Homeloans and Resimac
(m) <b>(Quotation of Homeloans Shares)</b> the Homeloans Shares to be issued to Scheme Shareholders pursuant to the Scheme have been approved for official quotation by ASX (any such approval may be subject to customary conditions and to the Scheme becoming Effective) before 8.00 am on the Second Court Date; and	Resimac	Homeloans
(n) <b>(execution of Deed Poll)</b> before the date of sending the Scheme Book to relevant Resimac Shareholders, Homeloans validly signs, seals and delivers the Deed Poll.	Resimac	Homeloans

### 3.2 General obligations in relation to Conditions

Without prejudice to any other obligations of the parties under this agreement, in respect of any given Condition:

- (a) if one party is specified in the third column of the table in clause 3.1 opposite that Condition, that party must use its best endeavours to procure that that Condition is satisfied as soon as practicable after the date of this agreement and continues to be satisfied at all times up until the last time it is to be satisfied (as the case may require);
- (b) other than in the case of the Condition in clause 3.1(c), if both parties are specified in the third column of a table in clause 3.1 opposite that Condition, both parties must, to the extent that it is within their respective control or influence, use their best endeavours to procure that that Condition is satisfied as soon as practicable after the date of this agreement and continues to be satisfied at all times up until the last time it is to be satisfied (as the case may require);
- (c) each party must, to the extent that it is within its respective control or influence, use its best endeavours to procure that there is no occurrence that would prevent the Condition being satisfied and no party shall take any action that will or is likely to hinder or prevent the satisfaction of the Condition except to the extent that such action is required to be done or procured pursuant to the Transaction Documents or is required by law; and
- (d) if, prior to 8:00 am on the Second Court Date, an event occurs or is reasonably likely to occur, that may result in the Condition in clause 3.1(c) (*No restraints*) being incapable of satisfaction, Homeloans and Resimac must, to the extent that it is within their respective control or influence, use their best endeavours to procure that that Condition is satisfied as soon as practicable, as if clause 3.1(c) (*No restraints*) were a Regulatory Condition and the parties were subject to the requirements of clause 3.3 in relation to such Condition.

### 3.3 Obligations in relation to Regulatory Conditions

Without limiting clause 3.2, each party must in relation to the Regulatory Conditions:

- (a) as soon as practicable prepare and, subject to clause 3.3(b)(i), lodge, each notice or application required to be given by that party for the purposes of procuring the satisfaction of the Regulatory Conditions (as applicable) and take all procedural steps it is responsible for as part of such approval process, including responding to requests for information at the earliest practicable time and use best endeavours to obtain such approvals as soon as practicable after the date of this agreement; and
- (b) to the extent it is reasonable to do so:
  - (i) consult with the other party, in advance, in relation to all communications with any Regulatory Authority relating to any such regulatory approval (other than those of a purely mechanical or housekeeping type);
  - (ii) keep the other party informed of progress in relation to each such regulatory approval and of any material matters raised by, or conditions or other arrangements proposed by, or to, any Regulatory Authority which relate to any such regulatory approval; and
  - (iii) provide copies of all documents provided to and received from each relevant Regulatory Authority in relation to each such regulatory approval (including before the date of this agreement), on a confidential basis, to the other party,



provided that, in each case:

- (c) the party applying for the approval may withhold or redact information or documents if and to the extent that they are confidential to a third party or commercially sensitive and confidential to the applicant;
- (d) nothing in this clause 3.3 or any other provision of this agreement requires a party to disclose materially commercially sensitive information to the other party; and
- (e) the party applying for the approval will not be prevented from taking procedural steps or communicating with or providing documents to a Regulatory Authority if the other party has not responded promptly under clause 3.3(b)(i).

The other party must provide the applicant for a regulatory approval with all assistance and information reasonably requested by the applicant in connection with the application for and obtaining the approval.

### **3.4 Notice in relation to satisfaction of Conditions**

Each party must:

- (a) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) in relation to any Condition, promptly notify the other party in writing upon becoming aware of the satisfaction of that Condition, in which case the notifying party must also provide reasonable evidence that the Condition has been satisfied;
- (c) in relation to any Condition, immediately notify the other party in writing of a breach or non-fulfilment of a Condition or any occurrence or event that will result, or is reasonably likely to result, in a Condition becoming incapable of satisfaction; and
- (d) upon receipt or delivery of a notice given under clause 3.4(c) (as applicable), where that party is entitled to waive that Condition, as soon as possible notify the other party in accordance with clause 3.6 as to whether the party waives the breach or non-fulfilment of the Condition resulting from the occurrence or event.

### **3.5 Consultation on Conditions**

If:

- (a) there occurs a breach or non-fulfilment of a Condition which is not waived in accordance with this agreement by the time or date specified in this agreement for the satisfaction of the Condition;
- (b) there occurs any occurrence or event that will result in a Condition becoming incapable of satisfaction by the time or date specified in this agreement for the satisfaction of the Condition (and the breach or non-fulfilment of that Condition which would otherwise occur has not already been waived in accordance with this agreement); or
- (c) it becomes more likely than not that the Scheme will not become Effective by the End Date,

the parties will consult in good faith to determine whether an alternative solution can be agreed, including:

- (d) whether the Condition is capable of being waived;



- (e) whether the Transaction could be structured by alternative means in a manner acceptable to the parties in their sole discretion;
- (f) the possibility of extending the date for satisfaction of the relevant Condition in a manner acceptable to the parties in their sole discretion;
- (g) the possibility of adjourning or changing the date of any shareholder meeting in respect of the Transaction (including the Scheme Meeting and the Homeloans Shareholder Meeting) in a manner acceptable to the parties in their sole discretion;
- (h) the possibility of adjourning or changing the date of application to the Court for an order pursuant to section 411(4)(b) of the Corporations Act in a manner acceptable to the parties in their sole discretion; or
- (i) the possibility of extending the End Date in a manner acceptable to the parties in their sole discretion.

### 3.6 Waiver of Conditions

- (a) A Condition is only for the benefit of:
  - (i) if one party is specified in the second column of the table in clause 3.1 opposite that Condition, that party; or
  - (ii) if both parties are specified in the second column of the table in clause 3.1 opposite that Condition, both parties.
- (b) A Condition may be waived and may only be waived:
  - (i) if one party is specified in the second column of the table in clause 3.1 opposite that Condition, by that party by written notice to the other party; or
  - (ii) if both parties are specified in the second column of the table in clause 3.1 opposite that Condition, by written agreement between the parties.
- (c) A party entitled to waive or to agree to waive a Condition under this clause 3.6 may do so in its absolute discretion subject to the provision of written notice to the other party.
- (d) A party that waives or agrees to waive a Condition is not prevented from bringing a claim against any other party in respect of any breach of this agreement that caused that Condition not to be satisfied.
- (e) Waiver of a breach or non-fulfilment in respect of one Condition does not constitute:
  - (i) a waiver of breach or non-fulfilment of any other Condition resulting from the same event; or
  - (ii) a waiver of breach or non-fulfilment of that Condition resulting from any other event.

### 3.7 Failure of Conditions

Subject to clause 3.8, if the parties are unable to reach agreement under clause 3.5:

- (a) within 5 Business Days of first becoming aware of the relevant occurrence or event described in clause 3.5(a) or 3.5(b); or

- (b) in relation to clause 3.5(c) only, by the End Date,

then either party may terminate this agreement by written notice to the other party except where the relevant Condition has become incapable of satisfaction, has not been satisfied, or ceases to be satisfied, or the Scheme fails to be Effective, as a direct result of:

- (c) a breach of this agreement by the party seeking to terminate; or
- (d) a deliberate act or omission of that party for the purpose of frustrating satisfaction of a Condition.

### 3.8 Discretion of the Court

If the Condition in clause 3.1(k) is not satisfied only because of a failure to obtain the majority required by sub-subparagraph 411(4)(a)(ii)(A) of the Corporations Act, then either party may by written notice to the other within 3 Business Days after the date of the conclusion of the Scheme Meeting require the approval of the Court to be sought, pursuant to the Court's discretion in that sub-subparagraph, provided the party has, in good faith, reasonably formed the view that the prospect of the Court exercising its discretion in that way is reasonable.

### 3.9 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction if:

- (a) in the case of a Regulatory Condition, the relevant Regulatory Authority makes or has made a final non-appealable adverse determination in writing to the effect that it will not provide the regulatory approval; and
- (b) in all other cases there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this agreement).

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## 4. Implementation obligations

### 4.1 Resimac's obligations

Resimac must take all steps reasonably necessary to implement the Scheme as soon as is reasonably practicable after the date of this agreement and so as to complete the Transaction substantially in accordance with the Timetable, and in particular Resimac must:

- (a) **(Scheme Book)** as soon as practicable after the date of this agreement, prepare the Scheme Book (excluding the Homeloans Scheme Book Information and the Independent Expert's Report) in accordance with all applicable laws and in particular the requirements of the Corporations Act, the Corporations Regulations, the Listing Rules and the Regulatory Guides;
- (b) **(Review of the Homeloans Scheme Book Information)** as soon as practicable after receiving a draft of the Homeloans Information pursuant to clause 4.2(a), review and provide comments on the form and content of the Homeloans Scheme Book Information to Homeloans;
- (c) **(Provide draft Scheme Book to Homeloans)** provide drafts of the Scheme Book to Homeloans, consult with Homeloans in relation to the content of those drafts and (acting reasonably and in good faith) take into account all reasonable comments from Homeloans and its Representatives on those drafts;
- (d) **(Approval of draft Scheme Book)** procure that a meeting of the Resimac Board is convened to approve the draft Scheme Book to be provided to ASIC for its review;

- (e) **(ASIC review)** as soon as reasonably practicable provide an advanced draft of the Scheme Book (**Regulator's Scheme Book Draft**) to ASIC, for its review and approval for the purposes of section 411(2) of the Corporations Act, and to Homeloans and:
  - (i) liaise with ASIC as necessary during the Regulatory Review Period; and
  - (ii) promptly notify, and consult with, Homeloans in relation to any material matters raised by ASIC in connection with the Scheme Book or the Scheme and any presentation or submission to, or at any proposed meeting with, ASIC, and co-operate and consult with Homeloans to resolve any such matters;
- (f) **(Section 411(17)(b) statement)** apply to ASIC for the production of a statement in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (g) **(Court documents)** consult with Homeloans in relation to the content of the documents required for the purposes of the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider in good faith all reasonable comments on, and suggested amendments to, those documents from Homeloans and its Representatives;
- (h) **(First Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Resimac to convene the Scheme Meeting;
- (i) **(Approval of Scheme Book)** procure that a meeting of the Resimac Board is convened to approve the Scheme Book for registration with ASIC and despatch to Resimac Shareholders;
- (j) **(Due diligence and verification)** Resimac must undertake appropriate due diligence and verification processes in relation to the Scheme Book (other than the Homeloans Scheme Book Information);
- (k) **(Register Scheme Book)** request to ASIC that the explanatory statement included in the Scheme Book in relation to the Scheme be registered in accordance with section 412(6) of the Corporations Act;
- (l) **(Compliance with Court orders)** take all reasonable steps necessary to comply with the orders of the Court including, as required, dispatching the Scheme Book to Resimac Shareholders and convening and holding the Scheme Meeting;
- (m) **(Obtain Homeloans' consent)** before dispatch of the Scheme Book to Resimac Shareholders, Resimac must obtain the written consent of Homeloans to inclusion of the Homeloans Scheme Book Information in the Scheme Book in the form and context in which it appears (such consent not to be unreasonably withheld or delayed);
- (n) **(Update Scheme Book)** if it becomes aware of information after the date of dispatch of the Scheme Book, which is required to be disclosed to Resimac Shareholders under any applicable law, as expeditiously as practicable:
  - (i) inform Resimac Shareholders of the information in an appropriate and timely manner, and in accordance with applicable law; and
  - (ii) to the extent it is reasonably practicable to do so, provide Homeloans with drafts of any documents that it proposes to issue to Resimac

Shareholders under this clause 4.1(n), consult with Homeloans in relation to the content of those drafts and (acting reasonably and in good faith) take into account any comments from Homeloans and its Representatives on those drafts;

- (o) **(Notice of breach of warranties)** promptly notify Homeloans of any fact, matter or circumstance of which it becomes aware and which results in or is reasonably likely to result in a material breach of clause 13.4;
- (p) **(Court approval application)** if the resolution submitted to the Scheme Meeting in relation to the Scheme is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act and subject to all other Conditions (other than the Condition in clause 3.1(l)) being satisfied or waived in accordance with this agreement, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme;
- (q) **(Conditions Certificate)** at the hearing on the Second Court Date, provide to the Court a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions (other than the Condition in clause 3.1(l)) have been satisfied or waived in accordance with this agreement. Resimac must provide a draft of that certificate to Homeloans by 5.00 pm on the Business Day prior to the Second Court Date;
- (r) **(Warranty Certificate)** provide to Homeloans by 5.00 pm on the Business Day prior to the Second Court Date a certificate signed by a director of Resimac and made in accordance with a resolution of the board of Resimac stating, as at that date, that there is no material breach of the representations and warranties given by Resimac in clause 13.4 or, if there is a material breach as at that date, providing complete particulars of the facts and matters which give rise to the material breach;
- (s) **(Implementation of Scheme)** if the Scheme is approved by the Court:
  - (i) lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act before 5:00pm on the Business Day on which such office copy is received (or such later date as is agreed between the parties in writing);
  - (ii) close the Resimac Share Register as at the Record Date and determine entitlements to the Scheme Consideration in accordance with the Scheme;
  - (iii) provide to Homeloans all information about the Scheme Shareholders that Homeloans reasonably requires in order for Homeloans to provide, or procure the provision of, the Scheme Consideration in accordance with the Scheme;
  - (iv) promptly execute proper instruments for the transfer of, and register all transfers of, Scheme Shares to Homeloans in accordance with the Scheme;
  - (v) subject to Homeloans satisfying its obligations under clause 5, on the Implementation Date (or as soon as practicable thereafter) register all transfers of Scheme Shares to Homeloans in accordance with the Scheme; and
  - (vi) promptly do all other things reasonably contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme; and
- (t) **(Other things necessary)** promptly do all other things reasonably within its power to lawfully give effect to the Scheme.

## 4.2 Homeloans' obligations

Homeloans must take all steps reasonably necessary to assist Resimac to implement the Scheme as soon as is reasonably practicable and so as to complete the Transaction substantially in accordance with the Timetable, and in particular Homeloans must:

- (a) **(Draft of the Homeloans Scheme Book Information)** provide to Resimac a draft of the Homeloans Scheme Book Information as soon as reasonably practicable after the date of this agreement and consult with Resimac in relation to the content of drafts of the Homeloans Scheme Book Information and (acting reasonably and in good faith) take into account any comments from Resimac and its Representatives on those drafts;
- (b) **(Final form of the Homeloans Scheme Book Information)** provide to Resimac the Homeloans Scheme Book Information in a form appropriate for inclusion in the Scheme Book;
- (c) **(Review Scheme Book)** review the drafts of the Scheme Book provided by Resimac and provide comments on those drafts as soon as practicable and in good faith;
- (d) **(Due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Homeloans Scheme Book Information and provide to Resimac all evidence of such processes as may be reasonably requested;
- (e) **(Approval of the Homeloans Scheme Book Information)** as soon as reasonably practicable after receipt from Resimac of a draft of the Scheme Book that Resimac proposes to dispatch to Resimac Shareholders, either:
  - (i) confirm in writing to Resimac that the Homeloans Scheme Book Information in the form and context in which it appears in the draft of the Scheme Book is not misleading or deceptive in any material respect and does not contain any material omission and is in a form appropriate for dispatch to the Resimac Shareholders (subject to the approval of the Court); or
  - (ii) provide to Resimac the changes required to ensure that the Homeloans Scheme Book Information in the form and context in which it appears in the Scheme Book is not misleading or deceptive in any material respect and does not contain any material omission and is in a form appropriate for dispatch to the Resimac Shareholders (subject to the approval of the Court);
- (f) **(Keep Resimac informed)** promptly inform Resimac if it becomes aware from the First Court Date until the Implementation Date that the Homeloans Scheme Book Information in the form and context in which it appears in the Scheme Book is or has become false, misleading or deceptive in any material respect or contains any material omission, and provide such further or new information as is required to ensure that such information is no longer false, misleading or deceptive in any material respect or contains any material omission;
- (g) **(Notice of breach of warranties)** promptly notify Resimac of any fact, matter or circumstance of which it becomes aware and which results in or is reasonably likely to result in a material breach of clause 13.1;
- (h) **(Deed Poll)** no later than the Business Day immediately prior to the First Court Date, enter into the Deed Poll and deliver the executed Deed Poll to Resimac;

- (i) **(Representation)** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which, through its counsel and, if requested by the Court, Homeloans will undertake to do all such things and take all such steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this agreement and the Scheme;
- (j) **(Conditions Certificate)** at or before the hearing on the Second Court Date, provide to the Court a certificate (or such other evidence as the court may request) confirming (in respect of matters within its knowledge) whether or not the Conditions (other than the Condition in clause 3.1(l)) have been satisfied or waived in accordance with this agreement. Homeloans must provide a draft of that certificate to Resimac by 5:00 pm on the Business Day prior to the Second Court Date;
- (k) **(Warranty Certificate)** provide to Resimac by 5.00 pm on the Business Day prior to the Second Court Date a certificate signed by a director of Homeloans and made in accordance with a resolution of the board of Homeloans stating, as at that date, that there is no material breach of the representations and warranties given by Homeloans in clause 13.1 or, if there is a material breach as at that date, providing complete particulars of the facts and matters which give rise to the material breach;
- (l) **(Official quotation)** must apply to ASX for official quotation by ASX of the Homeloans Shares to be issued to Scheme Shareholders pursuant to the Scheme and use its best endeavours to obtain the approval of ASX for official quotation (subject to customary conditions and to the Scheme becoming Effective) no later than 8.00am on the Second Court Date;
- (m) **(Scheme Consideration)** if the Scheme becomes Effective, provide (or procure the provision of) the Scheme Consideration on the Implementation Date in accordance with clause 5 and the Transaction Documents;
- (n) **(Despatch of Holding Statements)** despatch holding statements to Scheme Shareholders for the Homeloans Shares issued to the Scheme Shareholders pursuant to the Scheme by midday on the Implementation Date;
- (o) **(Share Transfer)** if the Scheme becomes Effective, accept a transfer of the Resimac Shares as contemplated by clause 4.3;
- (p) **(Compliance with laws)** comply with applicable laws and regulations in connection with the Transaction; and
- (q) **(Other things necessary)** promptly do all other things reasonably within its power to lawfully give effect to the Scheme and the Transaction.

### 4.3 Homeloans Shareholder Meeting - Homeloans' obligations

Homeloans must:

- (a) **(Homeloans Notice of Meeting)** as soon as practicable after the date of this agreement, prepare the Homeloans Notice of Meeting (excluding the Resimac NOM Information and the Independent Expert's Report) in accordance with all applicable laws and in particular the requirements of the Corporations Act, the Corporations Regulations, the Listing Rules and the Regulatory Guides;
- (b) **(Review of the Resimac NOM Information)** as soon as practicable after receiving a draft of the Resimac NOM Information pursuant to clause 4.4(a), review and provide comments on the form and content of the Resimac NOM Information to Resimac;



- (c) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Homeloans Notice of Meeting;
- (d) **(Provide draft Homeloans Notice of Meeting to Resimac)** provide drafts of the Homeloans Notice of Meeting to Resimac, consult with Resimac in relation to the content of those drafts and (acting reasonably and in good faith) take into account all reasonable comments from Resimac and its Representatives on those drafts;
- (e) **(Provide draft Independent Expert's Report)** provide a draft of the Independent Expert's Report to Resimac no later than 2 Business Days prior to provision of the Regulator's Homeloans NOM Draft to ASIC;
- (f) **(Approval of draft Homeloans Notice of Meeting)** procure that a meeting of the Homeloans Board is convened to approve the draft Homeloans Notice of Meeting to be provided to ASIC for its review;
- (g) **(ASIC review)** as soon as reasonably practicable provide an advanced draft of the Homeloans Notice of Meeting **(Regulator's Homeloans NOM Draft)** to ASIC and ASX, for review and approval in accordance with Regulatory Guide 74 (for ASIC) and Listing Rule 15.1 (for ASX), and to Resimac and:
  - (i) liaise with ASIC and ASX as necessary during the Regulatory Review Period; and
  - (ii) promptly notify, and consult with, Resimac in relation to any material matters raised by ASIC or ASX in connection with the Homeloans Notice of Meeting and any presentation or submission to, or at any proposed meeting with, ASIC or ASX, and co-operate and consult with Resimac to resolve any such matters;
- (h) **(Approval of Homeloans Notice of Meeting)** procure that a meeting of the Homeloans Board is convened to approve the Homeloans Notice of Meeting for despatch to Homeloans Shareholders;
- (i) **(Due diligence and verification)** Homeloans must undertake appropriate due diligence and verification processes in relation to the Homeloans Notice of Meeting (other than the Resimac NOM Information and the Independent Expert's Report);
- (j) **(Obtain Resimac's consent)** before dispatch of the Homeloans Notice of Meeting to Homeloans Shareholders, Homeloans must obtain the written consent of Resimac to inclusion of the Resimac NOM Information in the Homeloans Notice of Meeting in the form and context in which it appears (such consent not to be unreasonably withheld or delayed); and
- (k) **(proxy reports)** cause the share registry for Homeloans to report to it and Resimac and their Representatives on the status of proxy forms received by the registry for the Homeloans Shareholder Meeting, at 10 Business Days before the Homeloans Shareholder Meeting, at each subsequent Business Day up to the deadline for receipt of proxy forms and at that deadline and provide to Homeloans and Resimac any other information as it may receive concerning the voting intentions of Homeloans Shareholders;
- (l) **(Update Homeloans Notice of Meeting)** if it becomes aware of information after the date of dispatch of the Homeloans Notice of Meeting, which is required to be disclosed to Homeloans Shareholders under any applicable law, as expeditiously as practicable:
  - (i) inform Homeloans Shareholders of the information in an appropriate and timely manner, and in accordance with applicable law; and

- (ii) to the extent it is reasonably practicable to do so, provide Resimac with drafts of any documents that it proposes to issue to Homeloans Shareholders under this clause 4.3(l)(ii), consult with Resimac in relation to the content of those drafts and (acting reasonably and in good faith) take into account any comments from Resimac and its Representatives on those drafts; and
- (m) **(Other things necessary)** promptly do all other things reasonably within its power to lawfully convene the Homeloans Shareholder Meeting and put the Homeloans Shareholder Resolutions to the Homeloans Shareholder Meeting.

#### 4.4 Homeloans Shareholder Meeting - Resimac's obligations

Resimac must:

- (a) **(Draft of the Resimac NOM Information)** provide to Homeloans a draft of the Resimac NOM Information as soon as reasonably practicable after the date of this agreement and consult with Homeloans in relation to the content of drafts of the Resimac NOM Information and (acting reasonably and in good faith) take into account any comments from Homeloans and its Representatives on those drafts;
- (b) **(Final form of the Resimac NOM Information)** provide to Homeloans the Resimac NOM Information in a form appropriate for inclusion in the Homeloans Notice of Meeting;
- (c) **(Review Homeloans Notice of Meeting)** review the drafts of the Homeloans Notice of Meeting provided by Homeloans and provide comments on those drafts as soon as practicable and in good faith;
- (d) **(Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare its report for inclusion in the Homeloans Notice of Meeting;
- (e) **(Approval of the Resimac NOM Information)** as soon as reasonably practicable after receipt from Homeloans of the draft of the Homeloans Notice of Meeting that Homeloans proposes to dispatch to Homeloans Shareholders, either:
  - (i) confirm in writing to Homeloans that the Resimac NOM Information in the form and context in which it appears in the draft of the Homeloans Notice of Meeting is not misleading or deceptive in any material respect and does not contain any material omission and is in a form appropriate for dispatch to the Homeloans Shareholders; or
  - (ii) provide to Homeloans the changes required to ensure that the Resimac NOM Information in the form and context in which it appears in the Homeloans Notice of Meeting is not misleading or deceptive in any material respect and does not contain any material omission and is in a form appropriate for dispatch to the Homeloans Shareholders;
- (f) **(Keep Homeloans informed)** promptly inform Homeloans if it becomes aware from the date the Homeloans Notice of Meeting is despatched until the Implementation Date that the Resimac NOM Information in the form and context in which it appears in the Homeloans Notice of Meeting is or has become false, misleading or deceptive in any material respect or contains any material omission, and provide such further or new information as is required to ensure that such information is no longer false, misleading or deceptive in any material respect or contains any material omission; and
- (g) **(Other things necessary)** promptly do all other things reasonably within its power to lawfully assist the Homeloans to convene the Homeloans Shareholder Meeting



and put the Homeloans Shareholder Resolutions to the Homeloans Shareholder Meeting.

#### 4.5 Dispute as to disclosure documents

If, after a reasonable period of consultation, the parties, each acting reasonably and in good faith, are unable to agree on the form or content of the:

- (a) Scheme Book, then if the disagreement relates to the form or content of:
  - (i) the Homeloans Scheme Book Information (or any information solely derived from, or prepared solely in reliance on, the Homeloans Scheme Book Information), Resimac will, acting in good faith, make such amendments to that information in the Scheme Book as Homeloans may reasonably require; and
  - (ii) any other part of the Scheme Book, Resimac will, acting in good faith, decide the final form or content of that information in the Scheme Book; and
- (b) Homeloans Notice of Meeting, then if the disagreement relates to the form or content of:
  - (i) the Resimac NOM Information (or any information solely derived from, or prepared solely in reliance on, the Resimac NOM Information), Homeloans will, acting in good faith, make such amendments to that information in the Homeloans Notice of Meeting as Resimac may reasonably require; and
  - (ii) any other part of the Homeloans Notice of Meeting, Homeloans will, acting in good faith, decide the final form or content of that information in the Homeloans Notice of Meeting.

#### 4.6 Homeloans Scheme Book Information

Without limiting clause 4.2, Homeloans:

- (a) consents to the inclusion of the Homeloans Scheme Book Information in the Scheme Book;
- (b) consents to being named in the Scheme Book; and
- (c) acknowledges that:
  - (i) it is responsible for ensuring that the Homeloans Scheme Book Information is not misleading or deceptive in any material respect (whether by omission or otherwise) and that Resimac will not verify or edit the final form of that information in the Scheme Book; and
  - (ii) the Scheme Book will state that Homeloans is responsible for the Homeloans Scheme Book Information, in accordance with clause 4.8.

#### 4.7 Resimac NOM Information

Without limiting clause 4.4, Resimac:

- (a) consents to the inclusion of the Resimac NOM Information in the Homeloans Notice of Meeting;
- (b) consents to being named in the Homeloans Notice of Meeting; and

- (c) acknowledges that:
  - (i) it is responsible for ensuring that the Resimac NOM Information is not misleading or deceptive in any material respect (whether by omission or otherwise) and that Homeloans will not verify or edit the final form of that information in the Homeloans Notice of Meeting; and
  - (ii) the Homeloans Notice of Meeting will state that Resimac is responsible for the Resimac NOM Information, in accordance with clause 4.9.

#### **4.8 Scheme Book responsibility statement**

The Scheme Book will contain a responsibility statement to the effect that:

- (a) Homeloans has prepared, and is responsible for, the Homeloans Scheme Book Information in the Scheme Book, and that Resimac and its directors and officers do not assume any responsibility for the accuracy or completeness of that Homeloans Scheme Book Information; and
- (b) Resimac has prepared, and is responsible for, the Resimac Scheme Book Information in the Scheme Book, and that Homeloans and its directors and officers do not assume any responsibility for the accuracy or completeness of that Resimac Scheme Book Information.

#### **4.9 Homeloans Notice of Meeting responsibility statement**

The Homeloans Notice of Meeting will contain a responsibility statement to the effect that:

- (a) Resimac has prepared, and is responsible for, the Resimac NOM Information in the Homeloans Notice of Meeting, and that Homeloans and its directors and officers do not assume any responsibility for the accuracy or completeness of that Resimac NOM Information; and
- (b) Homeloans has prepared, and is responsible for, the Homeloans NOM Information in the Homeloans Notice of Meeting, and that Homeloans and its directors and officers do not assume any responsibility for the accuracy or completeness of that Homeloans NOM Information; and
- (c) the Independent Expert has prepared and is responsible for the Independent Expert's Report and:
  - (i) Resimac and its respective directors and officers do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report; and
  - (ii) Homeloans and its respective directors and officers do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report.

#### **4.10 Composition of the board of the Merged Group**

- (a) Without limiting any other provision of this agreement including clause 2.2, the parties agree that, on the Implementation Date, subject to Homeloans having provided the Scheme Consideration to Scheme Shareholders in accordance with clause 5:
  - (i) two directors nominated by Homeloans will be appointed (including by continuing as a director of Homeloans) to the Board of the Merged Group with effect from the Implementation Date;

- (ii) Homeloans will procure that, other than the two directors referred to in clause 4.10(a)(i), each other director of Homeloans will retire from the Homeloans Board and the board of each Subsidiary of Homeloans with effect from the Implementation Date;
  - (iii) three directors nominated by Resimac will be appointed to the Board of the Merged Group with effect from the Implementation Date, subject to those persons having provided a consent to act as director, either as a consequence of the passing of the Board Composition Resolution or by the Homeloans Directors appointing those nominees to fill casual vacancies; and
  - (iv) Resimac will nominate to the position of Chair of the Board of the Merged Group, one of the directors appointed to the Board of the Merged Group pursuant to this clause 4.10.
- (b) The parties must use reasonable endeavours to procure that one independent, non-executive director agreed between the parties will be appointed to the Board of the Merged Group with effect from the Implementation Date, either as a consequence of the passing of the Board Composition Resolution or by the Homeloans Directors appointing those persons to fill casual vacancies subject to those persons having provided a consent to act as directors.

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## **5. Scheme Consideration**

### **5.1 Consideration**

Subject to clause 5.2 and the Scheme becoming Effective:

- (a) each Scheme Shareholder is entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder in accordance with the terms and conditions of this agreement and the Scheme; and
- (b) Homeloans covenants and agrees in favour of Resimac (in Resimac's own right and separately as trustee for each of the Scheme Shareholders) that in consideration of the transfer to Homeloans of each Scheme Share held by a Scheme Shareholder under the terms of the Scheme, Homeloans will:
  - (i) accept that transfer; and
  - (ii) provide to each Scheme Shareholder the Scheme Consideration to which they are entitled in respect of each Scheme Share held by that Scheme Shareholder at the Record Date.

### **5.2 Fractional entitlements and share splitting or division**

If the number of Scheme Shares held by a Scheme Shareholder at the Record Date is such that the aggregate entitlement of the Scheme Shareholder to Scheme Consideration comprising Homeloans Shares is such that a fractional entitlement to a Homeloans Share arises, then the entitlement of that Scheme Shareholder must be rounded up or down, with any such fractional entitlement of less than 0.5 being rounded down to the nearest whole number of Homeloans Shares, and any such fractional entitlement of 0.5 or more being rounded up to the nearest whole number of Homeloans Shares.

### **5.3 Homeloans Shares**

Homeloans covenants in favour of Resimac (in its own right and on behalf of each Scheme Shareholder) that:

- (a) the Homeloans Shares issued as Scheme Consideration will, on their issue, rank equally in all respects with all other Homeloans Shares, except that the Homeloans Shares issued as Scheme Consideration will not be entitled to receive any dividend declared by Homeloans in respect of the year ending 30 June 2016;
- (b) it will use best endeavours to ensure that the Homeloans Shares issued as Scheme Consideration will be listed for quotation on the official list of the ASX with effect from the Business Day after the Effective Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary settlement basis (T+3, or T+2, if the ASX has transitioned to T+2 settlement by that time); and
- (c) on issue, each Homeloans Share will be fully paid and free from any Encumbrance.

## **6. Conduct of Resimac's business**

### **6.1 Provision of information about Resimac**

During the period between the date of this agreement and the Implementation Date:

- (a) Resimac will provide Homeloans with monthly finance information in respect of the Resimac Group in a form agreed between the parties; and
- (b) Resimac will use reasonable endeavours to provide the chief executive officer of Homeloans with reasonable access to the Resimac Leadership Team, for the purpose of discussing material matters arising out of the papers provided to Homeloans under clause 6.1(a).

### **6.2 Undertaking**

Subject to clauses 6.3 and 6.4, from the date of this agreement up to and including the Implementation Date, Resimac must:

- (a) procure that each member of the Resimac Group (other than a Resimac SPV) conducts its businesses and operations in the ordinary and usual course (subject to any applicable laws, regulations and licence conditions), including in compliance with any material obligations owed by a member of the Resimac Group to a Resimac SPV; and
- (b) ensure that no Resimac Prescribed Occurrence occurs.

### **6.3 Resimac Call Options**

Notwithstanding any other provision of this agreement, Homeloans acknowledges and agrees that Resimac may enter into, and exercise, the Call Options and that the entry into, and performance of the rights and obligations under, the Call Options will not result in any breach of this agreement, any Condition to not be satisfied or any termination right to arise.

### **6.4 Exceptions**

- (a) The obligations of Resimac under clause 6.2 do not apply to any action undertaken by Resimac, or any failure to take any action by Resimac, to the extent it:
  - (i) is required in respect of the Transaction or is contemplated by the Transaction Documents;
  - (ii) occurs with Homeloans' prior written consent (such consent not to be unreasonably withheld or delayed);

- (iii) results from a change, announced after the date of this agreement, in the accounting policies or practices applied by Resimac as required by law or applicable Accounting Standards; or
- (iv) results from a change, announced after the date of this agreement, to legislation or regulation, including in relation to Tax.

For the avoidance of doubt, nothing in this clause 6 restricts the ability of Resimac to respond to an Alternative Resimac Proposal.

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## **7. Conduct of Homeloans' business**

### **7.1 Access to Homeloans business**

During the Exclusivity Period, Homeloans must provide Resimac and its Representatives with reasonable access during usual business hours and within a reasonable time of a request by Resimac, to the Homeloan Group's senior executives and directors, offices, properties and other facilities and information concerning the Homeloans Group (subject to any existing confidentiality obligations owed to third parties and applicable laws including privacy laws) to the extent reasonably required for the purpose of:

- (a) implementing the Scheme and the Transaction; and
- (b) preparing to integrate the Resimac Group into the Homeloans Group in the event that the Transaction is implemented,

provided that:

- (c) Homeloans is not obliged to comply with such requests by Resimac to the extent that providing access would cause material disruption to the Homeloans Group's business or place an unreasonable burden on the ability of the Homeloans Group to conduct its business; and
- (d) the above obligations cease to operate upon a majority of the Homeloans Board changing or withdrawing their recommendation that Homeloans Shareholders vote in favour of the Homeloans Shareholder Resolutions, or recommending an Alternative Homeloans Proposal.

### **7.2 Undertaking**

Subject to clauses 7.3, 7.4 and 7.5, from the date of this agreement up to and including the Implementation Date, Homeloans must:

- (a) procure that each member of the Homeloans Group conducts its businesses and operations in the ordinary and usual course (subject to any applicable laws, regulations and licence conditions); and
- (b) ensure that no Homeloans Prescribed Occurrence occurs.

### **7.3 Homeloans FY16 Dividend**

Notwithstanding any other provision of this agreement, Resimac agrees that Homeloans may, but is not required to, declare, determine and/or pay the Homeloans FY16 Dividend, provided that the following conditions are satisfied:

- (a) it is not declared or determined until the earlier of the Effective Date and 31 October 2016; and
- (b) there has not at that time been any breach of clause 13.1(g).

## 7.4 Homeloans Performance Rights

Notwithstanding any other provision of this agreement, the Homeloans Board must ensure that the issue of any Escrow Shares on the vesting or exercise of the Homeloans Performance Rights conditional upon the holder of those Escrow Shares executing an Escrow Deed.

## 7.5 Exceptions

- (a) The obligations of Homeloans under clause 7.2 do not apply to any action undertaken by Homeloans, or any failure to take any action by Homeloans, to the extent it:
  - (i) is required in respect of the Transaction or is contemplated by the Transaction Documents;
  - (ii) occurs with Resimac's prior written consent (such consent not to be unreasonably withheld or delayed);
  - (iii) results from a change, announced after the date of this agreement, in the accounting policies or practices applied by Homeloans as required by law or applicable Accounting Standards;
  - (iv) results from a change, announced after the date of this agreement, to legislation or regulation, including in relation to Tax.
- (b) For the avoidance of doubt, nothing in this clause 7 restricts the ability of Homeloans to respond to a Alternative Homeloans Proposal.

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## 8. Recommendation, intentions and announcements

### 8.1 Resimac Board Recommendation and Voting Intention

- (a) Subject to clause 8.1(b), Resimac must ensure that the Announcement and the Scheme Book state that each Resimac Director:
  - (i) recommends that Resimac Shareholders vote in favour of the Scheme Resolutions (**Resimac Recommendation**); and
  - (ii) intends to cause any Resimac Shares in which they have a Relevant Interest to be voted in favour of the Scheme Resolutions (**Resimac Voting Intention**),

provided that each statement may be expressed to be subject to the ability of each Resimac Director to change the Resimac Recommendation and Resimac Voting Intention in accordance with clause 8.1(b).
- (b) Notwithstanding any other provision of this agreement, Homeloans acknowledges that each Resimac Director may publicly (or otherwise) withdraw, change, adversely modify or in any way qualify their Resimac Recommendation or Resimac Voting Intention if a Superior Resimac Proposal is made.

### 8.2 Resimac confirmation

Resimac represents and warrants to Homeloans that each Resimac Director has confirmed their agreement not to do anything inconsistent with their Resimac Recommendation and Resimac Voting Intention (including withdrawing, changing or in any way qualifying their Resimac Recommendation or Resimac Voting Intention) other than in the circumstances referred to in clause 8.1(b).

### 8.3 Homeloans Board Recommendation and Voting Intention

- (a) Subject to clause 8.3(b), Homeloans must ensure that the Announcement and the Homeloans Notice of Meeting state that each Homeloans Director:
- (i) recommends that Homeloans Shareholders vote in favour of the Homeloans Shareholder Resolutions (**Homeloans Recommendation**); and
  - (ii) intends to cause any Homeloans Shares in which they have a Relevant Interest to be voted in favour of the Homeloans Shareholder Resolutions (**Homeloans Voting Intention**),

provided that each statement may be expressed to be subject to the ability of each Homeloans Director to change the Homeloans Recommendation and Homeloans Voting Intention in accordance with clause 8.3(b).

- (b) Notwithstanding any other provision of this agreement, Resimac acknowledges that each Homeloans Director may publicly (or otherwise) withdraw, change, adversely modify or in any way qualify their Homeloans Recommendation or Homeloans Voting Intention if:
- (i) a Superior Homeloans Proposal is made; or
  - (ii) the Independent Expert does not conclude, or ceases to conclude, or adversely changes its previously given opinion, such that it is no longer, that the Transaction is In The Best Interests, where the reason for such conclusion or change in conclusion does not include the existence of an Alternative Homeloans Proposal,

provided that the withdrawal, change, adverse modification or qualification, and any change in the Independent Expert's opinion, does not arise in connection with the entry into, or exercise of, the Call Options.

### 8.4 Homeloans Confirmation

Homeloans represents and warrants to Resimac that each Homeloans Director has confirmed their agreement not to do anything inconsistent with their Homeloans Recommendation and Homeloans Voting Intention (including withdrawing, changing or in any way qualifying their Homeloans Recommendation or Homeloans Voting Intention) other than in the circumstances referred to in clause 8.3(b).

### 8.5 Announcement

Immediately after the execution of this agreement Resimac and Homeloans must issue the Announcement to the ASX.

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## 9. Exclusivity arrangements

### 9.1 Ceased discussions

Homeloans represents and warrants that at the time of entry into this agreement:

- (a) it is not currently in negotiations or discussions in respect of any Alternative Homeloans Proposal with any person; and
- (b) it has ensured that any electronic data room access granted to any Third Party prior to the date of this agreement is withdrawn (except as permitted by clause 9.3, provided clause 9.5 continues to be complied with).



## 9.2 No shop

During the Exclusivity Period, Homeloans must not, and must ensure that its Representatives do not, except with the prior written consent of Resimac, solicit, invite, initiate or encourage any Alternative Homeloans Proposal or any inquiry, expression of interest, offer, proposal, negotiations or discussions by or with any Third Party in relation to, or that may reasonably be expected to encourage or lead to the making of, an Alternative Homeloans Proposal, or communicate any intention to any person to do any of those things.

## 9.3 No talk and no due diligence

During the Exclusivity Period, Homeloans must not, and must ensure that its Representatives do not, except with the prior written consent of Resimac:

- (a) enter into, continue or participate in any negotiations or discussions with, or accept or enter into, or offer to accept or enter into, any agreement, arrangement or understanding with, any Third Party in relation to an Alternative Homeloans Proposal; or
- (b) make available to any Third Party, or permit any Third Party to receive, any non-public information relating to any member of the Homeloans Group in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, an Alternative Homeloans Proposal; or
- (c) communicate to any person an intention to do anything referred to in this clause 9.3,

even if the relevant Alternative Homeloans Proposal (or related discussions) was not directly or indirectly solicited, invited, encouraged or initiated by Homeloans, its Related Bodies Corporate or Representatives, or the Alternative Homeloans Proposal is publicly announced, unless the Homeloans Board determines, in good faith, after taking advice from the Homeloans Board's external legal and financial advisors, that the Alternative Homeloans Proposal is or is reasonably likely to become a Superior Homeloans Proposal.

## 9.4 Notice of Alternative Homeloans Proposal

During the Exclusivity Period, Homeloans must promptly, and in any case by no later than the Business Day following receipt by Homeloans or any of its Representatives of a bona fide expression of interest, offer or proposal from any person with respect to an Alternative Homeloans Proposal:

- (a) notify Resimac of the fact and general nature of the approach; and
- (b) provide to Resimac full details of the identity of the relevant person making or proposing the Alternative Homeloans Proposal and the material terms and conditions of the Alternative Homeloans Proposal, except, in the case of this paragraph (b) only, to the extent the Homeloans Board determines in good faith, after taking advice from the Homeloans Board's external legal and financial advisors that the relevant Alternative Homeloans Proposal is or is reasonably likely to become a Superior Homeloans Proposal and disclosure of the identity of the relevant person or of the material terms and conditions of the Alternative Homeloans Proposal would be reasonably likely to constitute a breach of what they reasonably consider to be their fiduciary or statutory duties or otherwise be unlawful.

## 9.5 Provision of information

During the Exclusivity Period, Homeloans must as soon as possible provide Resimac with:

- (a) in the case of written materials, a copy of; and



(b) in any other case, a written statement of,

any material non-public information about the business or affairs of Homeloans or the Homeloans Group disclosed or otherwise provided to any Third Party (whether that information is disclosed to the Third Party during the Exclusivity Period or was disclosed before the date of this agreement) in connection with an actual, proposed or potential Alternative Homeloans Proposal that has not previously been provided to Resimac. The provision of that of information to a Third Party may only be undertaken if permitted by clause 9.3(b).

## 9.6 Resimac's right of last offer

Without limitation to any other part of this agreement, Homeloans must not enter into a binding implementation agreement to undertake an Alternative Homeloans Proposal and ensure that each member of the Homeloans Board does not change its Homeloans Recommendation or Homeloans Voting Intention as a consequence of receiving an Alternative Homeloans Proposal, unless:

- (a) Homeloans has provided Resimac with full details of the Alternative Homeloans Proposal, including the identity of the person making the Alternative Homeloans Proposal and the price and other material terms and conditions of the Alternative Homeloans Proposal;
- (b) Homeloans has provided Resimac with 5 clear Business Days to submit an irrevocable written offer of a counter proposal to the relevant Alternative Homeloans Proposal which includes variations to the terms of the Transaction (**Revised Proposal**); and
- (c) Resimac has not submitted a Revised Proposal which the Homeloans Board determines, in good faith, after taking advice from the Homeloans Board's external legal and financial advisors, is no less favourable to Homeloans Shareholders compared to the Alternative Homeloans Proposal when taken as a whole,

and if the Homeloans Board does make such a determination that the Revised Proposal is no less favourable to Homeloans Shareholders, the parties must each use best endeavours to, as soon as practicable, agree the necessary amendments to this agreement, and take all other necessary steps, to give effect to the change to the Transaction in accordance with the Revised Proposal, subject to any Superior Homeloans Proposal.

For the purposes of this clause 9.6, each successive material modification of an Alternative Homeloans Proposal will constitute a new Alternative Homeloans Proposal in respect of which Homeloans must comply with this clause 9.6.

## 9.7 Legal advice

Homeloans acknowledges that it has received legal advice on this agreement and the operation of this clause 9.

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## 10. Resimac Break Fee

### 10.1 Payment of costs

- (a) Resimac and Homeloans believe that the Scheme and the Transaction will provide benefits to Resimac and its shareholders and Homeloans, and acknowledge that if the parties enter into this agreement and the Scheme and the Transaction are subsequently not implemented, Homeloans will incur significant costs.
- (b) In the circumstances referred to in clause 10.1(a):
  - (i) Homeloans requested that provision be made for the Resimac Break Fee, without which it would not have entered into this agreement; and

- (ii) the Resimac Board believes that it is appropriate to agree to the Resimac Break Fee in order to secure Homeloans' participation.
- (c) Resimac and Homeloans acknowledge that the Resimac Break Fee is intended by the parties to be purely and strictly compensatory in nature and represents a reasonable estimate of the compensation so as to compensate Homeloans for the following:
  - (i) advisory costs (including costs of advisors other than success fees);
  - (ii) costs of management and directors' time;
  - (iii) out of pocket expenses; and
  - (iv) reasonable opportunity costs in pursuing the Transaction or in not pursuing other alternative transactions or strategic initiatives which Homeloans would have developed to further its business and objectives.

## 10.2 Resimac Break Fee payable

- (a) Subject to clause 10.3, Resimac must pay Homeloans the Resimac Break Fee, without withholding or set off, if:
  - (i) Homeloans has terminated this agreement pursuant to clause 16.3(a) (other than in respect of a Resimac Prescribed Occurrence);
  - (ii) all of the following are satisfied:
    - A. a Resimac Prescribed Occurrence occurs prior to 8.00am on the Second Court Date;
    - B. this agreement is terminated in accordance with clause 16.3(a);
    - C. all of the following apply in relation to the Resimac Prescribed Occurrence:
      - 1) the prevention of the Resimac Prescribed Occurrence was within the control of Resimac; and
      - 2) had the Resimac Prescribed Occurrence occurred prior to the date of this agreement, the Resimac Prescribed Occurrence might reasonably be expected to have resulted in Homeloans not entering into this agreement; and
    - D. Resimac has failed to rectify the Resimac Prescribed Occurrence within 10 Business Days after receipt of notice from Homeloans requiring Resimac to do so;
  - (iii) a majority of the Resimac Directors withdraw or adversely modify their Resimac Recommendation or Resimac Voting Intention; or
  - (iv) Ingot Capital Management Pty Ltd does not vote to approve the Scheme at the Scheme Meeting or makes a public statement that it does not intend to vote in favour of the Scheme.
- (b) For the avoidance of doubt, none of subparagraphs 10.2(a)(i) to 10.2(a)(iv) prevent Homeloans from demanding the Resimac Break Fee pursuant to any other subparagraph of clause 10.2(a) if one or more of those subparagraphs is satisfied.

- (c) Resimac must pay Resimac Break Fee without withholding or set off within 5 Business Days of receiving a written demand from Homeloans for payment of Resimac Break Fee made in the circumstances contemplated in clause 10.2(a), failing which the due amount shall be subject to interest payable by Resimac to Homeloans at a rate of 3% above the Reserve Bank of Australia's published overnight cash rate, from the 5th Business Day after Homeloans' demand was made, until payment of the amount referred to in clause 10.2(a) (plus interest payable under this clause) has been received by Homeloans.

### 10.3 Resimac Break Fee not payable

Despite any other term of this agreement:

- (a) the Resimac Break Fee will not be payable to Homeloans if:
- (i) the Scheme becomes Effective or Homeloans otherwise acquires Control of Resimac; or
  - (ii) Resimac terminates, or is entitled to terminate, this agreement in reliance on clause 16.3(b); or
  - (iii) the Homeloans Shareholder Resolutions (other than the Board Composition Resolution) are put to the Homeloans Shareholders and not passed,
- and any amount already paid under this clause 10 must be promptly refunded by Homeloans; and
- (b) the Resimac Break Fee is only payable once.

### 10.4 Compliance with law

If a court or the Takeovers Panel determines that any part of the Resimac Break Fee:

- (a) constitutes, or would if performed constitute:
- (i) a breach of the fiduciary or statutory duties of the Resimac Board; or
  - (ii) unacceptable circumstances within the meaning of the Corporations Act; or
- (b) would, if paid, be unlawful for any reason,

then Resimac will not be obliged to pay such part of the Resimac Break Fee and, if the Resimac Break Fee has already been paid, then Homeloans must within 5 Business Days after receiving written demand from Resimac refund that part of the Resimac Break Fee to Resimac.

### 10.5 Other claims

Notwithstanding any other provisions of this agreement, the maximum aggregate amount which Resimac is required to pay in relation to a breach of this agreement is an amount equal to the Resimac Break Fee, and in no event will the aggregate liability of Resimac under or in connection with this agreement exceed the Resimac Break Fee, except to the extent such liability arises out of the fraud, dishonesty or wilful default of Resimac or any director, officer or employee of Resimac.

## **11. Homeloans Break Fee**

### **11.1 Payment of costs**

- (a) Resimac and Homeloans believe that the Scheme and the Transaction will provide benefits to Homeloans and its shareholders, and Resimac and its shareholders, and acknowledge that if the parties enter into this agreement and the Scheme and the Transaction are subsequently not implemented, Resimac will incur significant costs.
- (b) In the circumstances referred to in clause 11.1(a):
  - (i) Resimac requested that provision be made for Homeloans Break Fee, without which it would not have entered into this agreement; and
  - (ii) Homeloans Board believes that it is appropriate to agree to Homeloans Break Fee in order to secure Resimac's participation.
- (c) Resimac and Homeloans acknowledge that Homeloans Break Fee is intended by the parties to be purely and strictly compensatory in nature and represents a reasonable estimate of the compensation so as to compensate Resimac for the following:
  - (i) advisory costs (including costs of advisors);
  - (ii) costs of management and directors' time;
  - (iii) out of pocket expenses; and
  - (iv) reasonable opportunity costs in pursuing the Scheme and the Transaction or not pursuing other alternative transactions or strategic initiatives.

### **11.2 Homeloans Break Fee payable**

- (a) Subject to clause 11.3, Homeloans must pay Resimac the Homeloans Break Fee, without withholding or set off, if:
  - (i) Resimac has terminated this agreement pursuant to clause 16.3(b) (other than in respect of a Homeloans Prescribed Occurrence);
  - (ii) all of the following are satisfied:
    - A. a Homeloans Prescribed Occurrence occurs prior to 8.00am on the Second Court Date;
    - B. this agreement is terminated in accordance with clause 16.3(b); and
    - C. all of the following apply in relation to the Homeloans Prescribed Occurrence:
      - 1) the prevention of the Homeloans Prescribed Occurrence was within the control of Homeloans; and
      - 2) had the Homeloans Prescribed Occurrence occurred prior to the date of this agreement, the Homeloans Prescribed Occurrence might

reasonably be expected to have resulted in Resimac not entering into this agreement; and

- D. Homeloans has failed to rectify the Homeloans Prescribed Occurrence within 10 Business Days after receipt of notice from Resimac requiring Homeloans to do so;
- (iii) Homeloans enters into binding transaction documentation to effect an Alternative Homeloans Proposal;
- (iv) an Alternative Homeloans Proposal is announced or made before the date on which this agreement is terminated and, within 12 months after that announcement or proposal is made, the Third Party who announced or made the Alternative Homeloans Proposal or any Associate of that Third Party completes, implements or consummates that Alternative Homeloans Proposal; or
- (v) if a majority of the Homeloans Directors withdraws or adversely modifies their Homeloans Recommendation or Homeloans Voting Intention, except where the Independent Expert does not conclude, ceases to conclude, or adversely changes its previously given opinion that such that it is no longer, that the Transaction is In The Best Interests, where the reason for such conclusion or change in conclusion does not include the existence of an Alternative Homeloans Proposal;
- (b) For the avoidance of doubt, none of subparagraphs 11.2(a)(i) to 11.2(a)(v) prevent Resimac from demanding the Homeloans Break Fee pursuant to any other subparagraph of clause 11.2(a) if one or more of those subparagraphs is satisfied.
- (c) Homeloans must pay Homeloans Break Fee without withholding or set off within 5 Business Days of receiving a written demand from Resimac for payment of Homeloans Break Fee made in the circumstances contemplated in clause 11.2(a), failing which the due amount shall be subject to interest payable by Homeloans to Resimac at a rate of 3% above the Reserve Bank of Australia's published overnight cash rate, from the 5th Business Day after Resimac's demand was made, until payment of the amount referred to in clause 11.2(a) (plus interest payable under this clause) has been received by Resimac.

### 11.3 Homeloans Break Fee not payable

Despite any other term of this agreement:

- (a) the Homeloans Break Fee will not be payable to Resimac if:
  - (i) the Scheme becomes Effective or the Transaction otherwise completes; or
  - (ii) Homeloans terminates, or is entitled to terminate, this agreement in reliance on clause 16.3(a);

and any amount already paid under this clause 11 must be promptly refunded by Resimac; and

- (b) the Homeloans Break Fee is only payable once.

### 11.4 Compliance with law

If a court or the Takeovers Panel determines that any part of the Homeloans Break Fee:

- (a) constitutes, or would if performed constitute:

- (i) a breach of the fiduciary or statutory duties of the Homeloans Board; or
- (ii) unacceptable circumstances within the meaning of the Corporations Act; or
- (b) would, if paid, be unlawful for any reason,

then Homeloans will not be obliged to pay such part of the Homeloans Break Fee and, if the Homeloans Break Fee has already been paid, then Resimac must within 5 Business Days after receiving written demand from Homeloans refund that part of the Homeloans Break Fee to Homeloans.

## 11.5 Other claims

Notwithstanding any other provisions of this agreement, but subject to clause 11.4, the maximum aggregate amount which Homeloans is required to pay in relation to a breach of this agreement is an amount equal to the Homeloans Break Fee, and in no event will the aggregate liability of Homeloans under or in connection with this agreement exceed the Homeloans Break Fee, except to the extent such liability arises out of a breach of clauses 5 or 9, a breach of Homeloans' obligations under the Deed Poll, or the fraud, dishonesty or wilful default of Homeloans or any director, officer or employee of Homeloans.

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## 12. Liability of directors and employees

### 12.1 Liability of directors and employees

- (a) To the maximum extent permitted by law, each party (**first party**) releases all rights against, and agrees that it will not make any claim against, each past, present and future, director, officer and employee of the other party of this agreement (**other party**) in respect of any matter arising in connection with this agreement or the Transaction, including:
  - (i) any breach of any representation or warranty;
  - (ii) any disclosure containing any statement which is false or misleading (whether by omission or otherwise); or
  - (iii) any failure to provide information,

whether current, future, known or unknown, arising at common law, in equity, under statute or otherwise, except to the extent arising from the fraud, dishonesty or wilful default of such director, officer or employee.

### 12.2 Directors' and officers' insurance

The Parties acknowledge and agree that:

- (a) prior to the Effective Date, Resimac will arrange for run off directors' and officers' liability insurance cover (**Run Off Cover**) to be put in place for the benefit of each Beneficiary on, so far as practicable, terms (including as to limits of liability and deductibles) no less favourable than under the Policy under which each Beneficiary is insured prior to the Effective Date;
- (b) the Run Off Cover will cover claims made up to 84 months after the Implementation Date in respect of conduct or matters occurring on or before the Implementation Date; and
- (c) payment for the Run Off Cover may not be made until after the Implementation Date and that Homeloans will, in this event, procure that Resimac pays for the Run

Off Cover as soon as practicable after the Implementation Date but in any event, no later than the last date for payment under the terms of the Run Off Cover or related invoice.

### 12.3 Obligations in relation to directors' and officers' insurance

From the Implementation Date, Resimac must not:

- (a) vary or cancel the Policy or Run Off Cover; or
- (b) unless required under the Policy or Run Off Cover, commit any act or omission that may prejudice any claim by a Beneficiary under the Policy or Run Off Cover.

### 12.4 Directors' and officers' indemnities

- (a) Without limiting any other term of this agreement, from the Effective Date, Homeloans undertakes that it will, in respect of each deed of indemnity, access and insurance (**Relevant Deed**) made by a Resimac Group entity (**Relevant Entity**) in favour of a director or officer of any Resimac Group entity (**Indemnified Person**) from time to time procure that:
  - (i) the Relevant Entity complies with the Relevant Deed; and
  - (ii) to the extent that the Relevant Entity ceases to exist after the Implementation Date, each Indemnified Person has the benefit of an indemnity from another Resimac Group entity of good financial standing on terms no less favourable than those contained in the Relevant Deed as at the Effective Date.
- (b) This clause 12.4 applies to the maximum extent permitted by the Corporations Act and will be read down accordingly.

### 12.5 Benefit

- (a) Homeloans acknowledges that Resimac holds the benefit of this clause 12 to the extent it relates to each Resimac Indemnified Party as trustee for them, and, as such, each such Resimac Indemnified Party may enforce this clause 12 against Homeloans.
- (b) Resimac acknowledges that Homeloans holds the benefit of this clause 12 to the extent it relates to each Homeloans Indemnified Party as trustee for them, and, as such, each such Homeloans Indemnified Party may enforce this clause 12 against Resimac.

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## 13. Representations, warranties and indemnities

### 13.1 Representations and warranties by Homeloans

Homeloans represents and warrants to Resimac (on its own behalf and separately as trustee for each of the Resimac Indemnified Parties):

- (a) on and from the date of this agreement until (and including) 8.00 am on the Second Court Date that:
  - (i) it is a validly existing corporation registered under the laws of its place of incorporation;
  - (ii) the execution and delivery by Homeloans of the Transaction Documents to which Homeloans is party has been properly authorised by all



necessary corporate action and Homeloans has full corporate power and lawful authority to execute and deliver such Transaction Documents and to perform or cause to be performed its obligations under such Transaction Documents;

- (iii) the Transaction Documents to which Homeloans is party constitute legal, valid and binding obligations on it and do not result in a breach of or default under:
    - A. the constitution of Homeloans; or
    - B. any writ, order or injunction, judgment, law, rule or regulation to which Homeloans is party, or by which Homeloans is bound and which would prevent Homeloans' from performing its obligations under this agreement; and
  - (iv) other than as expressly contemplated by clause 3, no shareholder or Regulatory Authority approvals are required to be obtained by Homeloans Group in order for it to execute and perform the Transaction Documents to which it is a party;
- (b) as at the date of this agreement there are:
- (i) 105,727,219 Homeloans Shares on issue; and
  - (ii) 2,520,383 Homeloans Options / Homeloans Performance Rights on issue;
- and Homeloans has not issued (and is not required to issue) any other securities or instruments which are still outstanding (or may become outstanding) and which may convert into Homeloans Shares;
- (c) on the First Court Date, the date the Scheme Book is despatched, the date of the Scheme Meetings and the Second Court Date the Homeloans Scheme Book Information has been prepared and included in the Scheme Book in good faith and on the understanding that:
- (i) Resimac and the Resimac Indemnified Parties have relied on that information for the purposes of considering and approving the Resimac Scheme Book Information in the Scheme Book;
  - (ii) the Homeloans Scheme Book Information complies in all material respects with relevant laws (including the Corporations Act, Listing Rules and relevant Regulatory Guides), and includes all information regarding Homeloans and its Subsidiaries that is required by the Corporations Act, Regulatory Guides and Listing Rules to be included in the Scheme Book, including all the information that would be required under sub-sections 636(1)(c), (f), (g), (h), (i), (k)(ii), (l) and (m) of the Corporations Act to be included in a Homeloans' statement if Homeloans were offering the Scheme Consideration as consideration under a takeover bid;
  - (iii) the Homeloans Scheme Book Information (other than to the extent that it consists of information relating to Resimac that was provided by or on behalf of Resimac) in the form and context in which it appears in the Scheme Book is not misleading or deceptive in any material respect and does not contain any material omission; and
  - (iv) Homeloans has complied with its obligations under clause 4.2(f);
- (d) on the date the Homeloans Notice of Meeting is despatched and the date of the Homeloans Shareholder Meeting:

- (i) the Homeloans NOM Information has been prepared and included in the Homeloans Notice of Meeting in good faith and on the understanding that:
  - A. Resimac and the Resimac Indemnified Parties have relied on that information for the purposes of considering and approving the Resimac NOM Information in the Homeloans Notice of Meeting; and
  - B. the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
- (ii) the Homeloans NOM Information in the Homeloans Notice of Meeting does not contain a statement which is misleading or deceptive in any material respect and does not contain any material omission;
- (iii) Homeloans has complied with its obligations under clause 4.3(k); and
- (iv) the Homeloans NOM Information complies in all material respects with relevant laws (including the Corporations Act, Listing Rules and relevant Regulatory Guides);
- (e) on the date of this agreement, the First Court Date, the date the Scheme Book is despatched, the date the Homeloans Notice of Meeting is despatched, the date of the Scheme Meetings, the date of the Homeloans Shareholder Meeting and the Second Court Date, following the making by Homeloans of the Announcement, Homeloans has complied in all respects with its continuous disclosure obligations under Listing Rule 3.1 and is not withholding any information pursuant to its obligations under Listing Rule 3.1;
- (f) as at the date of this agreement, to the best of the Homeloans Leadership Team's knowledge and belief:
  - (i) the information contained in the Homeloans Due Diligence Materials was collated and prepared in good faith for the purposes of Resimac conducting due diligence in respect of the Transaction and in response to particular written questions or requests for information,
  - (ii) the information contained in the Homeloans Due Diligence Materials is not materially misleading or deceptive (including by omission only to the extent Homeloans has knowingly or intentionally omitted to disclose information to Resimac as part of the Homeloans Due Diligence Materials); and

For the purposes of this Homeloans Warranty, the Homeloans Due Diligence Materials do not include:

- (iii) any financial statements;
- (iv) any information, document, representation, statement, view or opinion to the extent that it contains or expresses a forecast, prediction or projection or is otherwise forward looking after the date of this agreement; and
- (v) any information, document, representation, statement, view or opinion to the extent that the same was not prepared, made or expressed by a member of the Homeloans Group or its Representatives;
- (g) on each date from the date of this agreement until (and including) the Implementation Date:

- (i) the outstanding aggregate balance of all corporate debt facilities entered into by any member of the Homeloans Group (including with Westpac Banking Corporation) is not, and is not reasonably likely to be as at the Implementation Date, greater than \$1,500,000 (excluding any warehouse or term debt facilities);
  - (ii) there will be sufficient cash available to Homeloans on the Implementation Date, after payment of the Homeloans FY16 Dividend, to pay all outstanding transaction costs incurred, accrued, or reasonably expected to be payable, in respect of the Transaction (excluding any RMT cash collections and cash in any reserve accounts); and
  - (iii) there has been no material change to the terms of the warehouse debt facilities to which any member of the Homeloans Group is a party as compared to that disclosed to Resimac in the Homeloans Due Diligence Materials before the date of this agreement;
- (h) on each date from the date of this agreement until (and including) the Implementation Date that none of the following events has occurred in relation to Homeloans:
- (i) an Insolvency Event; and
  - (ii) Homeloans stops paying its debts as and when they fall due, or is declared or taken under any applicable law to be insolvent, or Homeloans' board of directors resolves that it is, or is likely to become at some future time, insolvent.

## 13.2 Qualification of Homeloans Warranties

The Homeloans Warranties and the indemnity under clause 13.3 are subject to, and are deemed to have disclosed against them, matters which:

- (a) have been Fairly Disclosed in the Homeloans Due Diligence Materials; or
  - (b) are within the actual knowledge of the Resimac Leadership Team,
- prior to entry into this agreement.

## 13.3 Homeloans indemnity

- (a) Homeloans acknowledges that in entering into this agreement Resimac and the Resimac Indemnified Parties have relied on Homeloans Warranties.
- (b) Homeloans indemnifies Resimac (on its own behalf and separately as trustee for each of the Resimac Indemnified Parties) against any loss suffered or incurred by reason of any breach of any of Homeloans Warranties.

## 13.4 Representations and warranties by Resimac

Resimac represents and warrants to Homeloans (on its own behalf and separately as trustee for each of Homeloans Indemnified Parties):

- (a) on and from the date of this agreement until (and including) 8.00 am on the Second Court Date:
  - (i) Resimac is a validly existing corporation registered under the laws of its place of incorporation;

- (ii) the execution and delivery by Resimac of the Transaction Documents to which Resimac is party has been properly authorised by all necessary corporate action and Resimac has full corporate power and lawful authority to execute and deliver such Transaction Documents and to perform or cause to be performed its obligations under such Transaction Documents; and
  - (iii) subject to laws generally affecting creditors' rights and the principles of equity, the Transaction Documents to which Resimac is party constitute legal, valid and binding obligations on Resimac and do not result in a breach of or default under:
    - A. the constitution of Resimac; or
    - B. any writ, order or injunction, judgment, law, rule or regulation to which Resimac is party, or by which Resimac is bound and which would prevent Resimac from performing its obligations under this agreement;
- (b) as at the date of this agreement there are 22,230,489 Resimac Shares on issue; and Resimac has not issued (and is not required to issue) any other securities or instruments which are still outstanding (or may become outstanding) and which may convert into Resimac Shares;
- (c) on the First Court Date, the date the Scheme Book is despatched, the date of the Scheme Meetings and the Second Court Date;
  - (i) the Resimac Scheme Book Information has been prepared and included in the Scheme Book in good faith and on the understanding that Homeloans and the Homeloans Indemnified Parties have relied on that information for the purposes of considering and approving the Homeloans Scheme Book Information in the Scheme Book; the Resimac Scheme Book Information in the Scheme Book does not contain a statement which is misleading or deceptive in any material respect and does not contain any material omission;
  - (ii) Resimac has complied with its obligations under clause 4.1(n); and
  - (iii) the Resimac Scheme Book Information complies in all material respects with relevant laws (including the Corporations Act, Listing Rules and relevant Regulatory Guides);
- (d) on the date the Homeloans Notice of Meeting is despatched and the date of the Homeloans Shareholder Meeting:
  - (i) the Resimac NOM Information has been prepared and included in the Homeloans Notice of Meeting in good faith and on the understanding that:
    - A. Homeloans and the Homeloans Indemnified Parties have relied on that information for the purpose of considering and approving the Homeloans NOM Information in the Homeloans Notice of Meeting; and
    - B. the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
  - (ii) the Resimac NOM Information complies in all material respects with relevant laws (including the Corporations Act, Listing Rules and relevant Regulatory Guides), and includes all information regarding the Resimac Group and the Resimac Shareholders that is required by the

Corporations Act, Regulatory Guides and Listing Rules to be included in the Resimac NOM Information;

- (iii) the Resimac NOM Information (other than to the extent that it consists of information relating to Homeloans that was provided by or on behalf of Homeloans) in the form and context in which it appears in the Homeloans Notice of Meeting is not misleading or deceptive in any material respect and does not contain any material omission; and
- (iv) Resimac has complied with its obligations under clause 4.4(f);
- (e) prior to the date of the agreement, Resimac received written confirmation from Ingot Capital Management Pty Ltd that it supports the Transaction and will vote the Resimac Shares it indirectly or directly holds, owns, controls or represents in favour of the Scheme Resolutions, in each case in the absence of a Superior Resimac Proposal and, as at the date of this agreement, Ingot Capital Management Pty Ltd has not withdrawn or modified this confirmation;
- (f) as at the date of this agreement, to the best of the Resimac Leadership Team's knowledge and belief:
  - (i) the information contained in the Resimac Due Diligence Materials was collated and prepared in good faith for the purposes of Homeloans conducting due diligence in respect of the Transaction and in response to particular written questions or requests for information; and
  - (ii) the information contained in the Resimac Due Diligence Materials is not materially misleading or deceptive (including by omission only to the extent Resimac has knowingly or intentionally omitted to disclose information to Homeloans as part of the Resimac Due Diligence Materials); and

For the purposes of this Resimac Warranty, the Resimac Due Diligence Materials do not include:

- (iii) any financial statements;
- (iv) any information, document, representation, statement, view or opinion to the extent that it contains or expresses a forecast, prediction or projection or is otherwise forward looking after the date of this agreement; and
- (v) any information, document, representation, statement, view or opinion to the extent that the same was not prepared, made or expressed by a member of the Resimac Group or its Representatives;
- (g) on each date from the date of this agreement until (and including) the Implementation Date that none of the following events has occurred in relation to Resimac:
  - (i) an Insolvency Event; and
  - (ii) Resimac stops paying its debts as and when they fall due, or is declared or taken under any applicable law to be insolvent, or Resimac's board of directors resolves that it is, or is likely to become at some future time, insolvent.

### 13.5 Qualification of Resimac Warranties

The Resimac Warranties and the indemnity under clause 13.6, are subject to, and are deemed to have disclosed against them, matters which:

- (a) have been Fairly Disclosed in the Resimac Due Diligence Materials; or
  - (b) are within the actual knowledge of the Homeloans Leadership Team,
- prior to entry into this agreement.

### 13.6 Resimac indemnity

- (a) Resimac acknowledges that in entering into this agreement Homeloans and Homeloans Indemnified Parties have relied on the Resimac Warranties.
- (b) Resimac indemnifies Homeloans (on its own behalf and separately as trustee for each of Homeloans Indemnified Parties) against any loss suffered or incurred by reason of any breach of any of the Resimac Warranties.

### 13.7 No representation or reliance

- (a) Each party acknowledges that:
  - (i) no party (nor any person acting on its behalf or any of its Representatives) has made any representation or warranty or other inducement to it to enter into this agreement except for the representations or warranties expressly set out in this clause 13; and
  - (ii) it is not entering into this agreement in reliance on, and it may not rely on, any forecast, budget, estimate, projection, statement of opinion, statement of intention or any other warranty, representation or other statement made or purporting to be made by or on behalf of any other party,

and to the maximum extent permitted by law, all terms and conditions that may be implied by law in any jurisdiction and which are not expressly set out in this agreement are excluded (and to the extent that any terms and conditions of this type cannot be excluded then it irrevocably waives all rights and remedies that it may have in relation to, and releases the other party and each of its Representatives from any liability in respect of, any terms and conditions of this type).

- (b) Homeloans acknowledges that Resimac has not (nor any person acting on its behalf or any of its Representatives) made any warranty, and will not be taken to have made any warranty, whether under the Transaction Documents or otherwise, whether express or implied, in relation to any forecast, budget, estimate, projection, statement of opinion or statement of intention in relation to the Resimac Group provided to Homeloans or its Representatives before the date of this agreement, including as to the accuracy, completeness, reliability or reasonableness of any such matters.

### 13.8 Status of representations and warranties

Each representation and warranty in this clause 13:

- (a) is severable;
- (b) will survive the termination of this agreement; and

- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this agreement.

### **13.9 Status and enforcement of indemnities**

The parties acknowledge and agree that:

- (a) each indemnity in this agreement is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this agreement; and
- (b) it is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this agreement.

### **13.10 Limitation on claims**

No person may make any claim in respect of a breach of clauses 13.1 or 13.4 (including under clauses 13.2 or 13.6) after the date which is 1 year after the earlier of the date this agreement is terminated in accordance with clause 16 and the Implementation Date.

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## **14. Confidentiality and communications**

### **14.1 Confidentiality Deed**

- (a) Each party acknowledges and agrees that it continues to be bound by and in accordance with the terms of the Confidentiality Deed after the date of this agreement.
- (b) The parties acknowledge and agree that the terms of this agreement will prevail over the terms of the Confidentiality Deed to the extent of any inconsistency.

### **14.2 Survival of obligations**

The rights and obligations of the parties under the Confidentiality Deed survive termination of this agreement.

### **14.3 Disclosure on termination of agreement**

The parties agree that, if this agreement is terminated under clause 3.7, 15 or 16, any party may disclose the fact that this agreement has been terminated, where such disclosure is required by the relevant listing rules, by a Regulatory Authority or is otherwise in the reasonable opinion of that party required to ensure that the market in its securities is properly informed.

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## **15. Court proceedings**

### **15.1 Appeal process**

If the Court refuses to make orders convening the Scheme Meeting or approving the Scheme, Resimac and Homeloans must appeal the Court's decision to the fullest extent possible except to the extent that:

- (a) the parties agree otherwise;
- (b) Queen's Counsel or Senior Counsel representing that party in relation to the Scheme indicates that, in their opinion, an appeal would likely have less than a 50% prospect of success;



- (c) there is, in the bona-fide view of the Resimac Board, a Superior Resimac Proposal which should be recommended in preference to the Scheme; or
- (d) there is, in the bona fide view of the Homeloans Board, a Superior Homeloans Proposal which should be recommended in preference to the Transaction,

in which case either party may terminate this agreement by written notice to the other party.

## 15.2 Defence of proceedings

- (a) Each of Resimac and Homeloans must vigorously defend, or must cause to be vigorously defended, any lawsuits or other legal proceeding brought against it (or any of its Subsidiaries) by a Third Party challenging this agreement or the completion of the Transaction.
- (b) Neither Resimac nor Homeloans will settle or compromise (or permit any of its Subsidiaries to settle or compromise) any claim brought by a Third Party in connection with this agreement without the prior written consent of the other, such consent not to be unreasonably withheld.

## 15.3 Costs

Any costs incurred as a result of the operation of this clause 15 will be borne equally by Resimac and Homeloans.

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## 16. Termination

### 16.1 Limited termination rights

This agreement may only be terminated in accordance with clause 3.7, clause 15.1, clause 16.2 or if the parties agree in writing to terminate this agreement.

### 16.2 Termination after Termination Event

This agreement may be terminated if a termination event described in clause 16.3 occurs:

- (a) if one party is specified in the second column of the table in clause 16.3 opposite the termination event, by that party providing written notice to the other party at any time before 8.00 am on the Second Court Date;
- (b) if more than one party is specified in the second column of the table in clause 16.3 opposite the termination event, by either of those parties providing written notice to the other party at any time before 8.00 am on the Second Court Date,

provided that a party (**Terminating Party**) may only terminate this agreement in reliance on the termination event in items (a) or (b) of the table in clause 16.3, if:

- (c) that Terminating Party:
  - (i) acting reasonably and in good faith and after consultation to the extent practicable with each other party, has determined that its commercial interests have been, or are likely to be, affected in any material respect by the relevant event; and
  - (ii) has first given the other parties written notice of the occurrence of the termination event, including relevant details of the facts, matters and circumstances giving rise to the termination event; and

- (d) the termination event has not been remedied by the earlier of 5 Business Days from the date on which the notice in paragraph (d)(i) was given and 8.00 pm on the date one Business Day before the Second Court Date.

### 16.3 Termination Events

Termination event	Who may terminate
(a) Resimac is in material breach of clauses 4.1, 4.4, 6, 8, 10 or 13.4 of this agreement (including the Resimac Warranties), taken in the context of the Transaction, as a whole, other than as a result of a material breach of this agreement by Homeloans.	Homeloans
(b) Homeloans is in material breach of clauses 4.2, 4.3, 5, 7, 8, 9, 11 or 13.1 of this agreement (including the Homeloans Warranties), taken in the context of the Transaction, as a whole, other than as a result of a material breach of this agreement by Resimac.	Resimac
(c) A majority of the Homeloans Directors publicly change or withdraw their Homeloans Recommendation or Homeloans Voting Intention or publicly recommend an Alternative Homeloans Proposal, but only where permitted to do so under this agreement.	Homeloans or Resimac
(d) A majority of the Resimac Directors publicly change or withdraw their Resimac Recommendation or Resimac Voting Intention or publicly recommend an Alternative Resimac Proposal, but only where permitted to do so under this agreement.	Homeloans or Resimac
(e) The Scheme has not become Effective by the End Date.	Homeloans or Resimac

### 16.4 Effect of termination

If this agreement is terminated:

- (a) the provisions of this agreement shall cease to have effect except for the provisions of clauses 1, 10, 11, 12, 13.10, 14, 16.4, and 17 to 19 (inclusive), 20.1 to 20.5 (inclusive), 20.7 to 20.11 (inclusive) and 21 which will survive termination; and
- (b) subject to clause 13.10, each party retains the rights it has against the other in respect of any breach of this agreement occurring before termination.

## 17. Notices

### 17.1 How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement:

- (a) may be given by personal service, post or facsimile or email;
- (b) must be in writing;
- (c) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):

- (i) if to Resimac:

Address: Level 9, 45 Clarence Street Sydney NSW 2000  
Australia

Fax number: +612 9248 2300

Email: MaryC.Ploughman@resimac.com.au

Attention: Mary Ploughman

with a copy in each case to:

Email: jalgar@claytonutz.com

- (ii) if to Homeloans:

Address: Level 16, 68 Pitt Street, Sydney, NSW 2000

Fax number: 02 8267 2045

Email: Scott.McWilliam@homeloans.com.au

Attention: Scott McWilliam

with a copy in each case to:

Email: ian.parkes@homeloans.com.au

- (d) (in the case of personal service, post or facsimile) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party; and
- (e) (in the case of email) must set out the full name and position or title of the sender; and
- (f) must be delivered by hand or posted by prepaid post to the address, sent by fax to the number, or sent by email to the email address, of the addressee, in accordance with this clause 17.1.

### 17.2 When notice taken to be received

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement is taken to be received by the addressee:

- (a) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;
- (b) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
- (c) (in the case of fax) at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the fax machine from which it was sent; and
- (d) (in the case of delivery by hand) on delivery; and
- (e) (in the case of email) unless the party sending the email knows or reasonably ought to suspect that the email and the attached communication were not delivered to the addressee's domain specified in the email address notified for the purposes of clause 17.1, 3 hours after the email was sent,

but if the communication would otherwise be taken to be received on a day that is not a working day or after 5.00 pm, it is taken to be received at 9.00 am on the next working day ("working day" meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

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## 18. GST

### 18.1 Interpretation

- (a) Except where the context suggests otherwise, and subject to clause 18.1(b), terms used in this clause have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (as amended from time to time).
- (b) "Input tax credit" has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* and a reference to an input tax credit entitlement of an entity includes an input tax credit for an acquisition made by that entity but to which another member of the same GST group is entitled.
- (c) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause.
- (d) Any consideration for a supply that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to that supply for the purpose of this clause.

### 18.2 Reimbursements and similar payments

Any payment or reimbursement required to be made under this agreement that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

### 18.3 GST payable

- (a) If GST is payable in relation to a taxable supply made under or in connection with this agreement then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must, subject to clause 18.3(c) pay an additional amount to the Supplier equal to the amount of that GST at the same times as other consideration is to be provided for that supply.

- (b) No payment of any amount pursuant to clause 18.3(a) is required until the Supplier has provided a valid tax invoice to the Recipient.
- (c) Where additional amounts are payable between parties to this agreement pursuant to clause 18.3(a), amounts so payable, to the extent they are equivalent in amount, shall be set off against each other as if paid and each party shall be obliged only to provide the tax invoice referred to in clause 18.3(b) no later than the time at which any consideration is to be first provided for that supply.
- (d) If the GST payable in relation to a supply made under or in connection with this agreement varies from the additional amount paid by the Recipient under clause 18.3(a) then the Supplier must promptly issue an adjustment note to the Recipient and will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this paragraph is deemed to be a payment, credit or refund of the additional amount payable under clause 18.3(a).

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## **19. Entire agreement**

The Transaction Documents and the Confidentiality Deed constitute the entire agreement between the parties in relation to their subject matter and supersede all previous agreements and understandings between the parties in relation to their subject matter.

---

## **20. General**

### **20.1 Amendments**

This agreement may only be varied by a document signed by or on behalf of each party.

### **20.2 Assignment**

A party may not assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

### **20.3 Consents**

Unless this agreement expressly provides otherwise, a consent under this agreement may be given or withheld in the absolute discretion of the party entitled to give the consent and to be effective must be given in writing.

### **20.4 Costs**

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing each Transaction Document.

### **20.5 Counterparts**

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement.

### **20.6 Further acts and documents**

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this agreement.

## 20.7 Remedies

The parties acknowledge that damages may not be a sufficient remedy for breach of this agreement. Specific performance, injunctive relief, or any other remedies which would otherwise be available in equity or in law are available as a remedy for a breach or threatened breach of this agreement by any party, notwithstanding the ability of any party to terminate this agreement or seek damages for such a breach or threatened breach.

## 20.8 No merger

A party's rights and obligations do not merge on completion of any transaction under this agreement.

## 20.9 Severance

If any provision or part of a provision of this agreement is held or found to be void, invalid or otherwise unenforceable (whether in respect of a particular party or generally), it will be deemed to be severed to the extent that it is void or to the extent of violability, invalidity or unenforceability, but the remainder of that provision will remain in full force and effect.

## 20.10 Stamp duties

Homeloans:

- (a) must pay all stamp duties and any related fines and penalties in respect of this agreement, the performance of this agreement and each transaction effected by or made under this agreement;
- (b) must pay to Resimac on demand the amount of any Indemnified Loss suffered or incurred by Resimac arising out of or in connection with any failure to comply with clause 20.10(a); and
- (c) is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause.

## 20.11 Waivers

Without limiting any other provision of this agreement, the parties agree that:

- (a) failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this agreement;
- (b) a waiver given by a party under this agreement is only effective and binding on that party if it is given or confirmed in writing by that party; and
- (c) no waiver of a breach of a term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

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## 21. Governing law, jurisdiction and service of process

### 21.1 Governing law

This agreement is governed by the law applying in New South Wales.

## 21.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non exclusive jurisdiction of the courts of New South Wales, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this agreement; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 21.2(a).



**Schedule 1 Indicative Timetable**

Event	Date
Announcement	20 July 2016
Regulator's Scheme Booklet Draft lodged with ASIC	17 August 2016
Regulator's Homeloans NOM Draft lodged with ASIC	17 August 2016
First Court Date	1 September 2016
Despatch of Scheme Booklet and Homeloans Notice of Meeting	2 September 2016
Scheme Meeting	4 October 2016
Homeloans Shareholder Meeting	4 October 2016
Second Court Date	5 October 2016
Effective Date	6 October 2016
Record Date	13 October 2016
Implementation Date	18 October 2016

Executed as an agreement.

Executed by Resimac Limited in accordance with section 127 of the Corporations Act 2001 (Cth):

Harren J. McLeland  
Signature of director

HARREN J. MCLELAND  
Full name of director

Executed by Homeloans Limited in accordance with section 127 of the Corporations Act 2001 (Cth):

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Full name of director

Mary Ploughman  
Signature of company secretary/director

MARY PLOUGHMAN  
Full name of company secretary/director

\_\_\_\_\_  
Signature of company secretary/director

\_\_\_\_\_  
Full name of company secretary/director

**Executed** as an agreement.

**Executed by Resimac Limited** in accordance  
with section 127 of the Corporations Act 2001  
(Cth):

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of company secretary/director

\_\_\_\_\_  
Full name of director

\_\_\_\_\_  
Full name of company secretary/director

**Executed by Homeloans Limited** in accordance  
with section 127 of the Corporations Act 2001  
(Cth):

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of company secretary/director

ROBERT NORMAN SLOTT

Full name of director

JENNIFER BERNADETTE MURRAY

Full name of company secretary/director



## Annexure A Scheme

# Scheme of Arrangement

Pursuant to section 411 of the Corporations Act

Resimac Limited  
Resimac

The registered holders of fully paid ordinary shares in the capital of  
Resimac as at the Record Date

Clayton Utz  
Lawyers  
Level 15 1 Bligh Street  
Sydney NSW 2000  
GPO Box 9806  
Sydney NSW 2001  
Tel +61 2 9353 4000  
Fax +61 2 8220 6700  
[www.claytonutz.com](http://www.claytonutz.com)

Our reference 13530/14604/80172952

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# Scheme of Arrangement made under section 411 of the Corporations Act 2001 (Cth)

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## Date

**Parties**                      **Resimac Limited** of Level 9, 45 Clarence Street Sydney NSW 2000 (**Resimac**)

The registered holders of fully paid ordinary shares in the capital of Resimac as at the Record Date

## Background

- A.                      Resimac is a company limited by shares incorporated in the state of New South Wales.
- B.                      Homeloans Limited ACN 095 034 003 (**Homeloans**) is a public company incorporated in the state of Western Australia and is admitted to the official list of the ASX.
- C.                      Resimac and Homeloans have entered into the Scheme Implementation Agreement pursuant to which, amongst other things, Resimac has agreed to propose this Scheme to Resimac Shareholders, and each of Resimac and Homeloans have agreed to take certain steps to give effect to the Scheme.
- D.                      If the Scheme becomes Effective, then:
  - (a)                      all the Scheme Shares will be transferred to Homeloans and the Scheme Consideration will be provided to the Scheme Shareholders in accordance with the provisions of the Scheme; and
  - (b)                      Resimac will enter the name and address of Homeloans in the Resimac Share Register as the holder of the Scheme Shares.
- E.                      Homeloans has entered into the Deed Poll for the purpose of covenanting in favour of Scheme Shareholders to perform the obligations contemplated of it under the Scheme.

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## 1. Definitions and interpretation

### 1.1 Definitions

In this document, unless the contrary intention appears or the context requires otherwise:

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

**ASX** means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it known as the Australian Securities Exchange.

**Business Day** means a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally in Melbourne and Sydney.

**Condition** means each condition to this Scheme set out in clause 2.1.

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

**Court** means the Federal Court, New South Wales registry or such other court of competent jurisdiction as Resimac and Homeloans agree in writing.



**Deed Poll** means the deed poll dated [ ] 2016 executed by Homeloans in favour of the Scheme Shareholders (subject to any amendments permitted by its terms).

**Effective** means, when used in relation to the Scheme, the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme.

**Effective Date** means the date on which the Scheme becomes Effective.

**Encumbrance** means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

**End Date** means the later to occur of:

- (a) 31 January 2017; and
- (b) such other date agreed in writing between Resimac and Homeloans.

**Explanatory Memorandum** means the explanatory memorandum to be prepared by Resimac pursuant to section 412 of the Corporations Act in respect of the Scheme in accordance with the terms of the Scheme Implementation Agreement and to be dispatched to the Resimac Shareholders.

**Homeloans Shares** means fully paid ordinary shares in the capital of Homeloans.

**Homeloans Share Register** means the register of members of Homeloans maintained by or on behalf of Homeloans in accordance with section 168(1) of the Corporations Act.

**Implementation Date** means the date which is 3 Business Days after the Record Date or such other date as Resimac and Homeloans agree in writing.

**New Homeloans Share** means a fully paid ordinary share in Homeloans to be provided to Scheme Shareholders under the Scheme.

**Record Date** means 5.00 pm (Sydney time) on the date which is 5 Business Days after the Effective Date or such other time and date agreed in writing between Homeloans and Resimac.

**Resimac Share Register** means the register of members of Resimac maintained by or on behalf of Resimac in accordance with section 168(1) of the Corporations Act.

**Resimac Shareholder** means a person who is registered in the Resimac Share Register as a holder of Resimac Shares.

**Resimac Shares** means fully paid ordinary shares in the capital of Resimac.

**Scheme** means the scheme of arrangement under part 5.1 of the Corporations Act between Resimac and Resimac Shareholders as set out in this document, subject to any alterations or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act and agreed to by Homeloans and Resimac.

**Scheme Consideration** means, subject to clause 5.2, for each Scheme Share held by a Scheme Shareholder at the Record Date, 12.84 new Homeloans Shares.

**Second Court Date** means the first day of hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

**Scheme Implementation Agreement** means the scheme implementation agreement dated 20 July 2016 between Resimac and Homeloans under which, amongst other things, Resimac has agreed to propose the Scheme to Scheme Shareholders, and each of Homeloans and Resimac has agreed to take certain steps to give effect to the Scheme.

**Scheme Meeting** means the meeting of Resimac Shareholders ordered by the Court in relation to the Scheme to be convened under section 411(1) of the Corporations Act.

**Scheme Shares** means a Resimac Share as at the Record Date.

**Scheme Shareholder** means a person who holds Resimac Shares as at the Record Date.

## 1.2 Interpretation

In this document, unless the contrary intention appears or the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes each other gender;
- (c) references to persons includes references to individuals, corporations, other bodies corporate or bodies politic;
- (d) references to paragraphs or clauses are to a paragraph or clause of this document;
- (e) a reference to a statute, regulation or agreement is to such a statute, regulation or agreement as from time to time amended;
- (f) a reference to a person includes a reference to a person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (g) if a time period is specified and dates from a given date or the day of an act or event, it is to be calculated exclusive of that day;
- (h) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (i) a reference to any time is a reference to that time in Sydney, Australia;
- (j) a reference to "\$" or "A\$" is to the lawful currency of the Commonwealth of Australia;
- (k) a reference to a document is that document as varied, novated, ratified or replaced from time to time;
- (l) the interpretation of a substantive provision is not affected by any heading; and
- (m) "includes" in any form is not a word of limitation.

## 1.3 Business Day

Except where otherwise expressly provided, where under this document the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing shall be done on the immediately preceding Business Day.

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## **2. Conditions Precedent**

### **2.1 Conditions to the Scheme**

The Scheme is conditional upon, and will have no force or effect until, the satisfaction of each of the following conditions, and the provisions of clauses 3, 4 and 5 will not come into effect unless and until each of these conditions have been satisfied:

- (a) as at 8.00 am on the Second Court Date each of the conditions set out in clause 3.1 of the Scheme Implementation Agreement (other than the condition relating to the approval of the Court set out in clause 3.1(l) of the Scheme Implementation Agreement) have been satisfied or waived in accordance with the terms of the Implementation Agreement;
- (b) as at 8.00 am on the Second Court Date the Scheme Implementation Agreement has not been terminated;
- (c) the Court approves this Scheme under section 411(4)(b) of the Corporations Act with or without modification;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Scheme as are acceptable to Homeloans and Resimac have been satisfied; and
- (e) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to the Scheme.

### **2.2 Certificates in relation to Conditions Precedent**

On the Second Court Date:

- (a) Resimac must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at 8.00 am on the Second Court Date the conditions set out in clauses 3.1 (other than clause 3.1(l)) of the Scheme Implementation Agreement have been satisfied or waived in accordance with the Scheme Implementation Agreement; and
- (b) Homeloans must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at 8.00 am on the Second Court Date the conditions set out in clauses 3.1 (other than clause 3.1(j)) of the Scheme Implementation Agreement have been satisfied or waived in accordance with the Scheme Implementation Agreement.

### **2.3 Termination of Scheme Implementation Agreement**

Without limiting any rights under the Scheme Implementation Agreement, in the event that the Scheme Implementation Agreement is terminated in accordance with its terms before 8.00 am on the Second Court Date, Resimac and Homeloans are each released from:

- (a) any further obligation to take steps to implement the Scheme; and
- (b) any liability with respect to the Scheme.

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## **3. Scheme**

### **3.1 Effective Date of the Scheme**

Subject to clause 3.2, the Scheme will take effect on and from the Effective Date.

### 3.2 End Date

The Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the End Date, or such later date as Resimac and Homeloans agree in writing.

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## 4. Implementation of Scheme

### 4.1 Lodgement

If the Conditions are satisfied, Resimac must lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Court order approving the Scheme as soon as possible after, and in any event by no later than 5.00 pm on the Business Day following, the date on which the Court approves the Scheme or such other Business Day as Resimac and Homeloans agree in writing.

### 4.2 Transfer of Scheme Shares

On the Implementation Date, subject to the provision of the Scheme Consideration in the manner contemplated by clauses 4.3, 4.4 and 5 and Homeloans having provided Resimac with written confirmation thereof, all of the Scheme Shares will, together with all rights and entitlements attaching to the Scheme Shares, be transferred to Homeloans without the need for any further act by any Scheme Shareholder (other than acts performed by Resimac or its directors as attorney or agent for Scheme Shareholders under this Scheme), by Resimac effecting a valid transfer or transfers of the Scheme Shares to Homeloans, by:

- (a) Resimac delivering to Homeloans a completed share transfer form or forms (which may be a master transfer form) to transfer all of the Scheme Shares to Homeloans duly executed by Resimac as the attorney and agent of each Scheme Shareholder under clause 7.1 of this Scheme;
- (b) Homeloans executing and delivering the share transfer form or forms to Resimac; and
- (c) Resimac immediately after receipt of the share transfer form or forms under clause 4.2(b), entering, or procuring the entry of, the name and address of Homeloans in the Resimac Share Register as the holder of all of the Scheme Shares.

### 4.3 Provision of Scheme Consideration

- (a) On the Implementation Date, in consideration for the transfer to Homeloans of each Scheme Share:
  - (i) Homeloans will issue to each Scheme Shareholder such number of New Homeloans Shares as that Scheme Shareholder is entitled to as Share Consideration under clause 5; and
  - (ii) Homeloans will procure the entry in the Homeloans Share Register of the name and address of each Scheme Shareholder in respect of the Homeloans Shares issued to them.
- (b) Homeloans will send or procure the despatch to each Scheme Shareholder, no later than by midday on the Implementation Date, by prepaid post to their address (as recorded in the Resimac Share Register as at the Record Date), of an uncertificated holding statement for New Homeloans Shares issued to the Scheme Shareholder in accordance with this Scheme.

#### 4.4 Joint holders

In the case of Scheme Shares held in joint names, any holding statements for Homeloans Shares to be issued to Scheme Shareholders will be issued in the names of the joint holders, and will be forwarded to the holder whose name appears first in the Resimac Share Register as at 5:00pm on the Record Date.

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## 5. Scheme Consideration

### 5.1 Consideration

Subject to clause 5.2 and the Scheme becoming Effective, each Scheme Shareholder will be entitled to receive on the Implementation Date the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder at the Record Date.

### 5.2 Fractional entitlements and share splitting or division

(a) If the number of Scheme Shares held by a Scheme Shareholder at the Record Date is such that the aggregate entitlement of the Scheme Shareholder to Scheme Consideration:

- (i) comprising Homeloans Shares is such that a fractional entitlement to a Homeloans Share arises; or
- (ii) comprising cash is such that a fractional entitlement to a cent arises,

then the entitlement of that Scheme Shareholder must be rounded up or down, with any such fractional entitlement of less than 0.5 being rounded down to the nearest whole number of Homeloans Shares, and any such fractional entitlement of 0.5 or more will be rounded up to the nearest whole number of Homeloans Shares.

(b) If Homeloans is of the opinion (acting reasonably) that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares which results in rounding in accordance with clause 5.5(a)) have, before the Record Date, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding, Homeloans may give notice to those Scheme Shareholders:

- (i) setting out their names and registered addresses as shown in the Resimac Share Register;
- (ii) stating that opinion; and
- (iii) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

and, after such notice has been given, the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares will, for the purposes of the other provisions of the Scheme, be taken to hold all of those Scheme Shares and each of the other Scheme Shareholders whose names and registered addresses are set out in the notice will, for the purposes of the other provisions of the Scheme, be taken to hold no Scheme Shares. Homeloans in complying with the other provisions of the Scheme relating to it in respect of the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Shareholders named in the notice under the terms of the Scheme.

### 5.3 Binding instruction or notifications

Except for a Scheme Shareholder's tax file number, any binding instruction or notification between a Scheme Shareholder and Resimac relating to Scheme Shares as at the Record Date (including, without limitation, any instructions relating to payment of dividends or to communications from Resimac) will, from the Record Date, be deemed (except to the extent determined otherwise by Homeloans in its sole discretion) to be a similarly binding instruction or notification to, and accepted by Homeloans, in respect of the Homeloans Shares issued to the Scheme Shareholder until that instruction or notification is revoked or amended in writing addressed to Homeloans at the Homeloans share registry, provided that any such instructions or notifications accepted by Homeloans will apply to and in respect of the issue of Homeloans Shares only to the extent that they are not inconsistent with the other provisions of the Scheme.

### 5.4 Status of New Homeloans Shares

Homeloans covenants in favour of Resimac (in its own right and on behalf of each Scheme Shareholder) that:

- (a) the New Homeloans Shares issued as Scheme Consideration will, on their issue, rank equally in all respects with all other Homeloans Shares.
- (b) it will use best endeavours to ensure that the New Homeloans Shares issued as Scheme Consideration will be listed for quotation on the official list of the ASX with effect from the Business Day after the Effective Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary (T+2) settlement basis; and
- (c) on issue, each New Homeloans Share will be fully paid and, to the extent within the control of Homeloans, free from any Encumbrance.

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## 6. Dealings in Resimac Shares

### 6.1 Dealings in Resimac Shares by Scheme Shareholders

For the purposes of establishing who are Scheme Shareholders, dealings in Resimac Shares will be recognised by Resimac provided that registrable transfers or transmission applications in respect of those dealings are received at the place where the Resimac Share Register is kept by 5:00 pm on the day which is the Record Date (in which case Resimac must register such transfers before 7:00 pm on that day), and Resimac will not accept for registration, or recognise for the purpose of establishing who are Scheme Shareholders, any transmission application or transfer in respect of Resimac Shares received after such time on the Record Date.

### 6.2 Resimac Share Register

Resimac will, until the Scheme Consideration has been paid and Homeloans has been entered in the Resimac Share Register as the holder of all of the Scheme Shares, maintain the Resimac Share Register in accordance with the provisions of this clause 6 and the Resimac Share Register in this form and the terms of this Scheme will solely determine entitlements to the Scheme Consideration.

### 6.3 Information to be made available to Homeloans

Resimac must procure that as soon as practicable following the Record Date, details of the names, registered addresses and holdings of Resimac Shares of every Scheme Shareholder shown in the Resimac Share Register at the Record Date are made available to Homeloans in such form as Homeloans may reasonably require.

## 6.4 Effect of share certificates and holding statements

As from the Record Date (and other than for Homeloans following the Implementation Date), all share certificates for the Scheme Shares will cease to have effect as documents of title, and each entry on the Resimac Share Register at that date will cease to have any effect other than as evidence of entitlement to the Scheme Consideration.

## 6.5 No disposals after Record Date

If the Scheme becomes Effective, a Scheme Shareholder, and any person claiming through that Scheme Shareholder, must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after the Record Date.

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## 7. General Scheme provisions

### 7.1 Appointment of agent and attorney

Each Scheme Shareholder, without the need for any further act, irrevocably appoints Resimac as its agent and attorney for the purpose of:

- (a) executing any document or form or doing any other act necessary to give effect to the terms of the Scheme including, without limitation, the execution of the share transfer(s) to be delivered under clause 4.2(a) and the giving of the Scheme Shareholders' consent under clause 7.3; and
- (b) enforcing the Deed Poll against Homeloans,

and Resimac accepts such appointment. Resimac, as agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 7.1 to all or any of its directors and officers (jointly, severally, or jointly and severally).

### 7.2 Enforcement of Deed Poll

Resimac undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Homeloans (as applicable on behalf of and as agent and attorney for the Scheme Shareholders).

### 7.3 Scheme Shareholders' consent

Each Scheme Shareholder irrevocably:

- (a) consents to Resimac and Homeloans doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, incidental or expedient to the implementation and performance of the Scheme; and
- (b) acknowledges that the Scheme binds Resimac and all of the Resimac Shareholders from time to time (including those who do not attend the Scheme Meeting, do not vote at that meeting or vote against the Scheme).

### 7.4 Scheme Shareholder's agreements

Under the Scheme:

- (a) each Scheme Shareholder to whom Homeloans Shares are to be issued in accordance with the Scheme:
  - (i) agrees to become a member of Homeloans and to have their name entered in the Homeloans Share Register; and



- (ii) accepts the Homeloans Shares issued under the Scheme on the terms and conditions of the constitution of Homeloans and agrees to be bound by the constitution of Homeloans as in force from time to time in respect of the Homeloans Shares,

without the need for any further act by a Scheme Shareholder; and

- (b) each Scheme Shareholder agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to Homeloans in accordance with the terms of the Scheme.

## **7.5 Warranty by Scheme Shareholders**

Each Scheme Shareholder is deemed to have warranted to Homeloans that all their Scheme Shares (including any rights and entitlements attaching to those shares) will, at the date of the transfer of them to Homeloans, be fully paid and free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to sell and to transfer their Scheme Shares together with any rights and entitlements attaching to such shares.

## **7.6 Title to Scheme Shares**

Subject to the provision of the Scheme Consideration for the Scheme Shares, as provided for in clauses 4 and 5, on and from the Implementation Date, Homeloans will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Resimac of Homeloans in the Resimac Share Register as the holder of the Scheme Shares.

## **7.7 Alterations and Conditions**

Resimac may, by its counsel or solicitors, and with the consent of Homeloans, consent on behalf of all persons concerned, including a Scheme Shareholder, to any modification of or amendment to the Scheme which the Court thinks fit to impose.

## **7.8 Notices**

Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to Resimac, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at Resimac's registered office.

## **7.9 Inconsistencies**

This Scheme binds Resimac and all Resimac Shareholders, and to the extent of any inconsistency, overrides the Resimac constitution.

## **7.10 Further assurance**

Resimac will execute all documents and do all acts and things as may be necessary or expedient for the implementation of, and performance of its obligations under, the Scheme.

## **7.11 Stamp Duty**

Homeloans will pay any stamp duty payable on the transfer by Scheme Shareholders of the Scheme Shares to Homeloans.

## 7.12 Governing Law

This Scheme is governed by the law applying in New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings in connection with the Scheme.

**Annexure B Deed Poll**

# Deed Poll

(in respect of the Scheme)

Homeloans Limited  
Homeloans

In favour of each registered holder of fully paid ordinary shares in the capital of Resimac Limited as at the Record Date

Clayton Utz  
Lawyers  
Level 15 1 Bligh Street  
Sydney NSW 2000  
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Our reference 13530/14604/80172952

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**Deed poll made on****2016****Parties**

**Homeloans Limited ACN 095 034 003** of Level 5, 50 St Georges Terrace, Perth WA 6000 (**Homeloans**)

**In favour of**

**Each registered holder of fully paid ordinary shares in the capital of Resimac Limited ACN 002 997 935 (Resimac)** on issue as at the Record Date (**Scheme Shareholders**)

**Background**

- A. Resimac and Homeloans have entered into the Implementation Agreement.
- B. Resimac has agreed in the Implementation Agreement to propose a scheme of arrangement between Homeloans and the Scheme Shareholders, the effect of which will be that Homeloans acquires all of the Scheme Shares from Scheme Shareholders for the Scheme Consideration, subject to the satisfaction of certain conditions.
- C. In accordance with clause 4.2(h) of the Implementation Agreement, Homeloans is entering into this deed poll to covenant in favour of the Scheme Shareholders that it will observe and perform its obligations under the Scheme.

---

**1. Definitions and interpretations**
**1.1 Definitions**

In this deed poll:

- (a) **Scheme** means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between Resimac and the Scheme Shareholders, subject to any alterations or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act and agreed to by Homeloans and Resimac.
- (b) **Implementation Agreement** means the scheme implementation agreement dated 20 July 2016 between Resimac and Homeloans (as amended) under which, amongst other things, Resimac has agreed to propose the Scheme to Scheme Shareholders, and each of Homeloans and Resimac has agreed to take certain steps to give effect to the Scheme.
- (c) Capitalised terms have the meaning given to them in the Scheme, unless the context requires otherwise.

**1.2 Interpretation**

In this deed poll, unless the contrary intention appears or the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes each other gender;
- (c) references to persons includes references to individuals, corporations, other bodies corporate or bodies politic;
- (d) references to paragraphs or clauses are to a paragraph or clause of this deed poll;
- (e) a reference to a statute, regulation or agreement is to such a statute, regulation or agreement as from time to time amended;

- (f) a reference to a person includes a reference to a person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (g) if a time period is specified and dates from a given date or the day of an act or event, it is to be calculated exclusive of that day;
- (h) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (i) unless otherwise stated, a reference to any time is a reference to that time in Sydney, Australia;
- (j) a reference to "\$" or "A\$" is to the lawful currency of the Commonwealth of Australia;
- (k) a reference to a document is to that document as varied, novated, ratified or replaced from time to time;
- (l) the interpretation of a substantive provision is not affected by any heading; and
- (m) "includes" in any form is not a word of limitation.

### **1.3 Nature of deed poll**

Homeloans acknowledges that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it; and
- (b) under the Scheme, each Scheme Shareholder appoints Resimac as its agent and attorney to enforce this deed poll against Homeloans.

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## **2. Conditions**

### **2.1 Conditions Precedent**

Homeloans's obligations under this deed poll are subject to the Scheme becoming Effective.

### **2.2 Termination**

If the Implementation Agreement is terminated or the Scheme does not become Effective on or before the End Date, the obligations of Homeloans under this deed poll automatically terminate and the terms of this deed poll will be of no further force or effect, unless Resimac and Homeloans otherwise agree in accordance with the Implementation Agreement.

### **2.3 Consequences of termination**

If this deed poll is terminated under clause 2.2, then in addition and without prejudice to any other rights, powers or remedies available to it, Homeloans is released from its obligations to further perform this deed poll except those obligations under clause 6.1 and any other obligations which by their nature survive termination.

---

## **3. Compliance with Scheme obligations**

### **3.1 Scheme Consideration**

Subject to clause 2, in consideration for the transfer to Homeloans of each Scheme Share, on the Implementation Date, Homeloans will provide to each Scheme Shareholder the Scheme



Consideration for each Scheme Share held by them in accordance with the terms of the Scheme.

### **3.2 Official quotation of Homeloans Shares**

Homeloans will seek confirmation from ASX that the Homeloans Shares will be listed for quotation on the official list of ASX, with effect from the Business Day after the Effective Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary (T+2) settlement basis.

### **3.3 Other obligations of Homeloans**

Subject to clause 2, Homeloans:

- (a) must procure that all obligations of Homeloans to pay the Scheme Consideration to each Scheme Shareholder in accordance with clauses 4.2, 4.3 and 5 of the Scheme are met; and
- (b) covenants in favour of the Scheme Shareholders to perform all other obligations that are attributed to it under the Scheme, as if named as a party to the Scheme.

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## **4. Warranties**

Homeloans represents and warrants that:

- (a) it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) the execution and delivery by it of this deed poll has been properly authorised by all necessary corporate action and it has full corporate power and lawful authority to perform or cause to be performed its obligations under this deed poll and to carry out or cause to be carried out the transactions contemplated by this deed poll; and
- (c) this deed poll will constitute legally, valid and binding obligations on it enforceable in accordance with its terms (subject to any necessary stamping) and does not conflict with or result in a breach of or default under:
  - (i) the constitution or equivalent constituent documents of it or any of its Related Bodies Corporate (as defined in the Implementation Agreement); or
  - (ii) any writ, order or injunction, judgment, law, rule or regulation to which it is party, or by which it is bound.

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## **5. Continuing obligations**

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Homeloans has fully performed its obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

## **6. General**

### **6.1 Stamp duty**

Homeloans will:

- (a) pay or procure the payment of all stamp duties and any related fines and penalties in respect of this deed poll, the performance of this deed poll and each transaction effected by or made under this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 6.1(a).

### **6.2 Waiver**

- (a) Waiver of any right arising from a breach of this deed poll or of any right, power, authority, discretion or remedy arising upon default under this deed poll must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
  - (i) a right arising from a breach of this deed poll; or
  - (ii) a right, power, authority, discretion or remedy created or arising upon default under this deed poll,
 does not result in a waiver of that right, power, authority, discretion or remedy.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this deed poll or on a default under this deed poll as constituting a waiver of that right, power, authority, discretion or remedy.
- (d) A party may not rely on any conduct of another party as a defence to the exercise of a right, power, authority, discretion or remedy by that other party.
- (e) This clause 6.2 may not itself be waived except in writing.

### **6.3 Variation**

A provision of this deed poll may not be varied unless:

- (a) before the Second Court Date, the variation is agreed to in writing by Resimac and Homeloans; or
- (b) on or after the Second Court Date, the variation is agreed to in writing by Resimac and Homeloans, and is approved by the Court,

in which event Homeloans will enter into a further deed poll in favour of the Scheme Shareholders giving effect to such amendment or variation.

### **6.4 Cumulative rights**

The rights, powers and remedies of Homeloans and each Scheme Shareholder under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by the law independently of this deed poll.

## 6.5 Assignment

The rights and obligations of Homeloans and the rights of each Scheme Shareholder under this deed poll are personal and must not be assigned, charged or otherwise dealt with at law or in equity.

## 6.6 Further action

Homeloans will promptly do all things and execute and deliver all further documents required by law to give effect to this deed poll.

---

## 7. Governing law and jurisdiction

- (a) This deed poll is governed by the law applying in New South Wales.
- (b) Homeloans irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to for any proceedings in connection with this deed poll.

**Executed** as a deed poll.

**Executed by Homeloans Limited ACN 095 034 003** in accordance with section 127 of the Corporations Act 2001 (Cth):

---

Signature of director

---

Signature of company secretary/director

---

Full name of director

---

Full name of company secretary/director

**Annexure C Escrow Deed**

# Escrow Deed

in relation to **[name]** (Holder)

Clayton Utz  
Lawyers  
Level 15 1 Bligh Street  
Sydney NSW 2000  
GPO Box 9806  
Sydney NSW 2001  
Tel +61 2 9353 4000  
Fax +61 2 8220 6700  
**[www.claytonutz.com](http://www.claytonutz.com)**

Our reference 13530/18470/80172952

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# Escrow Deed

---

## Date

## Parties

**Homeloans Limited** ACN 095 034 003 of Level 5, 50 St George's Terrace  
Perth, Western Australia 6000 (**Company**)

The **Holder** means the person whose name and address is set out in part 1 of  
Schedule 1 (**Holder**)

A **Controller** means the person whose name and address is set out in part 2 of  
Schedule 1 (**Controller**)

## Background

- A. The Holder undertakes to the Company to hold the Escrow Shares pursuant and subject to the terms of this deed.
- B. The Controller undertakes to the Company to hold its Controller Interests pursuant and subject to the terms of this deed.

## Operative provisions

---

### 1. Definitions and interpretation

#### 1.1 Definitions

**Affiliate** means any other Person which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the Holder (for the purposes of this definition, "control" (including, with correlative meanings, the terms "controlling", "controlled by" and "under common control with") as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise) and Affiliated has the correlative meaning.

**Affiliated Fund** means each corporation, trust, limited liability company, general or limited partnership or other entity under common control with the Holder or that receives investment advice from the investment adviser to the Holder or any of the investment adviser's Affiliates.

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

**ASX** means ASX Limited (ABN 98 008 624 691) or the financial market conducted by ASX Limited, as the context requires.

**ASX Listing Rules** means the listing rules of ASX.

**ASX Settlement** means ASX Settlement Pty Limited (ABN 49 008 504 532).

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

**Board** means the board of directors of the Company.

**Business Day** means a day in Sydney on which:

- (a) ASX is open for trading in securities; and



- (b) banks are open for general banking business.

**Control** means, in respect of a person, the capacity to determine the outcome of decisions in relation to the financial and operating policies of that person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise (and, without limiting the previous words, a person is deemed to Control another person if it holds, directly or indirectly, together with other persons it Controls, the beneficial interest in more than 50% of the total voting rights in the other person) and **Controlled** and **Controlling** have corresponding meanings.

**Controller Interests** means any securities, any legal, beneficial, economic interest or other interests in the Escrow Shares or in the Holder or in any Transferee.

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

**Deal** means:

- (a) sell, assign, transfer or otherwise dispose of, or agree or offer to sell, assign, transfer or otherwise dispose of;
- (b) enter into any option which, if exercised, enables or requires the relevant security holder to sell, assign, transfer or otherwise dispose of;
- (c) create, agree to, or offer to, create, or permit to be created any Security Interest in or over; or
- (d) do or omit to do, any act if the act or omission would have the effect of transferring effective ownership or control of,

and **Dealing** has a corresponding meaning.

**Escrow Period** means the period commencing on the date on which the Escrow Shares are first quoted on the ASX until 4.15pm on the Release Date.

**Escrow Shares** means [insert] number of Shares issued and allotted by the Company to the Holder.

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

**Governmental Agency** means any government (in any jurisdiction, whether federal, state, territorial or local), or representative of a government (including any minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government or in which any government is interested) or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity in Australia. It includes without limitation, ASIC, any non-government regulatory authority including the ASX and any other stock exchange.

**Holding Lock** has the meaning given in section 2 of the ASX Settlement Operating Rules.

**Issuer Sponsored Subregister** has the meaning given to that term in the settlement rules of ASX Settlement.

**Person** means any individual, partnership, corporation, company, association, trust, joint venture, limited liability company, unincorporated organisation, entity or division.

**PPSA** means the Personal Property Securities Act 2009 (Cth).

**PPSA Security Interest** means a "security interest" within the meaning of the PPSA.

**Release Date** means the earlier of 31 August 2017 and the date ending twelve (12) months from the relevant the date on which the Escrow Shares are first quoted on the ASX.

**Resimac** means Resimac Limited ACN 002 997 935.

**Scheme Implementation Agreement** means the scheme implementation agreement between the Company and Resimac dated 20 July 2016.

**Security Interest** means an interest or power:

- (a) reserved in or over an interest in any securities including any retention of title;
- (b) created or otherwise arising in or over any interest in any securities under a bill of sale, mortgage, charge, lien, pledge, trust or power,

by way of, or having similar commercial effect to, security for the payment of a debt, any other monetary obligation or the performance of any other obligation, but is not limited to:

- (c) any agreement to grant or create any of the above; or
- (d) a PPSA Security Interest or any other encumbrance.

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

**Share Registry** means the share registry engaged by the Company to administer and manage its register of members.

**Subsidiary** has the meaning given in the Corporations Act.

**Takeover Bid** means a takeover bid for Shares under Chapter 6 of the Corporations Act.

**Transferee** has the meaning given in clause 3.9.

**Voluntary Escrow Deed** means a voluntary escrow deed entered into in connection with the Scheme Implementation Agreement.

## 1.2 Interpretation

In this deed

- (a) headings are for convenience only and do not affect interpretation,

and unless the context indicates a contrary intention:

- (b) a reference to conduct includes an omission, statement and undertaking, whether or not in writing;
- (c) a reference to any party includes that party's executors, administrators, successors, substitutes and assigns, including any person taking by way of novation;
- (d) a reference to this deed or to any other agreement, deed or document includes, respectively, this deed or that other agreement, deed or document as amended, novated, supplemented, varied or replaced from time to time;
- (e) words importing the singular include the plural (and vice versa), words denoting a given sex include the other sex, and words denoting individuals include corporations (and vice versa);
- (f) the word "including" or any other form of that word is not a word of limitation;

- (g) references to "applicable law" include all laws and regulations of jurisdictions applicable to a Group Company or other entities, as the case may be (including the Corporations Act and any other laws and regulations of a jurisdictions outside Australia), and rules, policies, official directives, orders or requirements of any Government Agency, including the ASX Listing Rules, ASX Settlement Operating Rules and the applicable listing requirements of the ASX, except to the extent compliance is modified, waived or exempted in favour of a person in the relevant circumstances;
- (h) references to any legislation or to any section or provision of any legislation includes any statutory modification or re-enactment or any statutory provision substituted for it, and ordinances, by laws, regulations, and other statutory instruments issued under any legislation, and references to other applicable laws includes any modifications or provisions substituted for them by a competent Government Agency;
- (i) references to parties, clauses, schedules, exhibits or annexures are references to parties, clauses, schedules, exhibits and annexures to or of this deed, and a reference to this deed includes any schedule, exhibit and annexure;
- (j) if any day appointed or specified by this deed for the payment of any money or doing of any thing falls on a day which is not a Business Day, the day so appointed or specified will be deemed to be the next Business Day;
- (k) references to currency are references to Australian currency;
- (l) references to payments to any party to this deed will be construed to include payments to another person upon the direction of such party;
- (m) all payments to be made under this deed must be made by unendorsed bank cheque or other immediately available funds and in Australian currency; and
- (n) all references to time are to the time in Sydney (unless otherwise indicated).

### **1.3 Compliance with ASX Listing Rules**

For so long as the Company is listed on the official list of the ASX:

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

## **1.4 No Controller**

For the avoidance of doubt, if, by the time this deed has been entered into by the Holder and the Company, no Controller details have been inserted in Part 2 of Schedule 1 and no person has executed this deed as the Controller, the parties acknowledge and agree that:

- (a) no person enters into this deed in the capacity of the Controller;
- (b) all rights, obligations and liabilities that would otherwise accrue to or in relation to the Controller and Controller Interests pursuant to this deed, do not accrue in any person;
- (c) all references in this deed to the parties to this deed mean the Holder and the Company only; and
- (d) this deed commences and continues in full effect according to its terms (except as expressly provided in this clause 1.4) between the Holder and the Company.

---

## **2. Condition Precedent**

The undertakings of the Holder and the Controller pursuant to this deed are conditional upon quotation of the Escrow Shares on ASX occurring.

---

## **3. Escrow**

### **3.1 Holder restrictions**

During the Escrow Period, the Holder agrees that it will not:

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

any or all of the Escrow Shares.

### **3.2 Controller restrictions**

During the Escrow Period, the Controller agrees that it will not:

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

any or all of its Controller Interests. In particular, the Controller and Holder must not do, or omit to do, during the Escrow Period any act that would result in (or would likely result in) the reconfiguration or restructure of the Holder, including any act or omission that would (or would likely) result in a person:

- (d) who did not have Control of the Holder (as at the date of this deed) gaining Control of the Holder; or
- (e) having Control of the Holder (as at the date of this deed) ceasing to have Control of the Holder.

### **3.3 Escrow restrictions**

The parties acknowledge and agree that:

- (a) as soon as practicable following the issue and allotment of the Escrow Shares, the Escrow Shares will be registered and held for the Holder on the Issuer Sponsored Subregister;
- (b) the Company will apply a Holding Lock on the Escrow Shares as soon as practicable after registration of the Escrow Shares on the Issuer Sponsored Subregister and the Holder agrees to the application of the Holding Lock; and
- (c) the Company will do all things necessary to ensure that the Holding Lock is released (including notifying ASX in accordance with ASX Listing Rule 3.10A and procuring release of the Holding Lock by the Share Registry):
  - (i) to the extent necessary to permit Dealings of the Escrow Shares permitted by this deed; and
  - (ii) in full at the conclusion of the Escrow Period.

### **3.4 Notice by Holder**

If the Holder becomes aware:

- (a) that any action, event or circumstance referred to in clause 3.1 has occurred, or is likely to occur, during the Escrow Period; or
- (b) of any matter which is likely to give rise to any action, event or circumstance referred to in clause 3.1 during the Escrow Period,

it must notify the Company as soon as practicable after becoming aware of the action, event, circumstance or matter, as applicable, providing full details.

### **3.5 Notice by Controller**

If the Controller becomes aware:

- (a) that any action, event or circumstance referred to in clause 3.2 has occurred, or is likely to occur, during the Escrow Period; or
- (b) of any matter which is likely to give rise to any action, event or circumstance referred to in clause 3.2 during the Escrow Period,

it must notify the Company as soon as practicable after becoming aware of the action, event, circumstance or matter, as applicable, providing full details.

### **3.6 Dividends and voting rights**

The terms of this deed will have no effect on any rights of the Holder to receive or participate in dividends, any rights issue, bonus issue, return of capital or other distributions in connection with the Escrow Shares or to exercise voting rights in respect of the Escrow Shares.

### **3.7 Takeovers, mergers and reorganisations**

Clauses 3.1 and 3.2 will cease to apply to the extent necessary to allow:

- (a) the Holder to accept an offer made under a Takeover Bid for any of the Escrow Shares, provided that:

- (i) without limiting clause 3.7(a)(ii), holders of not less than 50% of the Shares to which the Takeover Bid relates that are not subject to a Voluntary Escrow Deed have accepted the Takeover Bid; and
  - (ii) the Takeover Bid is unconditional or all conditions to the Takeover Bid have been satisfied or waived;
- (b) the Holder to tender any of the Escrow Shares into a bid acceptance facility established in connection with a Takeover Bid, provided that holders of not less than 50% of the Shares to which the Takeover Bid relates that are not subject to a Voluntary Escrow Deed have either accepted the Takeover Bid or tendered (and not withdrawn) their Shares into the bid acceptance facility; or
- (c) the Escrow Shares to be transferred or cancelled as part of an equal Share buyback or equal return of capital or other similar pro rata reorganisation, a merger being implemented by way of a scheme of arrangement or an acquisition of all Shares, which has in any such case received all necessary approvals, including all such necessary approvals by shareholders of the Company and courts,

provided that, if for any reason any or all Escrow Shares are not transferred or cancelled in accordance with a Takeover Bid, scheme of arrangement or other transaction described in clause 3.7(a), 3.7(b) or 3.7(c), then the Holder agrees that the restrictions applying to the Escrow Shares under this deed (including under clauses 3.1, 3.2 and 3.3) will continue to apply and without limiting the foregoing, the Holding Lock will be reapplied to all Escrow Shares not so transferred or cancelled.

### **3.8 Reorganisation**

Clauses 3.1 and 3.2 will cease to apply to the extent necessary to allow a Dealing in Escrow Shares or Controller Interests to enable the Holder or the Controller to undertake a reorganisation, subject to:

- (a) the prior consent of the Company in writing;
- (b) the Holder, or if a person enters into this deed in the capacity of the Controller, the Controller, retaining ultimate control of the Escrow Shares: and
- (c) any new holder of the Escrow Shares or Controller Interests agreeing to be bound by a deed in substantially the same terms as this deed (and the Controller agreeing not to dispose of any Controller Interests).

### **3.9 Other exceptions**

Clauses 3.1 and 3.2 will cease to apply to the extent necessary to allow a Dealing in Escrow Shares or Controller Interests:

- (a) if required by applicable law or pursuant to an order of a court of competent jurisdiction compelling any Escrow Shares or Controller Interests to be Dealt with;
- (b) (if the Holder or Controller is a natural person) following the death, serious disability or permanent incapacity through ill health of the Holder or Controller (which for serious disability or permanent incapacity through ill health shall be deemed to be so for any absence of at least six months in a 12 month period or as otherwise determined by the Board, acting reasonably); or
- (c) if the Dealing constitutes a disposal of, but not the creation of a Security Interest in, some or all of the Escrow Shares or Controller Interests to:
  - (i) a company wholly-owned by the Holder;

- (ii) a trust in relation to which the Holder is the beneficiary; or
- (iii) an Affiliate or Affiliated Fund of the Holder,

(each a **Transferee**), where the Transferee also enters into an escrow arrangement with the Company in respect of those Escrow Shares on substantially the same terms as this Deed for the remainder of the relevant Escrow Period (and the Controller agrees not to dispose of any Controller Interests).

---

## **4. Termination**

- (a) This deed terminates with immediate effect and without the action of any party upon the expiry of the Escrow Period.
- (b) For the avoidance of doubt, the Escrow Shares will no longer be escrowed under the terms of this deed at the expiration of the Escrow Period.
- (c) The Company will procure that the Share Registry releases the Holding Lock in respect of the Escrow Shares, if still in effect, as soon as possible following termination of this deed. This clause 4(c) will survive termination of this deed.

---

## **5. Warranties and acknowledgement**

### **5.1 Giving of warranties**

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

- (a) as at the date of this deed, unless a later date is specified in clause 5.2 or 5.3; and
- (b) from the applicable date under clause 5.1(a), at all times until expiry of the applicable Escrow Period.

The warranties and representations in this clause 5 are given in respect of any and all Escrow Shares from time to time during the Escrow Period.

### **5.2 Holder warranties and representations**

The Holder warrants and represents the following:

- (a) prior to the Escrow Period it has not done, or omitted to do, any act which would result in a Dealing in the Escrow Shares which will take effect during the Escrow Period;
- (b) it has full power and authority, without the consent of any other person, to enter into and perform its obligations under this deed (including, if the Holder has entered into this deed as a trustee, under the trust deed for the relevant trust and any other constituent document of the relevant trust);
- (c) it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms;
- (d) this deed constitutes a legal, valid and binding obligation on it and, subject to any necessary stamping and registration, is enforceable in accordance with its terms;
- (e) the execution, delivery and performance by the Holder of this deed does not and will not violate, breach or result in a contravention of:
  - (i) any applicable law, regulation or authorisation;

- (ii) its constitution or other constituent documents, if any (if the Holder is a body corporate), and if the Holder is a trustee, the trust deed for the relevant trust; or
  - (iii) any agreement, undertaking, Security Interest or document which is binding on the Holder;
- (f) it holds, or will hold, upon issue and allotment of those Shares by the Company in accordance with the Scheme Implementation Agreement, the Escrow Shares unless the Escrow Shares are Dealt with as expressly permitted by this deed;
- (g) the Escrow Shares of the Holder are free from all Security Interests and other third party interests or rights (other than under the Company's constitution to the extent it is on foot) and will remain so during the relevant Escrow Period except to the extent permitted under this deed;
- (h) if the Holder is a trustee, it is the sole trustee of the relevant trust and, to the best of its knowledge and belief, there is no proposal to remove it as trustee of the trust;
- (i) if the Holder is a trustee:
  - (i) the Holder has the right to be fully indemnified out of the assets of the relevant trust in respect of any liability arising under, or in connection with, this deed and the right has not been modified, released or diminished in any way. The assets of the trust are sufficient to satisfy that right in full and that Holder has not released or disposed of its equitable lien over that trust; and
  - (ii) the relevant trust has not been terminated and there is no effective proposal or requirement to wind up, deregister, terminate, reconstitute or resettlement the trust; and
- (j) if no person enters into this deed in the capacity of the Controller, no person (other than the Holder) has the ability to directly or indirectly control the exercise of a power to dispose of the Escrow Shares (including the ability to Control the Holder or control the Holder's ability to exercise such power).

### 5.3 Controller warranties and representations

The Controller warrants and represents the following:

- (a) prior to the Escrow Period it has not done, or omitted to do, any act which would result in a Dealing in any Controller Interests which will take effect during the Escrow Period;
- (b) it has full power and authority, without the consent of any other person, to enter into and perform its obligations under this deed (including, if the Controller has entered into this deed as a trustee, under the trust deed for the relevant trust);
- (c) it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms;
- (d) this deed constitutes legal, valid and binding obligations on it and, subject to any necessary stamping and registration, is enforceable in accordance with its terms;
- (e) the execution, delivery and performance by the Controller of this deed does not and will not violate, breach or result in a contravention of:
  - (i) any applicable law, regulation or authorisation;



- (ii) its constitution or other constituent documents, if any (if the Controller is a body corporate), and if the Controller is a trustee, the trust deed for the relevant trust; or
  - (iii) any agreement, undertaking, Security Interest or document which is binding on the Controller;
- (f) the Controller Interests are free from all Security Interests and other third party interests or rights (other than under the Company's constitution to the extent it is on foot) and will remain so during the relevant Escrow Period except to the extent permitted under this deed;
- (g) if the Controller is a trustee, the trustee is the sole trustee of the relevant trust and there is no proposal to remove the Controller as trustee of the relevant trust;
- (h) if the Controller is a trustee:
  - (i) the Controller has the right to be fully indemnified out of the assets of the relevant trust in respect of any liability arising under, or in connection with, this deed and the right has not been modified, released or diminished in any way. The assets of the relevant trust are sufficient to satisfy that right in full; and
  - (ii) the relevant trust has not been terminated and there is no effective proposal or requirement to wind up, deregister, terminate, reconstitute or resettle the relevant trust; and
- (i) no person (other than the Holder or Controller) has the ability to directly or indirectly control the exercise of a power to dispose of the Escrow Shares (including the ability to Control the Holder or Controller or control the Holder or Controller's ability to exercise such power).

#### **5.4 Survival of warranties and representations**

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

---

### **6. Consequences of breaching this deed**

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

---

### **7. Capacity of Holder**

If a Holder or Controller has entered into this deed as a trustee (**Trustee**):

- (a) notwithstanding any other provision of this deed including any provision expressed to prevail over this clause 7 but subject to clause 7(c), that Holder or Controller enters into this deed only in its capacity as trustee of the relevant trust (**Trust**) and in no other capacity. A liability arising under or in connection with this deed can be enforced against that Holder or Controller only to the extent that it can be satisfied out of the property of the Trust for which that Holder or Controller is actually indemnified for the liability. That Holder or Controller will exercise its rights of indemnification in order to satisfy its obligations under this deed;
- (b) subject to clause 7(c) a party to this deed may not sue that Holder or Controller in any capacity other than as Trustee in respect of the Trust, including seeking the appointment to that Holder or Controller of a receiver (except in relation to property of the trust), liquidator, administrator or any similar person; and
- (c) the provisions of this clause 7 will not apply to any obligation or liability of that Holder or Controller to the extent that it is not satisfied because under the relevant Trust deed or by operation of law, there is a reduction to the extent, or elimination of, that Holder's or Controller's right of indemnification out of the assets of the Trust, or the right does not exist at all, as a result of the Holder's or Controller's fraud, negligence, improper performance of duties or breach of trust.

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## **8. Notices and other communications**

### **8.1 Form**

Unless expressly stated otherwise in this deed, all notices, certificates, consents, approvals, waivers and other communications in connection with this deed must be in writing, signed by an authorised officer of the sender and marked for the attention of the person identified or referred to in Schedule 1 or, if the recipient has notified otherwise, then marked for attention in the way last notified.

### **8.2 Delivery**

They must be:

- (a) left at the relevant address set out or referred to in Schedule 1;
- (b) sent by prepaid ordinary post (airmail if appropriate) to the address set out or referred to in Schedule 1;
- (c) sent by email to the email address set out or referred to in Schedule 1; or
- (d) given in any other way permitted by law.

However, if the intended recipient has notified a changed postal address or changed email address, then the communication must be to that address or number.

### **8.3 When effective**

They take effect from the time they are received unless a later time is specified.

### **8.4 Receipt - post**

If sent by post, they are taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

## **8.5 Receipt - email**

If sent by email, unless the party sending the email knows or reasonably ought to suspect that the email and the attached communication were not delivered to the addressee's domain specified in the email address notified for the purposes of this clause 8, 24 hours after the email was sent.

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## **9. General provisions**

### **9.1 Discretion in exercising rights**

A party or other person referred to in this deed (including the Board) may, in its absolute discretion, give conditionally or unconditionally or withhold any approval, consent, resolution or determination under this deed, unless this deed expressly states otherwise.

### **9.2 Partial exercising of rights**

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

### **9.3 No liability for loss**

A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this deed.

### **9.4 Variation and waiver**

A provision of this deed or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

### **9.5 Amendment**

This deed may be amended only by a document signed by all parties.

### **9.6 Further assurances**

Each of the Holder and the Controller undertakes to, and to procure that all persons under its Control, do all things necessary or desirable to effect the transactions contemplated by this deed as expeditiously as possible, including executing, delivering or completing any form, document or instrument necessary or desirable to give effect to any of the transactions contemplated by this deed.

### **9.7 Survival**

The representations, warranties, undertakings and indemnities given by a party under this deed will not merge or be extinguished on expiry of the Escrow Period.

### **9.8 Assignment**

The Holder and the Controller must not transfer, assign, create an interest in, or deal in any other way with, any of their respective rights or obligations under this deed without the prior written consent of the other parties.

### **9.9 Counterparts**

This deed may consist of a number of copies, each signed by one or more parties to this deed. If so, the signed copies are treated as making up the one document and the date on which the last counterpart is executed will be the date of this deed.

## **9.10 Governing law**

This deed and the transactions contemplated by this deed are governed by the law in force in New South Wales. Each party submits to the non-exclusive jurisdiction of the courts of New South Wales.

## **9.11 PPSA further steps**

If the Company determines that this deed results in the creation of a PPSA Security Interest, the Holder and the Controller agrees to do anything (such as obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which the Company reasonably asks and considers necessary for the purposes of:

- (a) ensuring that the PPSA Security Interest is enforceable, perfected and otherwise effective;
- (b) enabling the Company to apply for any registration, or give any notification, in connection with the PPSA Security Interest so that the PPSA Security Interest has the priority required by the Company; and
- (c) enabling the Company to exercise rights in connection with the PPSA Security Interest.

## **9.12 Entire agreement**

This deed and the documents referred to in this deed are the entire agreement of the parties about the subject matter of this deed and supersede any representations, negotiations, arrangements, understandings or agreements and all other communications.

## **9.13 Remedies**

The rights, remedies and powers of the parties under this deed are cumulative and not exclusive of any rights, remedies or powers provided to the parties by law.

## **9.14 Inconsistent agreements**

If a provision of this deed is inconsistent with a provision of any other agreement, document, representation, negotiation, arrangement or understanding between the Holder and the Controller, or between the Holder or the Controller and any other person, the provision of this deed prevails.

## **9.15 Severability**

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this deed or is contrary to public policy.

## **9.16 Successors and assigns**

This deed is binding on, and has effect for the benefit of, the parties and their respective successors and permitted assigns and, in the case of the Holder or the Controller, its / his / her personal representatives and any trustee, receiver or other person lawfully acting on its / his / her behalf.

## **9.17 Fractional calculation**

If any calculation required to be undertaken under this deed results in a fractional number of Shares, the fractional number will be rounded up to the nearest whole number of Shares.

Schedule 1 - Details

Part 1 - Holder

	[insert]
Name:	
	[insert]
Address:	
	[insert]
Email:	
	[insert]
Attention:	

Part 2 - Controller

	[insert]
Name:	
	[insert]
Address:	
	[insert]
Email:	
	[insert]
Attention:	

Part 3 - Company

Name:	Homeloans Limited
Address:	[insert]
Email:	[insert]
Attention:	[insert]

**Executed** as a deed.

**Company**

**Executed** by **Homeloans Limited ACN 095 034 003** in accordance with section 127 of the Corporations Act 2001 (Cth):

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Signature of director

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Full name of director

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Signature of company secretary/director

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Full name of company secretary/director

## Holder

*If the Holder is an individual and is signing personally:*

**Executed** by \_\_\_\_\_ (name of Holder)  
in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Full name of witness

*If the Holder is an individual or an entity and is signing by power of attorney: **[Note: If the Holder signs by power of attorney, please return this document with the relevant power of attorney]***

**Executed** for and on behalf of \_\_\_\_\_ (name of Holder)

by its attorney under a power of attorney dated \_\_\_\_\_  
in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of attorney who declares that the attorney  
has not received any notice of the revocation of the  
power of attorney

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Full name of attorney

*If the Holder is an entity and is signing by authorised signatory: **[Note: If the Holder signs by authorised signatory, please return this document with the relevant authority]***

**Executed** for and on behalf of \_\_\_\_\_ (name of Holder)  
by its authorised signatory in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Full name of authorised signatory

*If the Holder is an entity and is signing either by a sole director / company secretary, or by a director and a company secretary / director:*

**Executed** by \_\_\_\_\_ (name of Holder)

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of company secretary/director

\_\_\_\_\_  
Full name of director

\_\_\_\_\_  
Full name of company secretary/director



## Controller

*If the Controller is an individual and is signing personally:*

**Executed** by \_\_\_\_\_ (name of Controller)  
in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Full name of witness

*If the Controller is an individual or an entity and is signing by power of attorney: **[Note: If the Controller signs by power of attorney, please return this document with the relevant power of attorney]***

**Executed** for and on behalf of \_\_\_\_\_ (name of Controller)

by its attorney under a power of attorney dated \_\_\_\_\_  
in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of attorney who declares that the attorney  
has not received any notice of the revocation of the  
power of attorney

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Full name of attorney

*If the Controller is an entity and is signing by authorised signatory: **[Note: If the Controller signs by authorised signatory, please return this document with the relevant authority]***

**Executed** for and on behalf of \_\_\_\_\_ (name of Controller)  
by its authorised signatory in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Full name of authorised signatory

*If the Controller is an entity and is signing either by a sole director / company secretary, or by a director and a company secretary / director:*

**Executed** by \_\_\_\_\_ (name of Controller)

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of company secretary/director

\_\_\_\_\_  
Full name of director

\_\_\_\_\_  
Full name of company secretary/director