



HERBERT
SMITH
FREEHILLS

Deed

Retail Subordinated Notes Trust Deed

Healthscope Notes Limited

The Trust Company (Australia) Limited

Consolidated to include amendments made by the
Amending Deed dated 12 March 2013



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Retail Subordinated Notes Trust Deed

Date ► 4 March 2013

Between the parties

Healthscope Notes Limited

ACN 147 250 780 of Level 1, 312 St Kilda Road, Melbourne, Victoria
3000

(Company)

The Trust Company (Australia) Limited

ACN 000 000 993 of Level 3, 530 Collins Street, Melbourne, VIC
3000

(Trustee)

Recitals

- 1 The Company wishes to issue up to offer \$150 million subordinated exchangeable secured notes under this deed with the ability to raise more or less, as contemplated by the Prospectus.
 - 2 The Trustee has agreed to act as trustee on behalf of the holders of Notes on the terms and conditions contained in this deed.
-

This deed witnesses as follows:



1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this deed are set out below. Capitalised terms which are not defined in this clause 1.1 have the meaning given to them in the Terms of Issue set out in Schedule 1 to this deed.

Term	Meaning
ASIC	the Australian Securities and Investments Commission.
ASX	ASX Limited or such other body corporate that is declared by the directors to be the Company's primary stock exchange for the purposes of this definition.
ASX Settlement	ASX Settlement Pty Limited ABN 49 008 504 532.
ASX Settlement Operating Rules	the operating rules of ASX Settlement and, to the extent that they are applicable, the operating rules of the ASX and the operating rules of ASX Clear Pty Limited ABN 48 001 314 503.
Authorisation	includes: <ol style="list-style-type: none">1 any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval (including any planning approval), authority or exemption from, by or with a Government Agency (including, without limitation, the Foreign Investment Review Board of Australia); or2 in relation to anything which could be fully or partly prohibited or restricted by law if a Government Agency intervenes or acts in any way within a specified period the expiry of that period without intervention or action.
Borrower	Healthscope Finance Pty Limited ACN 145 126 067.
Change in Law	any change in law, practice, regulation, ruling, confirmation, advice or action that represents the official requirements of any Government Agency, ASIC, ASX or the law in force in Victoria, Australia.

Term	Meaning
CHESSE Approved Securities	securities in respect of which approval has been given by ASX Settlement in accordance with ASX Settlement Operating Rules.
Company	Healthscope Notes Limited ACN 147 250 780
Confidential Information	all information and other material (other than information or material in the public domain) provided to or obtained by the Trustee, or any officer, employee, delegate, adviser or other consultant of the Trustee under, in connection with or related to this deed or any obligation, duty or power of the Trustee under this deed.
Costs	includes costs, charges, fees, expenses incurred (including expenses of advisors), commissions, liabilities, losses, damages and Taxes and all amounts payable in respect of any of them or like payments.
Encumbrance	a charge, mortgage, pledge, bill of sale, hypothecation, lien, arrangement concerning the deposit of documents evidencing title, trust, power, title retention arrangement or any other covenant or arrangement of any nature made to secure the payment of money or the observance of an obligation or under which a creditor is entitled to claim that it has a right to receive payment, or to have an obligation owed to it satisfied, in priority to another creditor.
Financial Statements	includes: <ol style="list-style-type: none"> 1 a cashflow statement, profit and loss statement and balance sheet; and 2 statements, reports and notes attached to, or intended to be read with any documents referred to in paragraph (1), including auditors' reports and directors' reports.
Government Agency	any government or any governmental, semi governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.
GST	any goods and services tax, consumption tax, value added tax or any similar tax, impost or duty.
Guarantee and Indemnity Deed Poll	the Guarantee and Indemnity Deed Poll (Subordinated Notes) dated 4 March 2013 in favour of the Trustee and each Holder.
Guarantor	has the meaning in the Guarantee and Indemnity Deed Poll.

Term	Meaning
Intercreditor Deed	has the meaning given in the Terms of Issue.
Joint Holders	has the meaning given to that term in clause 13.2.
Law Firm	a law firm with at least 25 partners and with offices in at least two Australian capital cities.
Listing Rules	the Listing Rules of ASX and any other rules of ASX which are applicable while the Company is admitted to the Official List of ASX, each as amended or replaced from time to time, except to the extent of any express waiver by ASX.
Meeting	a meeting of Holders convened in accordance with this deed.
Notes Register	the register of Notes maintained by the Company and includes any sub-register established and maintained under the Clearing House Electronic Sub-Register System operated by ASX Settlement.
Official List	the Official List of the ASX.
Prospectus	the prospectus (including any supplementary or replacement prospectus) issued by the Company pursuant to which offers are made for persons to subscribe for Notes.
Quarter	has the meaning given in section 283BF of the Corporations Act.
Related Body Corporate	has the meaning given to that term in the Corporations Act.
Retained Amount	has the meaning given to that term in clause 5.4(a).
Senior Agent	has the meaning given to that term in the Terms of Issue.
Senior Creditor	has the meaning given to that term in the Terms of Issue.
Special Resolution	a resolution that is passed at a Meeting of Holders by at least 75% of the votes validly cast by Holders in person or by proxy and



Term	Meaning
	entitled to vote on the resolution.
Statutory Obligation	any obligation of any kind imposed on the Trustee under applicable law, practice, regulation, ruling, confirmation, advice or action that represent the official requirements of any Government Agency, ASIC, ASX or the law in force in Victoria, Australia in relation to the Trustee's role under this deed, the Notes, the Security Trust Deed, the Intercreditor Deed, Guarantee and Indemnity Deed Poll or any documents contemplated by or related to any of them including the Recognition Deed executed by the Trustee on or about the date of this deed.
Subordinated Facility Agreement	has the same meaning as set out in the Security Trust Deed.
Subsidiary	a subsidiary of an entity as defined in section 46 of the Corporations Act.
Terms of Issue	the terms of issue of Notes set out in Schedule 1.
Trust	the trust established by this deed.
Trustee	The Trust Company (Australia) Limited (ACN 000 000 993) or any other trustee for the time being of the Trust in its capacity as such trustee.
Trustee Company	a body corporate eligible under section 283AC of the Corporations Act to act as a trustee for the holders of unsecured notes offered to the public.
Trustee Power	a right, power, authority, discretion or remedy conferred on the Trustee by this deed or by law.
Winding Up	the appointment of a liquidator or provisional liquidator of the Company (and where the appointment is made by a court, by a court of competent jurisdiction in Australia), and Wind Up has a corresponding meaning.

1.2 Interpretation

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

- (a) the singular includes the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
- (e) terms defined in the Corporations Act have the same meaning in this deed;
- (f) a reference to any thing (including, but not limited to, any right) includes a part of that thing;
- (g) an annexure, exhibit or schedule to this deed forms part of this deed;
- (h) a reference to a part, clause, party, annexure, exhibit or schedule is a reference to a part and clause of, and a party, annexure, exhibit and schedule to, this deed, a reference to this deed includes any schedule, annexure or exhibit;
- (i) a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (j) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (k) a reference to a party to a document includes that party's successors and permitted assigns;
- (l) no provision of this deed will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this deed or that provision;
- (m) a reference to an agreement other than this deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (n) a reference to an asset includes all property of any nature, including, but not limited to, a business, and all rights, revenues and benefits;
- (o) a reference to a document includes any agreement in writing, or any certificate, notice, instrument or other document of any kind;
- (p) a reference to a body, other than a party to this deed (including, without limitation, an institute, association or authority), whether statutory or not:
 - (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (q) a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or



any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death; and

- (r) a reference to 'wilful default' in relation to the Trustee means any wilful failure to comply with, or wilful breach by, the Trustee of any of its obligations under this deed or at law other than a failure or breach which:
- (1) is in accordance with a lawful court order or direction or required by law; or
 - (2) is in accordance with any proper instruction or direction of the Holders given at a Meeting of Holders convened pursuant to clause 12 of this deed.

1.3 Business Day

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

1.4 General compliance provision

- (a) A provision of this deed which is inconsistent with a Statutory Obligation (including a provision of the Corporations Act) does not operate to the extent of the inconsistency.
- (b) Clause 1.4(a) is subject to any declarations made by or exemptions granted by ASIC which are current in respect of or applicable to this deed.
- (c) Without limiting the generality of clause 1.4(a) or clause 6, to the extent a provision of this deed breaches or contravenes, or if complied with would result in a breach or contravention of:
 - (1) a Statutory Obligation by the Trustee or any other party; or
 - (2) a right, power, authority, discretion or remedy conferred on the Trustee by law,this deed is taken not to contain that provision.
- (d) This clause 1.4 prevails over all other provisions of this deed including any that are expressed to prevail over it.

1.5 Inconsistency with the ASX Listing Rules

- (a) Despite anything to the contrary in this clause 1.5, this clause 1.5 has effect subject to clause 1.4.
- (b) This deed is to be interpreted subject to the Listing Rules and the ASX Settlement Operating Rules and accordingly, if Notes are quoted on ASX, the following clauses apply:
 - (1) despite anything in this deed, if the Listing Rules prohibit an act being done, the act must not be done;
 - (2) nothing in this deed prevents an act being done that the Listing Rules require to be done;
 - (3) if the 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);

- (4) if the Listing Rules require this deed to contain a provision and it does not contain such a provision, this deed is taken to contain that provision;
- (5) if the Listing Rules require this deed not to contain a provision and it contains such a provision, this deed is taken not to contain that provision; and
- (6) if any provision of this deed is or becomes inconsistent with the Listing Rules, this deed is taken not to contain that provision to the extent of the inconsistency.

1.6 Inconsistency with Terms of Issue

A provision of any part of this deed other than the Terms of Issue which is inconsistent with a provision of the Terms of Issue does not operate to the extent of the inconsistency.

1.7 Inconsistency with Security Trust Deed and the Intercreditor Deed

A provision of any part of this deed which is inconsistent with a provision of the Security Trust Deed or the Intercreditor Deed does not operate to the extent of the inconsistency.

1.8 No winding up

Except as provided in this deed or the Terms of Issue and subject to the Security Trust Deed and the Intercreditor Deed, the Trustee and Holders must not:

- (a) issue any demand under section 459E(1) of the Corporations Act (or any analogous provision under any other law) against the Company;
- (b) apply for the winding up or dissolution of the Company;
- (c) levy or enforce any distress or other execution to, on, or against any assets of the Company;
- (d) apply for the appointment by a court of a receiver to any of the assets of the Company;
- (e) unless specifically permitted under this deed, exercise, any set off or counter-claim against the Company;
- (f) appoint, or agree to the appointment of, any administrator to the Company; or
- (g) take proceedings for any of the above.

1.9 Holders bound

- (a) Each Holder (and any person claiming through or under a Holder) is bound by and Notes are issued on the condition that each Holder (and any person claiming through or under a Holder) is taken to have notice of and is bound by this deed, the Terms of Issue, the Security Trust Deed and the Intercreditor Deed.
- (b) It is a condition of a Holder receiving any of the rights or benefits in connection with this deed or Notes that the Holder performs all of the obligations and complies with all restrictions and limitations applicable to it under this deed, the Terms of Issue, the Security Trust Deed, the Intercreditor Deed and the Guarantee and Indemnity Deed Poll.

1.10 Binding nature of relationship

Each Holder is taken to have agreed:

- (a) to be bound by anything properly done or properly not done by the Trustee in accordance with this deed, whether or not the Trustee is acting on the instructions of the Holders given by a Special Resolution and whether or not the Holders gave an instruction by way of a Special Resolution or approved of the thing done or not done; and
- (b) at the Trustee's request, to ratify anything properly done or properly not done by the Trustee in accordance with this deed.

1.11 Deed operates as a deed poll

- (a) This deed is executed as a deed poll. Subject to clauses 1.9 and 8.2, each Holder has the benefit of this deed, and is entitled to enforce this deed against the Company in accordance with its terms even though it is not a party to, or is not in existence at the time of execution and delivery of, this deed.
- (b) This deed operates as a deed as between the Company and the Trustee.

1.12 Individual responsibility of Holders

Each Holder is taken to have acknowledged for the benefit of the Trustee that the Holder has:

- (a) made and will continue to make its own independent investigation of the financial condition and affairs of the Company based on documents and information which it considers appropriate;
- (b) made its own appraisal of the creditworthiness of the Company; and
- (c) made its own assessment and approval of the rate of interest, risks associated with repayment of principal and other returns in relation to the Notes,

without relying on the Trustee (in that capacity) or any representation made by it.

1.13 Knowledge of the Trustee

In relation to the Trust, the Trustee will only be considered to have knowledge or notice of or be aware of any matter or thing if the Trustee has knowledge, notice or awareness of that matter or thing by virtue of the actual notice or awareness of the officers or employees of the Trustee who have day to day responsibility for the administration of the Trust.

2 Appointment of Trustee and declaration of trust

2.1 Appointment

The Trustee is hereby appointed by the Company as trustee for the Holders with all the powers, obligations and rights of the Trustee subject to and in accordance with this deed.

2.2 Declaration of trust

The Trustee declares that it enters into this deed as trustee for the Holders, and will hold the benefit of:

- (a) this deed, the Security Trust Deed, the Intercreditor Deed and the Guarantee and Indemnity Deed Poll;
- (b) the right to enforce the Company's duty to repay the Notes or interest on the Notes;
- (c) the right to enforce all other duties of the Company under the Terms of Issue, the provisions of this deed and Chapter 2L of the Corporations Act;
- (d) the right to enforce all duties of a Guarantor under the Guarantee and Indemnity Deed Poll and Chapter 2L of the Corporations Act; and
- (e) any other Trustee Powers and any other property which the Trustee may receive or which may be vested in the Trustee,

in trust for the Holders subject to and in accordance with this deed and the Terms of Issue.

2.3 Receipt of moneys

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

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

3 Issue of Notes

3.1 General

- (a) Subject to the terms of this deed, the Company may issue Notes to any person in accordance with the Terms of Issue as set out in Schedule 1.
- (b) Notes are regarded as issued to a person if and when the person's name is recorded in the Notes Register in accordance with this deed. No rights whatsoever attach to the Notes until issued.
- (c) Holders are to be regarded as the beneficial owners of Notes held by them.
- (d) The Trustee, the Company, Holders and any persons claiming through any of them are bound by this deed including the Terms of Issue.
- (e) The Company will use all reasonable endeavours and furnish all such documents, information and undertakings as may be reasonably necessary in order to procure official quotation of the Notes on the Official List of the ASX and to procure such quotation is maintained.
- (f) If the Company issues Notes and:

- (1) the Company has not received any moneys due on application for Notes in accordance with the Terms of Issue; or
 - (2) any payment for Notes is not cleared,
- the Notes are void as from their date of issue or such other date as the Company determines.
- (g) The Holders are taken to have authorised the Trustee to agree to be bound by the Security Trust Deed, the Intercreditor Deed, the Guarantee and Indemnity Deed Poll and the Recognition Deed in its capacity as trustee of the Trust and the Holders are deemed to have notice of, and be bound by, this document, the Security Trust Deed, the Intercreditor Deed, the Guarantee and Indemnity Deed Poll and the Recognition Deed.

3.2 Borrowing limitations

- (a) The aggregate principal amount of Notes to be offered is \$150 million with the ability to raise more or less, as contemplated by the Prospectus.
- (b) Without limitation to the Security Trust Deed or the Intercreditor Deed and subject to clause 5.5, nothing in this deed prevents the Company from issuing or incurring further indebtedness, whether secured or unsecured or ranking in priority to Notes.

4 Security and subordination

4.1 Terms of security and subordination

The Notes are obligations of the Company, secured in accordance with the provisions of the Security Trust Deed and the Intercreditor Deed and subordinated in accordance with the Security Trust Deed and the Intercreditor Deed, and rank equally without any preference among themselves.

4.2 Certificate

The Trustee shall be entitled and is hereby authorised by the Company to call for a certificate from the Senior Agent and the Security Trustee (as the case may be) as to whether the claims of Senior Creditors have been satisfied in full. Any such certificate shall be conclusive and binding on the Trustee and the Holders and the Trustee is entitled to rely, without enquiry, on any notice, certificate or other communication it receives from the Senior Agent or the Security Trustee.

4.3 Trustee's costs, etc

Nothing in clause 4.1 shall affect or prejudice the payment of the costs, charges, expenses, liabilities or remuneration of the Trustee payable under this deed or the Terms of Issue.

5 Covenants

5.1 Covenants

Subject to this deed, the Company covenants for the benefit of the Trustee and Holders that for so long as any principal or interest due on Notes remains outstanding, it will:

- (a) notify the Trustee and ASX of:
 - (1) the interest rate and interest payable per Note;
 - (2) any amendments to the interest rate and interest payable per Note as soon as practicable;
- (b) subject to clause 5.3, the Security Trust Deed and the Intercreditor Deed, pay to the Trustee for the account of Holders, all amounts due on or in respect of Notes as and when due in accordance with this deed including the Terms of Issue;
- (c) comply with the terms of this deed including the Terms of Issue;
- (d) apply proceeds of the issue of the Notes in accordance with the Prospectus;
- (e) comply with its obligations under the Corporations Act (including Chapter 2L), the Listing Rules and the ASX Settlement Operating Rules;
- (f) comply with the Terms of Issue and any conditions or obligations imposed by ASX in connection with the Notes;
- (g) promptly notify the Trustee after it becomes aware of a breach by the Company of any obligation of this deed, Chapter 2L of the Corporations Act or the Terms of Issue;
- (h) do all things which are required to be done to enable the Trustee to comply with the Trustee's obligations under this deed, the Corporations Act (or any other laws binding on the Trustee with respect to the trust or the Notes), the Listing Rules and the ASX Settlement Operating Rules;
- (i) provide to the Trustee:
 - (1) within 120 days after the close of each financial year, a copy of the Company's audited Financial Statements in respect of that financial year;
 - (2) within 75 days after the close of each financial half-year, a copy of the Company's Financial Statements in respect of that half year reviewed in accordance with the Corporations Act and the requirements of the Listing Rules;
 - (3) to the extent not already provided under this clause 5.1(i), as soon as reasonably practicable, copies of all reports and releases made by the Company to ASX;
 - (4) promptly, copies of all documents and notices given to Holders; and
 - (5) all other information or reports required to be provided to the Trustee under the Corporations Act or requested by the Trustee which is reasonably required for the purposes of the discharge of the duties, trusts and powers vested in the Trustee under this deed or imposed upon it by law;
- (j) make all of its financial and other records available for inspection by:
 - (1) the Trustee;

- (2) an officer or employee of the Trustee; or
 - (3) a registered company auditor appointed by the Trustee,
- and provide them with any information, explanations or other assistance they may reasonably require about matters relating to the records;
- (k) if the Company creates a charge, provide the Trustee with written details of the charge within 21 days of it being created;
- (l) ensure that any Financial Statements provided to the Trustee:
 - (1) comply with current accounting practice except to the extent disclosed in them and with all applicable laws; and
 - (2) give a true and fair view of the matters with which they deal;
- (m) carry on and conduct its business in a proper and efficient manner; and
- (n) where there exists any recurring obligation on the Trustee or the Company and the Trustee to furnish to any Government Agency any information, furnish to the Trustee such information as would be required by the Trustee to properly discharge its obligations (such information to be furnished to the Trustee no less than 10 Business Days prior to the time when such information is required to be furnished or if not available prior to that date, immediately after it is made available to the Company).

5.2 Directors certificate

Within 1 month after the end of each Quarter, the Company must give to the Trustee a certificate signed by any two directors (on behalf of a majority of the directors) of the Company:

- (a) at the time of giving each report to the Trustee under section 283BF of the Corporations Act, which shows the aggregate principal amount of Notes on issue at the end of the Quarter for the purposes of the reports to be given under section 283BF of the Corporations Act;
- (b) where there exists any recurring obligation on the Company or the Trustee or both to furnish certain information on the basis of which stamp duty will be payable in any State or Territory or other place, setting out such information as is required by the Trustee to properly complete any return required to be lodged under the provisions of any stamp duty legislation which are applicable to this deed or any Notes or otherwise to enable the Trustee to comply with its obligations with respect to any undertaking given pursuant to any such legislation, such information to be furnished to the Trustee not less than 14 days prior to the time when such information is required to be lodged; and
- (c) either confirming that there has been no material change to the nature of the Company' business since the date of the last Director's Certificate provided under this clause or providing details of the change.

5.3 Direction to pay

For the purpose of clause 5.1(b), the Trustee directs the Company to pay (subject to the Security Trust Deed and the Intercreditor Deed) the amounts referred to in clause 5.1(b) to the Holders, in accordance with their rights and entitlements unless:

- (a) the Winding Up of the Company has commenced; or

- (b) the Company is directed by the Trustee to make the payment to the Trustee by the giving of notice to that effect not less than 5 Business Days' prior to the scheduled date for the making of the payment,

in which case the payment must be made to the Trustee.

5.4 Retained payments

- (a) If for any reason an amount to be paid to a Holder under this deed is unable to be paid within 6 months of the date the Company first sought to make the payment to the Holder, at the end of that 6 months, that amount may be retained by the Company (**Retained Amount**).
- (b) Where a Retained Amount has been retained by the Company pursuant to clause 5.4(a), the Company must make payment to the Holder entitled to such amount if demand is made by the Holder at any time before the expiration of 6 years following the date that the Retained Amount was first sought to be distributed or paid under this deed.
- (c) Any interest which accrues on a Retained Amount whilst it is retained will accrue for the benefit of the Company and not the Holder entitled to make demand for it.

5.5 Notification

Where the Company proposes to:

- (a) issue further indebtedness as referred to in clause 3.2(b) of this deed; or
- (b) amend this deed or the Terms of Issue,

the Company must have due regard to the Trustee's obligations under the Corporations Act before acting on such proposal and must notify the Trustee of the proposal prior to proceeding with the proposal.

6 Trustee's powers, duties and discretions

6.1 Powers generally

- (a) Subject to this deed, the Trustee has all the powers of a natural person or corporation in relation to the Trust in connection with the exercise and discharge of its rights, powers, discretions, duties and obligations under this deed.
- (b) Subject to applicable law, the Trustee may exercise its rights, powers and discretions under this deed in any manner it thinks fit.

6.2 Power to enter into the Security Trust Deed, the Intercreditor Deed and the Guarantee and Indemnity Deed Poll

Without limiting clause 6.1, the Trustee has the power to enter into the Security Trust Deed, the Intercreditor Deed (including any Recognition Deed contemplated in either deed) and the Guarantee and Indemnity Deed Poll.

6.3 Trustee's power to invest

- (a) Without limiting clause 6.1, all moneys received by the Trustee and not required to be immediately applied in accordance with this deed may, until it is so required:
- (1) be deposited with any bank or other deposit taking institution which has a short term credit rating of not less than 'A-1' or its equivalent by a recognised rating agency; and
 - (2) be invested in any security which has a short term credit rating of not less than 'A-1' or its equivalent by a recognised rating agency.
- (b) The Trustee may vary any such investment.

6.4 Duties

- (a) The Trustee must comply with its duties under the Corporations Act.
- (b) Subject to the obligations and duties imposed on the Trustee under the Corporations Act, the Trustee has no obligations or duties except those expressly set out in this deed.
- (c) Except to the extent that the following is inconsistent with the requirements of the Corporations Act, the Trustee:
- (1) has no obligation to exercise or to exercise in a particular way any of its rights, powers or discretions unless:
 - (A) it is directed to do so by a Meeting of Holders called under clause 12 or in accordance with the provisions of the Corporations Act (in which case, subject to the Corporations Act and to being adequately indemnified);
 - (B) its liability is limited in a manner consistent with clause 9.2;
 - (C) it is indemnified to its satisfaction against any expense or liability which it may incur as a result of doing so; and
 - (D) it holds sufficient Trust assets to exercise the right, power or discretion contemplated;
 - (2) must not interfere with the conduct of the ordinary business of the Company except as provided in clause 5 of the Terms of Issue or unless otherwise required to do so in order to comply with its duties under the Corporations Act. For the avoidance of doubt, nothing in this clause restricts or precludes the Trustee's right to remuneration in clause 10.1(a) or the Trustee's right of indemnity in clause 9.1;
 - (3) has no responsibility in respect of moneys subscribed by applicants for Notes or to see to the application of those moneys; and
 - (4) has no responsibility for the form or contents of this deed and will have no liability arising as a result of or in connection with any inadequacy, invalidity or unenforceability of any provision of this deed insofar as it applies to the Trustee or to any representation or warranty given by the Trustee.

6.5 Change in law

If, following a Change in Law, a Statutory Obligation is imposed on the Trustee, then:

- (a) the Trustee may seek any further information or advice (including, without limitation, legal advice) that it may reasonably require with respect to the performance of such Statutory Obligations;
- (b) the Company will take reasonable steps to assist the Trustee in connection with the obtaining of further information or advice in connection with such Statutory Obligations; and
- (c) the Trustee and the Company will, as soon as is reasonably practicable after the Trustee becomes aware of the Statutory Obligations enter into negotiations with respect to such changes to the terms of this deed (including in respect of any additional remuneration that may be reasonably required in light of any such Statutory Obligations) as may be reasonably necessary to reflect the Statutory Obligations,

however the parties agree that this clause 6.5, does not operate to exempt or excuse the Trustee from any obligation to perform the Statutory Obligations.

6.6 Discretions

Subject to clause 6.4, the Trustee may:

- (a) **delegation:** by power of attorney or otherwise, authorise:
 - (1) a Related Body Corporate of the Trustee; or
 - (2) any other person (including, without limitation, the Company and persons associated with the Company),

to do anything which the Trustee may lawfully do (on such terms and conditions as the Trustee may think fit) including, without limitation, holding any trust property and executing documents on its behalf. The Trustee is not responsible for any loss arising due to the acts or omissions of any delegate, attorney or agent (other than a Related Body Corporate of the Trustee), unless the Trustee fails to use reasonable care in selecting and monitoring them;
- (b) **dealings with Company:** without being liable to account to the Company or any Holder:
 - (1) hold Notes, shares or any other marketable securities issued by the Company in any capacity;
 - (2) represent or act for, or contract with, individual Holders in any capacity;
 - (3) deal in any capacity with the Company or any of its Related Bodies Corporate or associates; or
 - (4) act in any capacity in relation to any other trusts,

provided that to do so would not preclude the Trustee from acting as Trustee under the Corporations Act;
- (c) **directions:** apply to any court for directions in relation to any question arising either before or after Notes become repayable and assent to and approve of or oppose any application to any court made by or at the insistence of any Holder;
- (d) **reliance:** rely and act upon (without enquiry) any communication or document that it reasonably believes to be genuine and correct and to have been signed or sent by the appropriate person or persons;
- (e) **expert advice:** engage and rely and act upon (without enquiry) the advice or opinion of or information of any barrister, solicitor, accountant, auditor, actuary, valuer or other consultant or adviser of the Trustee;

- (f) **certificates:** accept as conclusive evidence and act upon:
- (1) a certificate which purports to be signed by any two directors of the Company as to any fact or matter, including without limitation as to whether or not any particular dealing, transaction, step or thing is commercially desirable or detrimental to the interests of the Holders; and
 - (2) any information, report, accounts, certificate or statement supplied by the Company, or the auditor or solicitor of the Company, including without limitation, any statements or opinions contained therein.

The Trustee is not required to call for further evidence or information and is not responsible for any loss occurring as a result of such reliance, except to the extent that its reliance amounts to fraud, negligence or wilful default;

- (g) **documents:** accept as conclusive evidence and act upon, any document, communication, information, report, balance sheet, profit and loss account, certificate or statement supplied by the Company or any Subsidiary or by any director, secretary, auditor, solicitor or duly authorised officer of the Company or any Subsidiary (including any electronic transmission);
- (h) **statements:** accept as conclusive evidence and act upon, all statements (including statements made or given to the best of knowledge and belief or similarly qualified) contained in any statement, certificate, report, balance sheet or profit and loss account given pursuant to the provisions of, or in any way in relation to, this deed;
- (i) **determinations:** determine as between itself and the Holders all questions and matters of doubt arising in relation to this deed. Any determination made by the Trustee shall be conclusive unless a court of competent jurisdiction otherwise determines;
- (j) **exercise of powers:** determine in any manner it thinks fit whether to exercise, and the manner, mode and time of exercise of, the Trustee's rights, powers or discretions. Unless it is fraudulent, negligent or wilfully defaults, the Trustee is not liable in its personal capacity for any loss, cost, claim, damage or expense which may result from the exercise or failure to exercise any of its rights, powers or discretions; and
- (k) **waiver:** waive, so long as it is in writing, at any time and on any terms or conditions, any breach by the Company under this deed but where a breach is the failure of the Company to redeem or repay any Notes in accordance with the Terms of Issue or to the extent required by this deed, the Trustee may waive the breach only if all Holders have consented in writing to the waiver, or the breach has been remedied.

6.7 Holders bound

The exercise by the Trustee of the Trustee Powers (including the discretions referred to in clause 6.6) binds all the Holders, whether or not the Holders concurred in their exercise.

6.8 Limit on disclosure obligations

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

6.9 Trustee in capacity as Holder

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

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

6.10 Trustee not responsible for monitoring

- (a) Except where provided by the Corporations Act, the Trustee is not required to:
 - (1) provide to any person any information concerning the business, financial condition, status or affairs of the Company;
 - (2) investigate the adequacy, accuracy or completeness of any information provided by the Company;
 - (3) assess, investigate or keep under review the business, financial condition, status or affairs of the Company; or
 - (4) monitor compliance by the Company of its obligations under this deed.
- (b) Except where provided by the Corporations Act, the Trustee is not required to monitor compliance by any person of its obligations under the Security Trust Deed and the Intercreditor Deed and any Security as defined therein.
- (c) The Trustee is not required to investigate or consider whether any issue of Notes or any payment made to a Holder will be an unfair preference or other similar voidable transaction for the purposes of Chapter 5 of the Corporations Act.

6.11 Excluded roles and duties

The appointment as trustee of the Trust does not result in the Trustee being:

- (a) trustee for the benefit of;
- (b) a partner of; or
- (c) in a fiduciary relationship with, or having a fiduciary duty to, any Holder, the Company or any other person except as provided in this deed.

7 Representations and Warranties

7.1 Trustee's representations and warranties

The Trustee represents and warrants to the Company that:

- (a) **incorporation:** it is duly incorporated and has the power to carry on its business as it is now being conducted;
- (b) **requirements:** it meets the requirements of a trustee as provided in sections 283AC(1) and 283AC(2) of the Corporations Act;
- (c) **authority:** it has full power and authority to enter into and perform its obligations under this deed;



- (d) **authorisations:** it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms; and
- (e) **documents binding:** this deed constitutes (or will, when signed and delivered constitute) legal, valid and binding obligations enforceable against the Trustee in accordance with its terms.

7.2 The Company' representations and warranties

The Company represents and warrants to the Trustee that:

- (a) **incorporation:** it is a company that is limited by shares and is duly registered and remains in existence under its jurisdiction of incorporation and it has the power to own its assets and carry on its business as it is being conducted or contemplated;
- (b) **authority:** it has the full legal capacity and power to enter into, deliver and perform this deed, including the Terms of Issue and to carry out the transactions contemplated by this deed, including the Terms of Issue and to carry on its business as now conducted or contemplated;
- (c) **authorisations:** it has taken all corporate action required to enter into, deliver and perform this deed and to carry out the transactions contemplated by this deed;
- (d) **binding obligations:** this deed, including the Terms of Issue, constitutes its legal, valid and binding obligations, and is enforceable against it in accordance with its terms, (except to the extent limited by equitable principles and laws affecting creditors' rights generally) subject to any necessary stamping and registration;
- (e) **filings:** all corporate notices, filings and registrations with the ASIC or similar office in its jurisdiction of incorporation and in any other jurisdiction required to be filed or effected, as applicable, by it in connection with the execution, delivery and performance of this deed, have been filed or effected, as applicable, and all such filings and registrations are current, complete and accurate;
- (f) **transaction permitted:** the execution, delivery and performance by it of this deed does not and will not violate, breach, or result in a contravention of:
 - (1) any law, regulation or Authorisation;
 - (2) any constituent documents; or
 - (3) any Encumbrance or other document which is binding upon it or any of its assets,and does not and will not result in:
 - (4) the creation or imposition of any Encumbrance or restriction of any nature on any of its assets other than under this deed; or
 - (5) the acceleration of the date of payment of any obligation existing under any Encumbrance or document which is binding upon it or any of its assets;
- (g) **Prospectus:** that:
 - (1) the information and disclosures contained in the Prospectus comply with the requirements of the Corporations Act and are true and complete in all material respects and are not misleading or deceptive,

- or likely to mislead or deceive, in any material respect as at the date of issue of the Prospectus and the date of issue of Notes; and
- (2) no act, matter or thing has occurred since the date of the Prospectus that renders such information misleading or deceptive or likely to mislead or deceive in any material respect;
- (h) **no taxes and duties payable:** no *ad valorem* stamp, transaction, registration or similar taxes and duties are payable in connection with the execution, delivery, performance or enforcement of this deed (including the Terms of Issue) or the transactions contemplated by it (other than any duty that may be payable in relation to the issue of the Notes themselves), excluding the Intercreditor Deed and the Security Trust Deed;
- (i) **immunity:** the Company does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);
- (j) **approvals:** each approval which is required in relation to:
- (1) the execution, delivery, issue and performance by the Company of this deed or any Notes and the transactions contemplated by those documents; or
- (2) the validity and enforceability of those documents,
- in each case, excluding in relation to the Intercreditor Deed and the Security Trust Deed, has been obtained or effected, is in full force and effect, and that it has complied with, and paid all applicable fees for, each of them;
- (k) **no misrepresentation:** to the best of its information, knowledge and belief after having made due inquiry (but subject to the qualifications made when the relevant information is made available), all written information (other than any assumptions, estimates or forecasts) provided by the Company to the Trustee is true in all material respects at the it was provided or as at the date (if any) it was stated and that neither that information nor its conduct and the conduct of anyone on its behalf in relation to the transactions contemplated by this deed or the Notes, was or is misleading, by omission or otherwise;
- (l) **law:** the Company and each of its Subsidiaries has complied with all applicable laws where a failure to comply would have or would be likely to have, a material adverse effect on the Company's ability to perform its obligations under this deed, including the Terms of Issue; and
- (m) **solvency:** none of the Company or any of its Subsidiaries is insolvent or unable to pay its debts as and when they become due and payable.

Each representation and warranty in this clause 7.2 is deemed to be repeated by the Company on each date Notes are issued and each Interest Payment Date by reference to the facts and circumstances existing on that date other than clause 7.2(g) which is deemed to be repeated by the Company only on the date Notes are issued pursuant to the Prospectus.

7.3 Trustee's undertakings

The Trustee must:

- (a) act honestly and in good faith and comply with all laws in performing its duties and in the exercise of its discretions under this deed;



- (b) exercise such diligence and prudence as a person qualified to be a trustee under the Corporations Act in the position of the Trustee would exercise in performing its duties and in the exercise of its discretions under this deed;
- (c) if and to the extent the Trustee holds Trust assets, keep or cause to be kept, accounting records which correctly record and explain all amounts paid and received by the Trustee in its capacity as trustee under this deed; and
- (d) if and to the extent the Trustee holds Trust assets, keep the assets of the Trust separate from all other assets of the Trustee which are held in a capacity other than trustee under this deed.

7.4 Reliance

The Company and the Trustee acknowledge that they each have entered into this deed in reliance on the representations and warranties in, or given under, this deed including, but not limited to, clause 7.1 and 7.2.

7.5 Survival of representations and warranties

The representations and warranties in this clause 7 survive the execution of this deed.

8 Enforcement of this deed

8.1 Enforcement by Trustee

The issue of Notes to any Holder confers on that Holder the benefit of all covenants, warranties and indemnities under this deed but subject to clause 8.2, the Trustee and only the Trustee is entitled to take any action against the Company to enforce any provision of this deed or the obligation to repay the Notes or the interest thereon. No Holder shall be entitled to proceed directly against the Company to enforce any right or remedy under or in respect of this deed or the obligation to repay the Notes or the interest thereon unless the Trustee, having become bound to proceed under clause 8.2, fails to do so within a reasonable period and such failure shall be continuing, in which case any such Holder may, upon giving an indemnity satisfactory to the Trustee, in the name of the Trustee (but not otherwise) and subject to clause 9.2, itself institute proceedings against the Company for the relevant remedy to the same extent (but not further or otherwise) than the Trustee would have been entitled to do so.

8.2 Enforcement on direction by Holder

Subject to clause 5.8 of the Intercreditor Deed and clause 6.4, the Trustee must take action to enforce this deed where all the following conditions are met:

- (a) the Trustee is directed in writing to take the action;
- (b) the direction made to the Trustee is made:
 - (1) by Holders who hold 10% or more of the Notes; or
 - (2) by a resolution of Holders passed in accordance with Schedule 2 – Meetings of Holders;
- (c) the Trustee is indemnified to its reasonable satisfaction:
 - (1) for all actions, proceedings, claims and demands to which the Trustee may render itself liable by taking such action;

- (2) in respect of all costs, charges, damages and expenses which the Trustee may thereby incur; and
- (3) in respect of all management time spent by employees or officers of the Trustee in relation to such action in the amount required under clause 10 of this deed;
- (d) the action is permitted under the Security Trust Deed, the Intercreditor Deed and the Guarantee and Indemnity Deed Poll;
- (e) the Trustee is not of the view that the relevant breach or default is unlikely to materially prejudice the interests of the Holders; and
- (f) the Trustee holds sufficient Trust assets to enforce this deed in the manner contemplated.

For the avoidance of doubt, the Trustee may take action to enforce this deed in any other circumstances and in its absolute discretion but is not obliged to act unless the conditions of this clause are satisfied.

8.3 Unsuccessful attempts to pay

Subject to all applicable law, where the Company:

- (a) determines to pay an amount to a Holder and the payment attempt is unsuccessful; and
 - (b) has made reasonable efforts to locate the Holder and is unable to do so,
- the amount is to be held by the Company for the Holder in a non-interest bearing deposit with a bank selected by the Company until the Holder or a legal representative of the Holder claims the amount or the amount is paid by the Company in accordance with the law relating to unclaimed money.

9 Indemnity and limitation on liability for Trustee

9.1 Indemnity for Trustee

- (a) Without prejudice to any right of indemnity by any applicable law given to trustees, the Trustee and every person appointed by it pursuant to this deed is indemnified by the Company:
 - (1) in respect of all liabilities including all taxes and any fines or penalties in respect of a charge and expenses including legal fees (charged at the usual commercial rates charged by the provider of the legal services) incurred by it in the execution or purported execution of the trusts or powers constituted or conferred by this deed or an amendment to this deed; and
 - (2) against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to this deed,other than a claim arising out of its fraud, negligence or wilful default (including any breach of section 283DA of the Corporations Act).
- (b) The Trustee may retain and pay out of any moneys in its hands in priority to any claim by a Holder, all sums necessary to effect and satisfy such indemnity or an amount due and payable to the Trustee under clause 10.

- (c) This clause 9.1 has effect subject to section 283DB of the Corporations Act.

9.2 Continuing indemnity

The indemnity contained in clause 9.1(a) is a continuing and independent obligation of the Company and survives:

- (a) winding up or termination of the Trust under this deed; and
(b) the retirement or removal of the Trustee as trustee.

9.3 Limitation of liability

- (a) The Trustee enters this deed as trustee of the Trust and in no other capacity.
- (b) Subject to clause 9.3(e), a liability to the Holders arising under or in connection with this deed is limited to and can be enforced by the Holders against the Trustee only to the extent to which it can be satisfied out of the Assets against which the Trustee is actually indemnified in respect of the liability incurred by it as trustee of the Trust. This limitation of the Trustee's liability applies despite any other provision of this deed and extends to all Obligations in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.
- (c) The Company and the Holders may not:
- (1) have recourse to the Trustee, or enforce their rights against the Trustee arising from breach or non-performance of the Obligations by the Trustee, beyond the Assets against which the Trustee is actually indemnified as contemplated by clause 9.3(b); or
 - (2) seek the appointment of a receiver, a liquidator, an administrator or any other similar person to the Trustee (except in relation to property of the Trust) or prove in any liquidation of or affecting the Trustee (exception in relation to the property of the Trust).
- (d) The Holders and the Company may only enforce any rights they may have against the Trustee arising from the breach or non-performance of the Obligations only to the extent to which it can be satisfied out of the Assets against which the Trustee is actually indemnified in respect of the liability incurred by it as trustee of the Trust.
- (e) The provisions of this clause will not apply to any obligation or liability of the Trustee to the extent arising as a result of the Trustee's fraud, negligence or wilful default.
- (f) The Company acknowledges that it is responsible under this deed and the Terms of Issue for performing a variety of obligations under this deed and the Terms of Issue. No act or omission of the Trustee (including any related failure to satisfy its obligations or breach of representation or warranty under this deed) will be considered fraud, negligence or wilful default of the Trustee for the purposes of clause 9.3(e) to the extent to which the act or omission was caused or contributed to by any failure of the Company or any other person to fulfil its obligations relating to the Trust or by any other act or omission of the Company or any other person.
- (g) No attorney, agent or delegate appointed in accordance with this deed has authority to act on behalf of the Trustee in any way which exposes the Trustee to any liability which is not limited in the manner set out in this clause 9.3 and no act or omission of any such person will be considered fraud, negligence or wilful default of the Trustee for the purpose of clause 9.3(e).

(h) For the purposes of this clause 9.3:

Obligations means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Trustee under or in respect of this deed; and

Assets includes all assets, property and rights, real and personal of any value whatsoever.

9.4 Limitations

Without limiting clause 9.3, neither the Trustee nor any of its directors, officers, employees, agents or attorneys or Related Bodies Corporate will be responsible for or liable to the Company or any Holder or any other person for loss caused by:

- (a) the Trustee's acts or omissions in accordance with the terms of this deed in reliance on:
- (1) the Notes Register;
 - (2) information or documents supplied by the Company or any agent of the Company;
 - (3) the authenticity of any document it reasonably believes to be genuine and correct;
 - (4) opinion, advice or information of any consultant or adviser of the Trustee appointed under clause 6.6(e);
 - (5) acting on any instruction or direction properly given to it by the Company or Holders under this deed,
- provided that the Trustee has no actual knowledge to the contrary;
- (b) any act, omission, neglect or default of the Company or any other person under or in connection with this deed or the Notes;
- (c) any act or omission required by law or by any court of competent jurisdiction;
- (d) anything done or omitted to be done in accordance with an instruction or direction given to it by the Holders at a Meeting;
- (e) any act or omission of an operator of any securities title, transfer or holding system or any absence of, or defect in, the title of the Company to any asset;
- (f) any payment having been made to any fiscal authority; or
- (g) the Trustee waiving or excusing, subject to any conditions that the Trustee thinks fit, any breach by the Company of the Company's obligations under this deed.

9.5 Trustee capacity

In this deed, except where expressly provided to the contrary:

- (a) a reference to the Trustee is a reference to the Trustee in its capacity as trustee of the trust created by this deed only, and in no other capacity; and
- (b) a reference to the undertaking, assets, business, money or any other thing of or in relation to the Trustee is a reference to such undertaking, assets, business, money or other thing of or in relation to the Trustee only in its capacity as trustee of the trust created by this deed, and in no other capacity.

9.6 Notice of this deed

- (a) The Company will give notice of the execution of this deed to ASIC in accordance with its obligations under the Corporations Act and provide a copy of the notice to the Trustee.
- (b) For the avoidance of doubt, the Trustee is not bound to give notice to any person of the execution of this deed.

10 Trustee's remuneration and expenses

10.1 Remuneration

- (a) The Company must pay to the Trustee by way of remuneration for its services such amounts as may be agreed between the Trustee and the Company.
- (b) The Company must also pay to the Trustee on demand all Costs (and reasonable time and attendance costs of the Trustee's officers and employees involved in relation to clauses 10.1(b)(1) to (5)) reasonably and properly incurred by or on behalf of the Trustee:
 - (1) in, or about, or in connection with, the preparation, execution, registration, stamping, administration, amendments or variation of this deed, the Security Trust Deed, the Intercreditor Deed, Guarantee and Indemnity Deed Poll or the Recognition Deed;
 - (2) in, or in connection with, the carrying out or exercise or the purported carrying out or exercise by the Trustee of any duty, obligation or power imposed or conferred expressly or impliedly by this deed on the Trustee or upon Holders or by law;
 - (3) in exercising, preserving or enforcing any rights or in connection with any breach or default in the observance or performance by the Company of any of the covenants, obligations, conditions and provisions of this deed;
 - (4) in or in connection with all actions taken under this deed in relation to complying with any notice, request or requirement of any Government Agency and any investigation by any Government Agency into the affairs of the Company; or
 - (5) in or in connection with the preparations for the convening and holding of any Meeting of Holders and the carrying out of any directions or resolutions of Holders.
- (c) In the absence of agreement in relation to the reasonable time and attendance costs referred to in clause 10.1(b), the Trustee shall be entitled to charge the Company reasonable hourly rates for time spent by the Trustee's officers and employees in relation to clauses 10.1(b)(1) to 10.1(b)(5). Such hourly rates shall:
 - (1) reflect the level of expertise required to perform the work; and
 - (2) be commensurate with and referable to the hourly rates charged at the relevant time by members of the Insolvency Practitioners Association of Australia for work of the kind performed by the Trustee's officers and employees.

10.2 Remuneration for registry services

As at the date of executing this deed, the Trustee is not appointed the registrar. However, if at any time while the Notes are on issue, the Company appoints the Trustee to act as the registrar, in addition to all amounts otherwise payable under this deed, the Company must pay to the Trustee remuneration in respect of any period during which it is required to act as registrar calculated in accordance with normal commercial rates for providing such services.

10.3 Priority and survival

All remuneration and expenses referred to in this clause 10 shall be paid in priority to any claim by any Holder and continue to be payable until paid notwithstanding that this deed or the Trust may be terminated, or the Trust may be wound up or subject to administration by or under the order of any court.

10.4 GST

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

11 Retirement and removal of Trustee

11.1 Retirement

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

- (a) the day which is 60 days after the date of the notice (or such shorter period as the Trustee and the Company may agree); and
- (b) the day upon which the appointment of a new Trustee becomes effective under clause 11.3.

11.2 Removal

- (a) Subject to compliance with the relevant statutory requirements for the time being, the Trustee must retire as trustee for the Holders under this deed and the Company may by written notice remove the Trustee if:
 - (1) the Trustee is in material breach of its obligations under this deed and has not rectified the breach within 10 Business Days of receiving a written notice from the Company to rectify the breach;
 - (2) the Trustee ceases to carry on business;
 - (3) the Trustee is placed in liquidation or is wound up or dissolved;

- (4) a receiver, receiver and trustee, official trustee, liquidator, administrator or similar official is appointed to the Trustee;
 - (5) any licence, consent, Authorisation, permit or similar thing the Trustee is required to hold to carry out its obligations and duties under or in respect of this deed is revoked or not renewed;
 - (6) the Company reasonably believes that any of the things referred to in section 283BD of the Corporations Act have occurred;
 - (7) the Trustee ceases to be a person who can be appointed a trustee under section 283AC(1) of the Corporations Act;
 - (8) the Trustee cannot continue to act as Trustee because of the operation of section 283AC(2) of the Corporations Act; or
 - (9) the Company is authorised or requested to do so by a Meeting of the Holders called in accordance with clause 12.
- (b) Any removal of the Trustee by the Company under this clause 11.2 will only take effect upon the appointment of a new Trustee under clause 11.3.
- (c) On the retirement or removal of the Trustee, the Trustee must at the cost of the Company do all such things and execute all such deeds and assurances as are necessary for the purpose of vesting in a new trustee all money, property, rights, powers, authorities and discretions vested in the Trustee under this deed.

11.3 Appointment of new Trustee

- (a) Subject to section 283AC of the Corporations Act, the Company may appoint a Trustee Company to be a new Trustee following the retirement or removal of the Trustee in accordance with this clause 11, but if the Company fails to do so within 60 days after receiving a notice from the Trustee under clause 11.1 then the Trustee may appoint a new Trustee (or, if possible, apply to the court for the appointment of a new Trustee).
- (b) A new Trustee may be appointed by deed executed under seal by the new Trustee and the Company or the Trustee (as applicable) and such execution shall by force of this clause 11.3 vest in the new Trustee all Trustee Powers and all right title and interest of the Trustee in this deed and the Terms of Issue.
- (c) The Company or the Trustee (as applicable) must procure that at the time that a new Trustee is appointed under clause 11.3(b) that the new Trustee becomes a party to the Security Trust Deed and the Intercreditor Deed in accordance with clause 8 of the Security Trust Deed and clause 13.6(d) of the Intercreditor Deed.

11.4 Release

- (a) When the Trustee retires or is removed, the Trustee is by force of this clause 11.4 discharged and released from its obligations, covenants and liabilities under this deed arising after the date it retires or is removed.
- (b) The retirement, removal or departure of the Trustee does not prejudice any accrued right or obligation of the Trustee (including, without limitation, its right of indemnity or entitlement to be paid fees that continue to accrue up to the date of appointment of the new trustee).

12 Meetings of Holders

12.1 Meetings of Holders

- (a) Subject to the Corporations Act, the Trustee or the Company may at any time convene a Meeting.
- (b) The Company must convene a Meeting on receipt of a direction in writing by Holders who hold 10% or more of the Notes stating the object of the Meeting and the terms of any proposed resolution. The Company must serve a copy of the direction on the Trustee together with all other relevant information and comply with the Corporations Act.
- (c) The provisions of Part 2L.5 of the Corporations Act and Schedule 2 of this deed apply to any Meeting of Holders.
- (d) The Trustee may do all things (including executing documents) it reasonably considers necessary or desirable under or in connection with any Special Resolution.

12.2 Passing of resolution

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

13 Notes Register

13.1 Maintenance of the Notes Register

- (a) The Company must establish and maintain (or cause to be established and maintained) the Notes Register and enter (or cause to be entered) on the Notes Register:
 - (1) all information required by section 171 of the Corporations Act;
 - (2) the terms and conditions of the Notes; and
 - (3) any other particulars which the Company thinks fit or that it is required to include on the Notes Register under this deed.
- (b) The Company must promptly, on receipt of details of any change of name or address of a Holder notified in writing and accompanied, in the case of change of name, by any evidence which the Company may reasonably require, alter (or cause to be altered) the details recorded on the Notes Register in respect of that Holder.
- (c) On giving a notice by advertisement or otherwise as may be required by law, or the requirements of the Listing Rules, the Company may from time to time close any Notes Register for any period or periods not exceeding in any one year the maximum period permitted by law or those requirements in aggregate in any calendar year.
- (d) No notice of any trust (whether express, implied or constructive) will be entered in the Notes Register except as may be ordered by a court of competent jurisdiction.

- (e) At any time the Company may (on such terms as it thinks fit) appoint a person to establish and maintain the Notes Register and may terminate such appointment, however the Company will remain responsible for maintaining the Notes Register and the Trustee may rely on the Notes Register as conclusive evidence of the Notes issued under this deed.
- (f) The Company must give a copy of the Notes Register to the Trustee within 48 hours of a request by the Trustee for a copy of the Notes Register.

13.2 Joint Holders

Where two or more persons are registered as the holders of Notes (**Joint Holders**) they are, for the purposes of the administration of this deed and not otherwise, deemed to hold the Notes as joint tenants, on the following conditions:

- (a) the Company is not bound to register more than three persons as the Joint Holders of the Notes;
- (b) the Joint Holders are jointly and severally liable in respect of all payments, including payment of any Tax, which ought to be made in respect of the Notes;
- (c) on the death of a Joint Holder, the survivor or survivors are the only person or persons whom the Company or the Trustee will recognise as having any title to the Notes, but the Company or the Trustee may require any evidence of death which it thinks fit;
- (d) any one of the Joint Holders may give an effective receipt which will discharge the Company or the Trustee in respect of any payment or distribution;
- (e) the Joint Holders of a Note are counted as a single holder of the Note for the purposes of calculating the number of Holders or requisitioners who have applied for a Meeting of Holders;
- (f) only the person whose name appears first in the Notes Register as one of the Holders is entitled to delivery of any notices, cheques or other communications from the Company or the Trustee, and any notice, cheque or other communication given to that person is deemed to be given to all the Joint Holders; and
- (g) a payment to any one of the Joint Holders will discharge the Company's liability with respect to that payment.

13.3 Holding statements

- (a) The Company or the Notes Register (as applicable) must issue to each Holder a holding statement as soon as reasonably practicable after the issue of the Notes.
- (b) Any holding statement in respect of Notes is no guarantee that any amounts will be paid to the Holder.

14 Transfers

14.1 Transfer

- (a) Before the Notes are quoted on the Official List (**Officially Quoted**) or at any time after the Notes cease to be Officially Quoted, all transfers of the Notes

must be effected by a proper instrument of transfer and in a manner approved by the Company. The Company may decline to register a transfer of Notes under this clause 14.1(a) unless the instrument of transfer:

- (1) is duly stamped; and
 - (2) is accompanied by such evidence as the Company requires to prove the title of the transferor.
- (b) While Notes are Officially Quoted all transfers of Officially Quoted Notes must be effected in accordance with the ASX Settlement Operating Rules.
- (c) A transferor of Notes remains the Holder until the transfer is registered and the name of the transferee is entered in the Notes Register in respect of the Notes.

14.2 Transaction advice after transfer

If the Company accepts a transfer under this clause 14, the Company may issue a transaction advice for:

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

14.3 No general restriction on transfer

- (a) There is no restriction on the transfer of Notes and, subject to clause 14.4 and the Terms of Issue, the Company may not do anything which may prevent, delay or in any way interfere with, the registration of a transfer of Notes effected under clause 14.1(b).
- (b) Except as otherwise set out in this clause 14 and the Terms of Issue, there is no restriction on any other transfer of Notes.

14.4 Restricted securities

Despite any other provisions of this deed:

- (a) restricted securities (as defined in the Listing Rules) cannot be disposed of during the escrow period referred to in the Listing Rules except as permitted by the Listing Rules or ASX;
- (b) subject to the ASX Settlement Operating Rules in respect of CHES Approved Securities, the Company must refuse to acknowledge a disposal (including registering a transfer) of restricted securities during the escrow period except as permitted by the Listing Rules or ASX; and
- (c) in the event of a breach of the Listing Rules in relation to Notes which are restricted securities, the Holder holding the Notes in question ceases to be entitled to any payment of interest and to any voting rights in respect of those Notes for so long as the breach subsists.

14.5 Death, legal disability

- (a) If a Holder dies, becomes subject to a legal disability, becomes bankrupt or is liquidated the survivor (in the case of Joint Holders), legal personal representative or the person entitled to Notes as a result of bankruptcy or liquidation, will be recognised as having a claim to Notes registered in the Holder's name.

- (b) The Company need not register any transfer or transmission under this clause unless the transferee provides an indemnity in favour of the Company in a form determined by the Company in respect of any consequence arising from the transfer or transmission.

14.6 Recognition of Holder

The Company and the Trustee:

- (a) must treat the person entered on the Notes Register as a Holder as the absolute owner of all rights and interests of the Holder; and
- (b) except as required by law or this deed, need not recognise any claim or interest in any Notes by any other person.

14.7 Participation in transfer systems

The Company may determine that Notes which are Officially Quoted will participate in the 'Clearing House Electronic Sub-register System' or any other computerised or electronic system of transfer or registration. The Company may with the approval of ASX, create rules to facilitate such participation which may be additional to or may override this clause 14.

15 Amendments to deed

15.1 Alteration without consent

- (a) Subject to clause 5.6 of the Intercreditor Deed and paragraph 15.1(b) below, and to complying with all applicable laws, the Company may, by an instrument in writing and without the authority, assent or approval of Holders, alter this deed if such alteration is, in the opinion of an independent Law Firm appointed by the Company:
 - (1) of a formal, minor or technical nature;
 - (2) made to correct an ambiguity or manifest error;
 - (3) made to comply with any law, the Listing Rules or the listing or quotation requirements of any securities exchange on which the Company may propose to seek quotation of Notes;
 - (4) convenient for the purpose of obtaining or maintaining the listing or quotation of the Notes; or
 - (5) is not likely (taken as a whole and in conjunction with all other alterations, if any, to be made contemporaneously with that alteration) to be prejudicial to the interests of the Holders,and such legal opinion is provided to and addressed for the benefit of the Trustee.
- (b) Prior to making an amendment to this deed in the manner outlined in paragraph 15.1(a):
 - (1) the Company must provide the Trustee with a copy of the proposed alteration and draft legal opinion in reasonably sufficient time to allow the Trustee to consider and consent to the proposed amendments; and

- (2) the proposed alteration must not alter or conflict with any of the rights and obligations of the Trustee.

15.2 Alteration by Special Resolution

Without limiting clause 15.1, the Company may by an instrument in writing alter this deed if the alteration has been approved by Holders by a Special Resolution and provided the alteration does not alter or conflict with, without its consent, any of the rights and obligations of the Trustee.

15.3 Alteration

In this clause 15, 'alter' includes modify, cancel, amend or add to.

16 Termination and release

16.1 Termination of trust

This deed terminates on the earlier of:

- (a) the date the last of the following occurs:
 - (1) the redemption or conversion of all Notes;
 - (2) payment of all amounts of principal and distributions due on Notes;
 - (3) payment of all Costs reasonably and properly incurred by the Trustee; and
 - (4) the satisfaction or waiver of all other obligations or liabilities of the Company to the Trustee and Holders;
- (b) the date on which Holders unanimously determine that the Trust be wound up; or
- (c) the date required by law.

16.2 Disposal of assets

If the Trust is terminated in accordance with clause 16.1, the Trustee must distribute the balance of any income and capital in accordance with clause 2.3.

16.3 Confirmation of release

- (a) At any time after the Company's obligations have been discharged under clause 16.1, either party (**Released Party**) may request the other to execute in favour of the Released Party, certification that the Released Party is released from the obligations under this deed and the other party must provide the Released Party with the confirmation and release so requested.
- (b) Without limiting the generality of clause 6.6(f), where the Trust terminates following satisfaction of the conditions in clause 16.1(a), neither party is required to execute a release in favour of the Released Party unless and until the Company has procured an auditor of the Company to certify the satisfaction of the conditions specified in clause 16.1(a) (**Termination Certificate**),

expressed as being able to be relied upon by the Trustee and the Trustee may rely and act on the Termination Certificate.

17 Determination of matters of doubt

The Trustee may as between itself and the Holders determine all questions and matters of doubt arising in relation to this deed and its construction, meaning, operation or effect and every such determination whether made upon a question actually raised or implied in the acts or proceedings of the Trustee is conclusive and binding on all Holders.

18 Confidentiality

18.1 Confidential information

The Trustee acknowledges that all Confidential Information is confidential to the Company and must not be disclosed to any person except as permitted by clause 18.2.

18.2 Permitted disclosure

The Trustee may disclose Confidential Information:

- (a) to the extent required by this deed or by law, but only to the extent so required;
- (b) to its officers, employees and professional advisers, but only to the extent that such disclosure is necessary in order for the Trustee to perform its obligations (including exercising the Trustee Powers) under this deed; or
- (c) with the prior written consent of the Company (which may be given or withheld in its absolute discretion).

18.3 Disclosure to third parties

The Trustee must use its best endeavours to ensure that every person to whom it provides Confidential Information under clause 18.2 gives a confidentiality undertaking in favour of the Company in the same terms as this clause 18 and performs its obligations under such undertaking.

19 General

19.1 Notices

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

- (a) must be in legible writing and in English addressed as shown below:
 - (1) if to the Company:

Address: Level 1, 312 St Kilda Road,
Melbourne, Victoria, 3000

Attention Company Secretary
Facsimile: (03) 9926 7599
(2) if to the Trustee:
Address: Level 3, 530 Collins Street,
 Melbourne, Victoria 3000
Attention: Head of Structured Finance Services
Facsimile: (03) 9620 5826

or to any other address specified to the sender by any party by notice;

- (b) must be signed by an officer or under the common seal of the sender;
- (c) is deemed to be given by the sender and received by the addressee:
 - (1) when delivered by hand to the street address during the hours of 9.00 am to 5.00 pm on a Business Day;
 - (2) on the day following the day on which the envelope containing the same was posted with postage prepaid to the postal address; and
 - (3) if sent by facsimile transmission, when receipt of a legible transmission has been acknowledged.

19.2 Prohibition and enforceability

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

19.3 Governing law and submission to jurisdiction

- (a) This deed is governed by the laws of Victoria.
- (b) The Company and the Trustee submits to the exclusive jurisdiction of the courts of the State of Victoria, Australia for the purpose of any legal proceedings arising out of this deed.

19.4 Waivers

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



- (d) A party may not rely on any conduct of another party as a defence to exercise of a right or Power by that other party.

19.5 Cumulative rights

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

19.6 Further assurances

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

19.7 To the extent not excluded by law

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

19.8 Discretion in exercising rights

The Trustee or a Holder may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this deed expressly states otherwise.

19.9 Conflict of interest

The Trustee's and any Holder's rights and remedies under this deed may be exercised even if this involves a conflict of duty or the Trustee or Holder has a personal interest in their exercise.

19.10 Counterparts

This deed may be executed in counterparts, which taken together will be taken to constitute the one and the same document.



Schedules

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Schedule 1

Terms of Notes

Terms of Notes

1. General

1.1 Form

The Notes are subordinated notes. Holders are entitled to the benefit of, and are bound by the provisions of, the Trust Deed. The Trust Deed has been lodged with ASIC, and is available for inspection by Holders at the office of the Trustee.

1.2 Issue price

Each of the Notes to be issued by the Issuer:

- (a) will have a face value of \$100; and
- (b) must be paid for in full on or before issue.

1.3 Ranking and subordination

The Notes are subordinated debt obligations of the Issuer which rank behind the Senior Debt as set out in the Intercreditor Deed, and rank equally without any preference among themselves.

Under the Security Trust Deed and the Intercreditor Deed, Holders will have the benefit of the same security as secures the Senior Facilities (being the Security) but will rank second in respect of that security behind the Senior Creditors.

In the event of the Issuer being wound up, Holders will be entitled to receive a repayment of the issue price of the Notes plus any accrued interest after the Senior Creditors have been paid in full but before any distributions are made to preference or ordinary shareholders of the Issuer. The obligations of the Issuer in respect of the Notes rank in priority (by virtue of being secured under the Security) ahead of all its unsecured and unsubordinated payment obligations other than claims mandatorily preferred by law and existing security interests, or any other security interest, of the Security Group as permitted by the Senior Facility Agreement.

1.4 Security

The Notes are secured over the key operating assets of the Security Group in accordance with the provisions of the Security Trust Deed, the Intercreditor Deed and each Security. Each Holder is taken to have acknowledged and agreed that it is bound by the Security Trust Deed and the Intercreditor Deed. The Security Trust Deed and the Intercreditor Deed have been lodged with ASIC, and are available for inspection by Holders at the office of the Company.

2. Interest

2.1 Interest

Subject to these Terms of Issue, interest will accrue on each Note on a daily basis at the Interest Rate.

2.2 Payment of Interest

Subject to clause 6.5, interest is due and payable by the Issuer on the Notes in arrears on each Interest Payment Date and each Redemption Date (in respect of the amount redeemed or exchanged, as the case may be), unless the Suspension Condition is satisfied in respect of an Interest Payment Date or a Redemption Date, in which case the Issuer's obligation to pay interest will be suspended in accordance with clause 2.3(a).

2.3 Suspension of Interest

- (a) Interest on a Note which is otherwise due and payable on any Interest Payment Date or any Redemption Date (including any Suspended Interest arising as a consequence of any prior operation of this clause 2.3(a)) that is not due and payable by the Issuer on that date as a result of the provisions of clause 2.2 is automatically suspended and will fall due for payment on:
 - (i) in the case of interest suspended on an Interest Payment Date, the earlier of:
 - (A) the next Interest Payment Date on which the Suspension Condition is not satisfied; and
 - (B) the date that any principal in respect of the Notes is due and payable in accordance with the provisions of these Terms of Issue; and
 - (ii) in the case of interest suspended on a Redemption Date, the first date on which the Suspension Condition is not satisfied or the date on which such interest is deemed to be repaid under clause 3.4(d)(i).
- (b) The Issuer will give notice to the Trustee and the Holders that payment of interest will be suspended under clause 2.3(a) as soon as practicable after it makes such determination.
- (c) The suspension of any interest payment under clause 2.3(a) will not constitute a default by the Issuer for any purpose.

2.4 Cumulative Interest

Interest accrues on any Suspended Interest and any other interest that is due and payable but unpaid on a daily basis and compounds on a quarterly basis from (and including) the relevant Interest Payment Date or Redemption Date to (but excluding) the date of actual payment at a rate equal to the sum of the Interest Rate and 2.00% per annum. Interest accrued under this clause 2.4 is due and payable on the next Interest Payment Date after the suspension or non-payment (as applicable) of the relevant interest.

2.5 Restrictions on distributions

The Issuer must not, and shall procure that each other Obligor does not, announce the payment of, or make any distribution to, its ordinary shareholders or to holders of preference shares, in each case in their capacity as holder of such security, or in respect of any other securities or similar indebtedness, the right to which, by the terms of its creation or issue or law, is or is expressed to be subordinated to the Notes, or buy-back any ordinary shares or preference shares or such other security or indebtedness, if on such day:

- (a) any amount in respect of interest on any Note is due and payable but unpaid;
- (b) any amount in respect of interest on any Note is suspended in accordance with clause 2.3(a);
- (c) any amount in respect of principal on any Note is due and payable but unpaid;
- (d) the Total Leverage Ratio on such day is greater than 4.50 times or would be greater if such distribution was made; or
- (e) an Event of Default or Potential Event of Default is subsisting.

2.6 Restrictions on Finance Debt

The Issuer must not, and shall procure that each other Obligor does not, incur any Finance Debt which ranks senior in priority to or pari passu with the Notes (other than Permitted Finance Debt), if incurring such Finance Debt (other than Permitted Finance Debt) would cause the Total Leverage Ratio on such day to exceed the Maximum Leverage Level.

2.7 Testing of Financial Covenants

The financial covenants set out in clauses 2.5(d) and 2.6, and the Interest Suspension Financial Covenant, will be tested on each Ratio Testing Date by reference to the most recently available quarterly aggregated, unaudited financial statements for the relevant Ratio Testing Date, unless annual aggregated, audited financial statements for the Security Group for all or any part of the relevant period are available on the date on which any such

covenant is tested, in which case those annual accounts shall be used instead.

2.8 Payment of Outstanding Interest

Subject to clause 2.9, the Issuer may pay all or any Outstanding Interest on all, but not some, of the Notes to the Holders at any time, provided the Suspension Condition is not then satisfied and subject to the Issuer notifying the Holders at least 5 Business Days prior to any such payment of the date of payment and the amount of such interest to be paid in respect of each Note.

2.9 Priority of Interest payments

Any payment of interest by the Issuer must be applied:

- (a) first, in payment of any interest accrued on any Suspended Interest under clause 2.4 which has not been paid or otherwise satisfied in full at that time;
- (b) secondly, in payment of any Suspended Interest; and
- (c) lastly, in payment of any other Outstanding Interest.

2.10 Calculation of Interest

Interest will be calculated on the basis of a 365 day year and the number of days elapsed. All calculations of interest will be rounded to four decimal places. Any fraction of a cent in the payment of any interest in respect of a Holder's aggregate holding of the Notes will be disregarded.

3. Exchange Right

3.1 Grant of Exchange Right

The Issuer grants each Holder resident in Australia the right described in this clause 3 ("Exchange Right") in respect of any IPO. The Issuer may, at its discretion, extend the Exchange Right to Holders with registered addresses in any jurisdiction outside Australia where the Issuer reasonably believes that it is not prohibited or it is not unduly onerous or impractical to implement the Exchange Right to Holders in that jurisdiction.

3.2 Notice to Holders

The Issuer must:

- (a) if a disclosure document in respect of an IPO is lodged with ASIC that is not a supplementary or replacement disclosure document (an "IPO Disclosure Document"), send to each Holder that is on the Notes Register at 7.00pm on the Business Day immediately prior to the lodgement of the IPO Disclosure Document with ASIC (at the Holder's address as it appears in the Notes Register) within three Business Days of lodgment of the IPO Disclosure Document with ASIC, notice of the IPO together with a

form of exercise of the Exchange Right (“Exchange Notice”); and

- (b) ensure that:
 - (i) the Application Form in respect of any IPO specifically contemplates and allows for the priority application by Holders for Listed Securities in respect of the IPO Exchange Amount on the basis described in clause 3.4, and otherwise in accordance with these Terms of Issue;
 - (ii) copies of Exchange Notices and the relevant IPO Disclosure Document (including an Application Form) are obtainable by Holders on request from the Issuer or any other person appointed by the Issuer; and
 - (iii) the close of the retail offer of the IPO will be no sooner than 15 Business Days after the lodgement of the relevant IPO Disclosure Document with ASIC.

3.3 Exercise of Exchange Right

To exercise the Exchange Right under any Note in respect of any IPO, a Holder must:

- (a) be listed on the Notes Register on the record date to be determined by the Issuer and advised by the Issuer to Holders in the Issuer’s discretion including by way of an announcement to ASX or in a newspaper widely circulated in Australia; and
- (b) at its own expense:
 - (i) complete and execute an Exchange Notice stating the number of Notes in respect of which the Exchange Right is exercised (“Exercised Holding”) which number must not be greater than the number of Notes held by the relevant Holder on the Final Deposit Date that the Holder continues to hold on the Exchange Date; and
 - (ii) complete and execute, in accordance with the directions on the form, an Application Form under the IPO applying for Listed Securities in respect of the Exercised Holding (“Application Form”); and
- (c) deposit the Exchange Notice, the Application Form and other documents required under the terms of the IPO to accompany the Application Form, at the address specified in the Exchange Notice (or if no address is specified, the registered office of the Issuer) during normal business hours on or before the date (the “Final Deposit Date”) which is three Business Days prior to the close of the

offer period for retail investors for the IPO (or such different date advised by the Issuer to Holders in the Issuer’s discretion including by way of an announcement to ASX or in a newspaper widely circulated in Australia).

- (d) The Issuer and the Trustee will have no responsibility for any error or misstatement by a Holder on an Exchange Notice or an Application Form and the Issuer is not bound to act on an Exchange Notice or Application Form which contains an error or misstatement.

3.4 Obligations of the Issuer

Subject to Completion of the IPO, upon the exercise of the Exchange Right by a Holder in accordance with the provisions of these Terms of Issue:

- (a) the Issuer must ensure that the Application Form in respect of the IPO is delivered to the issuer or vendor (as the case may be) of the Listed Securities under the IPO before the closing date of the IPO;
- (b) the Issuer must procure that, subject to clause 3.7, the issuer or vendor (as the case may be) of the Listed Securities under the IPO accepts the Holder’s Application in respect of the IPO Exchange Amount;
- (c) the Issuer must apply on behalf of the Holder the IPO Exchange Amount in application for the subscription or purchase, as the case may be, of the Listed Securities in respect of the IPO, on or before the due date for payment under the terms of the IPO;
- (d) upon issue or transfer of the Listed Securities to the Holder under the IPO, the Issuer will redeem the Exercised Holding, and:
 - (i) the IPO Exchange Amount shall be deemed to be repaid by way of the application of that amount on behalf of the Holder under clause 3.4(c) (except to the extent that the Holder is not issued or transferred Listed Securities to the full amount of the IPO Exchange Amount, in which case the Notes will not be redeemed to that extent); and
 - (ii) any interest accrued under clauses 2.1 or 2.4 from the previous Interest Payment Date to the date of issue or transfer will be due and payable to the Holder (unless the Suspension Condition is then satisfied in which case such accrued interest will be added to the IPO Exchange Amount); and
- (e) in application of the IPO Exchange Amount in accordance with clause 3.4(c) (including

through the operation of clause 3.4(d)), the Issuer will not apply any amount in respect of a fraction of a Listed Security. Any amount remaining after the application in accordance with clause 3.4(c) will be disregarded by the Issuer and the Issuer is discharged of its obligations to either apply such amount in accordance with clause 3.4(c) or deliver such amount to the Holder.

3.5 Price of Listed Securities

The Issuer must procure that the subscription or purchase price of any Listed Securities to be issued or transferred to a Holder on exercise of any Exchange Right is 97.5% of the price of such securities to retail investors pursuant to the general retail offer, or if there is no general retail offer, the broker firm retail offer.

3.6 Issue or transfer of securities

For the avoidance of doubt, nothing in these provisions requires any securities to be issued or transferred to any Holder in accordance with this clause 3 other than pursuant to and in accordance with the terms of an IPO.

3.7 Limitations on Exchange Right

Holders will not be entitled to exercise the Exchange Right to the extent that this would result in less than 10% of the total amount to be raised from the IPO (being the aggregate amount received by all persons issuing and / or transferring securities pursuant to the IPO) being raised from investors other than the Holders.

3.8 Reduction of Exercised Holding

If, in relation to any IPO, Holders exercise the Exchange Right in respect of an aggregate amount which exceeds the total amount available for subscription and / or purchase by Holders under the IPO (being the total amount to be raised from the IPO less 10%), then the Exercised Holding of each such Holder will be deemed to have been reduced by a proportionate amount of such excess.

3.9 General

For the avoidance of doubt, Holders are not required to subscribe in an IPO and may, subject to clause 4, choose instead to continue to hold all or any part of their holdings in the Notes (and receive any relevant premium upon redemption of such Notes).

4. Redemption

4.1 Subordination

The redemption by the Issuer of any Note is subject to the provisions of the Security Trust Deed and the Intercreditor Deed.

4.2 Final Redemption

The Issuer must redeem all the Notes on issue on the Maturity Date at their then outstanding principal

amount plus any Outstanding Interest on those Notes as at such date.

4.3 Early Redemption by Issuer

(a) (Early Redemption on Refinancing Event)

If a Refinancing Event occurs on any date falling on or prior to the date that is 12 months after the Issue Date, the Issuer may, on the date the Refinancing Event occurs or within 3 months after that date (provided the Issuer has first given not less than 28 days notice to the Holders and the Trustee (which notice will be irrevocable)), redeem all (but not part or some only) of the Notes in which event:

- (i) the redemption will take effect on the date specified in the Issuer's notice; and
- (ii) the redemption amount will be 105% of the principal amount outstanding under the Notes.

For the avoidance of doubt, if the redemption notice given under this clause 4.3(a) states that the redemption is conditional on completion of the refinancing then if the refinancing does not proceed and the Issuer advises Holders that the refinancing will not proceed, the notice of redemption issued by the Issuer will lapse. However, if the refinancing does proceed then the redemption notice will be valid.

- (b) **(Early Redemption following IPO)** If at any time on or prior to the date that is 24 months after the Issue Date, there is an issue of Listed Securities pursuant to an IPO, then the Issuer may at any time afterwards, by giving not less than 28 days notice to the Holders and the Trustee (which notice will be irrevocable), redeem all or any part of the Notes (after taking into account elections by Holders of the Notes to subscribe in the IPO pursuant to the Exchange Right) at 105% of such part of the principal amount of the Notes as is being redeemed and in such circumstances the redemption will take effect on the date specified in the Issuer's notice. If the Issuer proposes to redeem only part of the Notes in accordance with this clause 4.3(b), the Issuer shall redeem each Note pro rata. For the avoidance of doubt, the Issuer may make more than one redemption in accordance with the provisions of this clause 4.3(b).

- (c) **(Early Redemption Issuer call option)**

The Issuer may, on any date falling on or after the date that is 12 months after the Issue Date, redeem all or part (pro rata

across Holders) of the Notes at the Early Redemption Amount by giving not less than 28 days notice of the call to the Holders and the Trustee. In such circumstances, the redemption will take effect on the date specified in the Issuer's notice (which may be given before the date that is 12 months after the Issue Date provided the redemption does not take effect before the date that is 12 months after the Issue Date). For the avoidance of doubt, the Issuer may make more than one redemption in accordance with the provisions of this clause 4.3(c).

(d) **(Early Redemption in connection with IPO)** If on any date falling on or after the date that is 24 months after the Issue Date, a disclosure document for an IPO (not being a supplementary or replacement disclosure document) is lodged with ASIC, the Issuer may, by giving not less than 28 days notice to the Holders and the Trustee (which notice will be irrevocable), redeem all or any part of the Notes in which event:

- (i) the redemption will take effect on the later of the date specified in the Issuer's notice and the date of issue or transfer (as the case may be) of Listed Securities pursuant to the relevant IPO (or, if the IPO is withdrawn prior to the issue or transfer of Listed Securities, the date of announcement of such withdrawal);
- (ii) the redemption amount will be 102.5% of such part of the principal amount of the Notes as is being redeemed; and
- (iii) if the proposed redemption relates to part only of the Notes, the Issuer must redeem the Notes pro rata across Holders (after taking into account elections by Holders of the Notes to subscribe in the IPO pursuant to the Exchange Right),

provided that the Issuer may only give a notice of redemption under this clause 4.3(d) within 3 months after the date of first lodgement of the relevant IPO disclosure document with ASIC (but provided it does so, it may give more than one such notice). For the avoidance of doubt, if the redemption notice given under this clause 4.3(d) states that the redemption is conditional on Completion of the IPO then if the relevant securities under the IPO are not issued or transferred due to the IPO not proceeding or being withdrawn and the Issuer advises Holders that the IPO will not proceed, the notice of redemption issued by the Issuer will lapse. However, if the IPO

proceeds and the Listed Securities are issued and/or transferred, then the redemption notice will be valid and the redemption will be subject to the Exchange Right.

- (e) **(Early Redemption for Tax Event)** The Issuer may redeem the Notes for the principal amount outstanding plus any Outstanding Interest at any time after the occurrence of a Tax Event.
- (f) **(Clean-up call for small value of Notes)** The Issuer may at any time redeem the Notes for the Early Redemption Amount on the date of redemption if the aggregate value of Notes on issue is less than \$50 million.
- (g) **(Interaction with Senior Finance Documents)** No early redemption will occur unless it is permitted under the Senior Finance Documents.
- (h) **(Interest on redemption)** Where a Note is redeemed under this clause 4.3, the Issuer must pay the relevant Holder, in addition to the relevant redemption amount payable, all Outstanding Interest payable in respect of the Note being redeemed.
- (i) **(Premium)** For the avoidance of doubt, where Notes are redeemed pursuant to the exercise of the Exchange Right, Holders will not be entitled to any premium on the principal amount outstanding on those Notes (other than the 2.5% discount on the price of Listed Securities pursuant to an IPO payable by retail investors pursuant to the general retail offer, or if there is no general retail offer, the broker firm retail offer). Conversely, where Notes are redeemed in circumstances other than the exercise of the Exchange Right, including under clause 4.3, Holders will not be entitled to any discount in respect of those Notes on the issue or transfer price of Listed Securities pursuant to an IPO.
- (j) **(Multiple redemption rights)** Where the Issuer is entitled to exercise a right of redemption pursuant to more than one sub-paragraph in clause 4.3, the Issuer can elect, in its absolute discretion, pursuant to which sub-paragraph or sub-paragraph(s) it exercises such right.

4.4 Early redemption by Holders following a Delisting Event

- (a) **(Early Redemption following Delisting Event)** If a Delisting Event occurs, the Holder of a Note may require the Issuer to redeem all, but not some, of their Notes on

the Delisting Redemption Date for the principal amount outstanding plus any Outstanding Interest.

- (b) **(Consultation with Trustee)** Promptly after the occurrence of a Delisting Event, the Issuer must inform the Trustee of the Delisting Event and must consult with the Trustee in good faith in respect of that Delisting Event.
- (c) **(Notice)** As soon as reasonably practicable after the occurrence of a Delisting Event and consultation with the Trustee in accordance with paragraph (b), the Issuer must give notice of the Delisting Event to the Trustee with a copy to the Registry, the Holders and ASX (a **Delisting Notice**). The Delisting Notice will contain a statement informing Holders of their entitlement to exercise their rights to require redemption of the Notes pursuant to this clause 4.4 and will also specify:
- (i) all information material to the Holders concerning the Delisting Event;
 - (ii) the closing price of the Notes on the day that the Notes were trading on ASX immediately prior to the occurrence of the Delisting Event;
 - (iii) the form of the exercise notice (**Delisting Redemption Exercise Notice**);
 - (iv) the last day of the Delisting Redemption Period; and
 - (v) such other information relating to the Delisting Event as the Trustee may reasonably require.
- (d) **(Delisting Redemption Exercise Notice)** To exercise the right under paragraph (a), a holder must deliver to the Registry (as agent for the Issuer) a duly completed and signed Delisting Redemption Exercise Notice, in the form attached to the Delisting Notice at any time in the Delisting Redemption Period.
- (e) **(Redemption)** If a Delisting Redemption Exercise Notice is delivered by a Holder in accordance with paragraph (d), the Issuer must redeem all Notes the subject of the Delisting Redemption Exercise Notice on the relevant Delisting Redemption Date for the principal amount outstanding plus any Outstanding Interest.

4.5 Early redemption by Holders

A Holder of a Note has no rights of redemption except pursuant to clause 4.4, as at the Maturity Date and under the Exchange Right.

5. Events of Default and Enforcement

5.1 Restrictions on actions

The rights of the Trustee and each Holder to take action against the Issuer upon the occurrence of an Event of Default are subject to the restrictions set out in the Security Trust Deed, the Intercreditor Deed and the Trust Deed. For the avoidance of doubt, in the case of any inconsistency between the Trust Deed and either of the Security Trust Deed or Intercreditor Deed (as applicable), the Security Trust Deed or Intercreditor Deed (as applicable) will prevail.

5.2 Consequences

If an Event of Default occurs and continues, the Trustee must call a meeting of the Holders in accordance with the Trust Deed as soon as is reasonably practicable and:

- (a) the Trustee may; and
- (b) if directed by the Holders in accordance with the Trust Deed (and subject to the Trustee being indemnified pursuant to the Trust Deed), the Trustee must,

give notice to the Issuer declaring the Notes to be due and payable at their principal amount outstanding.

5.3 Enforcement

At any time that the Notes have become due and payable in accordance with a notice given by the Trustee pursuant to clause 5.2, the Trustee may, subject to the restrictions set out in the Security Trust Deed and the Intercreditor Deed, direct the Security Trustee to take such proceedings against the Issuer as the Security Trustee may think fit to enforce payment in respect of the Notes.

5.4 Trustee not bound to take action

The Trustee shall not in any event be bound to take any action referred to in clause 5.3 unless the Trustee shall have been so directed by the Holders pursuant to the Trust Deed and the requirements of clause 8.2 of the Trust Deed have been met.

5.5 Holders' right to take action

No Holder shall be entitled to proceed directly against the Issuer to enforce any right or remedy under or in respect of any Note unless the Trustee, having become bound to proceed under clause 8.2 of the Trust Deed, fails to do so within a reasonable period and such failure is continuing, in which case a Holder may, upon giving an indemnity satisfactory to the Trustee, in the name of the Trustee (but not otherwise) and subject to clause 9.3 of the Trust Deed, itself institute proceedings against the Issuer pursuant to clause 8.1 of the Trust Deed.

6. Payments

6.1 Record Dates

For the purposes of determining a Holder's entitlement to payments of interest on the Notes in respect of any Interest Period, only those persons who are registered as Holders at 7:00 p.m. on the Record Date in respect of such Interest Period shall be entitled to receive the payment.

6.2 Deductions

- (a) The Issuer may deduct from any interest or other amount payable to a Holder the amount of any withholding or other tax, duty or levy required by law to be deducted in respect of such amount. If any such deduction has been made and the amount of the deduction accounted for by the Issuer to the relevant revenue authority and the balance of the amount payable has been paid to the Holder concerned, then the full amount payable to such Holder shall be deemed to have been duly paid and satisfied by the Issuer.
- (b) The Issuer shall pay the full amount required to be deducted to the relevant revenue authority within the time allowed for such payment without incurring penalty under the applicable law and shall, if required by any Holder, deliver to that Holder the relevant receipt issued by the revenue authority without unreasonable delay after it is received by the Issuer.

6.3 No Set-off

A Holder has no right to set off any amounts owing by it to the Issuer against claims owing by the Issuer to the Holder.

6.4 Payment method

Any amount which is payable to Holders in respect of the Notes in accordance with these Terms of Issue will, unless the Issuer and the Holder otherwise agree, be paid by direct credit to a nominated account at an Australian financial institution.

6.5 Payment days

If an amount is due and payable in respect of any Note on a day on which trading banks in Victoria are not open for business, that amount will be due and payable on the next day on which those banks are open for business. For the avoidance of doubt, such delay in payment will not constitute a default by the Issuer for any purpose, and no additional amount of interest will be payable with respect to such delayed payment.

7. General

7.1 Quotation

The Issuer must use all reasonable endeavours and furnish all such documents, information and

undertakings as may be reasonably necessary in order to procure official quotation of the Notes on a stock market conducted by ASX and to procure such quotation is maintained.

7.2 Reporting requirements

The Issuer will observe the reporting requirements set out in the Trust Deed, which include requirements to furnish reports on the financial performance of the Issuer.

7.3 Notes redeemed

All the Notes redeemed by the Issuer in accordance with these Terms of Issue will thereupon be cancelled and may not be reissued.

8. Holding Statements

A Holder is entitled to receive such statements of the holdings of the Notes of the Holder as the Issuer is required to give pursuant to the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules.

9. Transfer of Notes

9.1 Forms of transfer

A Holder may transfer any Notes the Holder holds by:

- (a) a Proper ASTC Transfer or any other method of transferring or dealing in the Notes introduced by ASX or operated in accordance with the ASX Settlement Operating Rules or the Listing Rules and, in any such case, recognised under the Corporations Act; or
- (b) a written instrument of transfer in any usual form or in any other form approved by either the Directors or ASX, that is otherwise permitted by law.

9.2 Registration of transfer

A transferor of any Notes remains the owner of such Notes transferred until the transfer is registered and the name of the transferee is entered in the Notes Register in respect of the Notes, and the transferee of the Notes on being entered on the Notes Register shall have all the rights and obligations which the transferor had and all the rights and obligations of a Holder under the Trust Deed and these Terms of Issue.

9.3 Transfers which are not Proper ASTC Transfers

The following provisions apply to instruments of transfer referred to in clause 9.1(b):

- (a) unless the instrument of transfer is otherwise a sufficient transfer under the Corporations Act, the instrument must be signed by, or executed by or on behalf of:
 - (i) the transferor; and

- (ii) if required by the Issuer, the transferee;
- (b) the instrument of transfer duly stamped will be left at the place where the Notes Register is kept; and
- (c) the instrument of transfer must be endorsed or accompanied by an instrument executed by the transferee to the effect that the transferee agrees to accept the Notes subject to the terms and conditions on which the transferor held them, to become a Holder and to be bound by the Trust Deed and these Terms of Issue.

9.4 Directors to register transfers

Subject to clauses 9.3 and 9.5, for so long as the Notes Register is maintained by the Issuer, the Directors will not refuse to register or fail to register or give effect to a transfer of the Notes.

9.5 Refusal to register transfers other than Proper ASTC Transfer

- (a) The Directors may refuse to register any transfer of the Notes (other than a Proper ASTC Transfer) where the Listing Rules permit the Issuer to do so.
- (b) The Directors will refuse to register any transfer of the Notes (other than a Proper ASTC Transfer) where the Corporations Act or the Listing Rules require the Issuer to do so, or the transfer is in breach of the Listing Rules.

9.6 Notice of refusal to register

- (a) Where the Directors refuse to register a transfer of the Notes under clause 9.5, the Issuer will give written notice of the refusal and the reasons for the refusal to the transferee and the person who lodged the transfer, if not the transferee, within 5 Business Days after the date on which the transfer was lodged with the Issuer.
- (b) Failure by the Issuer to give notice under clause 9.6(a) will not invalidate the refusal to register the transfer in any way.

9.7 Clearing systems

Notes or interests in Notes held through a Clearing System will be transferable only in accordance with the rules and regulations of that Clearing System. The rules and regulations of that Clearing System prevail over this clause 9 with respect to those Notes, or interest in Notes, to the extent of any inconsistency.

9.8 Registrar

If the Issuer appoints a registrar to maintain the Notes Register in accordance with the Trust Deed, then the Issuer will procure the registrar to comply with the provisions of this clause 9 as if references to 'the Issuer' or 'the Directors' were references to 'the Registrar'.

10. Joint Holders

10.1 Payment to one Holder effective discharge

If several persons are entered in the Notes Register as joint Holders in respect of a Note, the payment to any one of such persons of any monies from time to time payable to the joint Holders will be an effective discharge to the Issuer for the monies so paid.

10.2 More than three joint Holders

Subject to the ASX Settlement Operating Rules, the Issuer will not be bound to register more than 3 persons as the joint Holders of any Notes. A Note registered in the name of more than one person is held by those persons as joint tenants.

10.3 Actions of joint Holders

All of the joint Holders in respect of any Note must join in any transfer of the relevant Note.

11. Non resident Holders

- (a) Where the Notes are held by, or on behalf of, a person resident outside Australia, then, despite anything to the contrary contained in or implied by these Terms of Issue, it is a condition precedent to any right of the Holder to receive payment of any monies in respect of those Notes that all necessary authorisations (if any) and any other statutory requirements which may then be in existence are obtained at the cost of the Holder and satisfied.
- (b) For the purposes of clause 11(a), authorisation includes any consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, approval, direction, declaration, authority or exemption from, by or with any government or any governmental agency.

12. Indemnity to the Issuer

- (a) Whenever in consequence of:
 - (i) the death of a Holder;
 - (ii) the non-payment of any Tax payable by a Holder;
 - (iii) the non-payment of any stamp or other duty by the legal personal representatives of a Holder or their estate; or
 - (iv) any other act or thing in relation to a Note or a Holder,

any law for the time being of any country or place, in respect of a Note, imposes or purports to impose any liability of any nature whatever on the Issuer to make any payments to any governmental agency, the Issuer will in respect of that liability be indemnified by that Holder and his legal

personal representatives and any monies paid by the Issuer in respect of that liability may be recovered from that Holder and / or the Holder's legal personal representative as a debt due to the Issuer and the Issuer shall have a lien in respect of those monies upon the Notes held by that Holder or his legal personal representatives and shall be entitled to set off those monies against any monies payable by it in respect of those Notes.

- (b) Nothing in clause 12(a) will prejudice or affect any right or remedy which any such law may confer or purport to confer on the Issuer.

13. Death or Legal Disability

13.1 Death or Legal Disability

If a Holder dies, becomes subject to a legal disability, becomes bankrupt or is liquidated, the survivor (in the case of joint Holders), the legal personal representative or the person entitled to the Notes as a result of the death, disability, bankruptcy or liquidation of the Holder or the making of vesting orders by a court or other judicial or quasi judicial body or authority will be recognised, on providing such evidence of that person's title as the Issuer thinks sufficient, as having an enforceable claim to the Notes registered in the Holder's name.

13.2 Transfer, Transmission under clause 13.1

Subject to the Listing Rules, the Issuer need not register any transfer or transmission under clause 13.1 unless the transferee provides an indemnity in favour of the Issuer in a form determined by or satisfactory to the Issuer in respect of any consequence arising from the transfer or transmission.

13.3 Two or More Persons Jointly Entitled

Where two or more persons are jointly entitled to any Note in consequence of the death of the registered holder of that Note, for the purpose of these Terms of Issue, they will be deemed to be joint holders of that Note.

13.4 Monies Payable in Respect of the Notes

The Directors will be at liberty to retain any monies payable in respect of any of the Notes which any person under this clause 13 is entitled to until such person is registered or has duly transferred the Notes in accordance with these Terms of Issue.

14. Amendments to these Terms of Issue

These Terms of Issue may only be amended in accordance with the provisions of the Trust Deed.

15. Governing Law, Jurisdiction and inconsistency

15.1 Governing Law

The Notes and these Terms of Issue are governed by the laws of Victoria, Australia.

15.2 Jurisdiction

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

15.3 Inconsistency

Any part of these Terms of Issue which is inconsistent with a provision of the Security Trust Deed or the Intercreditor Deed does not operate to the extent of the inconsistency. Any payment of interest or principal which is permitted to be made, or which is prevented from being paid, by the Security Trust Deed or the Intercreditor Deed may be paid or is prevented from being paid (as applicable) notwithstanding anything to the contrary in these Terms of Issue and such payment or non-payment will not constitute a default by the Issuer for any purpose.

16. Notices

16.1 Service of Notices

- (a) Without limiting anything else in these Terms of Issue, a notice may be given by the Issuer to any Holder, or in the case of joint Holders to the Holder whose name appears first in the Notes Register, personally, by leaving it at the Holder's registered address or by sending it by prepaid post (airmail if posted to a place outside Australia) or facsimile transmission addressed to the Holder's registered address or, in any case, by other electronic means determined by the Directors. If the notice is signed, the signature may be original or printed.
- (b) A notice given by a Holder to the Issuer must:
- (i) be in writing; and

- (ii) be left at, or sent by prepaid post (airmail if posted from a place outside Australia) to the address below or the address last notified by the Issuer, or sent by facsimile transmission to the fax number below or the fax number last notified by the Issuer:

Ground Floor
312 St Kilda Road
Melbourne VIC 3004
Facsimile: +61 3 9356 7599
Attention: Company Secretary

16.2 When Notice Considered to be Received

Any notice is taken to be given:

- (a) if served personally or left at the intended recipient's address, when delivered;
- (b) if sent by post, on the second Business Day after it is mailed in a prepaid envelope to the intended recipient's address (or the fifth Business Day if mailed to a place outside Australia); and
- (c) if sent by facsimile or other electronic transmission, on production of a report by the machine or other system by which the transmission is sent indicating that the transmission has been made in its entirety to the correct fax number or other transmission address and without error.

16.3 Notice to Transferor Binds Transferee

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

16.4 Service on Deceased Holders

A notice served in accordance with this clause 16 is (despite the fact that the Holder is then dead and whether or not the Issuer has notice of the Holder's death) considered to have been properly served in respect of any of the Notes, whether held solely or jointly with other persons by the Holder, until some other person is registered in the Holder's place as the Holder or joint Holder. The service is sufficient service of the notice or document on the Holder's legal personal representative and any person jointly interested with the Holder in the Notes.

17. Interpretation and defined terms

17.1 Interpretation

In these Terms of Issue, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (d) a reference to \$ or dollars is to Australian currency;
- (e) a reference to time is to Melbourne, Australia time;
- (f) a reference to a person includes a reference to the person's executors, administrators, successors and permitted assigns and substitutes;
- (g) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (i) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (j) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally; and
- (k) subject to clause 6.5, if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

17.2 Defined Terms

The following defined terms apply in these Terms of Issue:

Accounting Standards	The equivalent to the International Financial Reporting Standards in the jurisdiction of incorporation of a Security Group Member or, absent those, generally accepted accounting standards in the jurisdiction of incorporation of that Security Group Member.
Additional Capex Facility	Has the meaning given to it in the Security Trust Deed.
Additional Leasing Facility	Has the meaning given to it in the Intercreditor Deed.
Adjusted EBITDA	<p>In respect of a period, consolidated operating profit (or loss) of the Security Group from ordinary operations for that period after adjustment to exclude (to the extent not already excluded and without double counting):</p> <ul style="list-style-type: none">(a) any deduction or contribution in respect of corporate Taxes and other Taxes on income or gains during that period;(b) Net Interest Expense incurred (including capitalised and suspended interest) during that period;(c) any contribution or deduction in respect of individually significant (and non-recurring) or extraordinary items during the period (but cash items will not be excluded from Adjusted EBITDA under this paragraph (c) to the extent that the relevant event has an impact on Adjusted EBITDA in

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- subsequent quarters);
- (d) any amortisation or impairment of goodwill, intangible assets and acquisition costs during that period;
 - (e) any depreciation or amortisation of fixed assets (including any leasehold property) during that period;
 - (f) any costs related to any stock option incentive plan or any other similar share based employee compensation;
 - (g) any loss or gain against book value arising from the disposal of any asset (not being disposals made in the ordinary course of trading) during that period and any increment or decrement relating to the revaluation of any asset during that period which goes through the profit and loss account;
 - (h) the extent of any net profits or losses during that period of any entity which have been consolidated within consolidated profit during that period but are attributable to outside equity interests (not being a Security Group Member);
 - (i) transaction and one-off costs and expenses in connection with any acquisition (whether or not consummated) incurred by any Security Group Member during that period not exceeding A\$5,000,000 (or its equivalent) in any Financial Year;
 - (j) any restructuring costs incurred by a Security Group Member;
 - (k) any unrealised exchange gains and losses and any unrealised gains or losses on derivative financial instruments;
 - (l) any management fees which are permitted to be paid after mandatory prepayment of the Senior Facilities from Excess Cashflow under the Senior Facility Agreement (including that all interest (including suspended interest) due and payable under any Subordinated Finance Document or subordinated shareholder loans has been paid) and any directors' fees;
 - (m) Adjusted EBITDA for the period of any entity or business sold, transferred or otherwise disposed of by any Security Group Member during such period;
- plus:
- (n) pro-forma Adjusted EBITDA adjustments for entities acquired by the Security Group during the previous 12 months of the Security Group on a full year run rate basis;
 - (o) pro-forma cost savings for entities acquired by the Security Group during the previous 12 months on a full year run rate basis;
 - (p) pro-forma Adjusted EBITDA adjustments for Growth Capital Expenditure of the Security Group prior to completion of the relevant project (but no pro forma adjustment shall be made for Growth Capital Expenditure on a project more than 9 months before the scheduled completion of that project as set out in the board paper relating to that project) equal to the Relevant Proportion of the expected Adjusted EBITDA for that project for the first 12 months (as set out in the board paper relating to that project based on forecasts prepared with due care
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	and having regard to historical figures for similar brownfields projects), where “ Relevant Proportion ” means the proportion which that Growth Capital Expenditure represents of the total Growth Capital Expenditure budgeted for that project;
	(q) pro-forma Adjusted EBITDA adjustments for Growth Capital Expenditure of the Security Group in relation to a project completed during the previous 12 months equal to the expected Adjusted EBITDA for that project for the relevant 12 months (as set out in the board paper relating to that project based on forecasts prepared with due care and having regard to historical figures for similar brownfields projects) less the actual Adjusted EBITDA relating to that Growth Capital Expenditure for the relevant period, provided that the Adjusted EBITDA adjustments under this paragraph are not negative; and
	(r) dividends received from any entity which have not been consolidated within consolidated operating profit (or loss) during that period.
Application Form	Has the meaning given to it in clause 3.3(b)(ii).
ASIC	The Australian Securities and Investments Commission.
ASX	ASX Limited (ABN 98 008 624 691) or the market it operates.
ASX Settlement	ASX Settlement Pty Ltd (ABN 49 008 504 532).
ASX Settlement Operating Rules	The settlement rules of ASX Settlement as amended or replaced from time to time.
Authorisations	(a) any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from, by or with a Government Agency or stock exchange; or (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Government Agency or stock exchange intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.
Bookbuild	The process conducted by, or on behalf of, the Issuer prior to the opening of the offer of the Notes whereby certain institutional investors and brokers who wish to obtain a firm allocation of the Notes (whether for themselves or their clients) lodge bids for the Notes and, on the basis of those bids, the Issuer (or another party on its behalf) determines the Interest Rate and announces its determination prior to the opening of such offer.
Business Day	Has the same meaning as in the Listing Rules.
Capital Expenditure	Payment for expenditure on the acquisition, development, maintenance, refurbishment or upgrading (including the purchase of new assets to replace obsolete assets) of equipment, machinery, fixed assets, real property improvements, Authorisations, software and information systems or other capital assets (including any costs incurred in connection with that expenditure) and any other expenditure, in each case, that under Accounting Standards is regarded as capital expenditure.
Clearing System	(a) the Clearing House Electronic Subregister System (CHES) operated by ASTC;

	<p>(b) the Austraclear system owned and operated by Austraclear Limited (ABN 94 002 060 773); or</p> <p>(c) any other securities trading and / or clearance system.</p>
Completion of the IPO	The issue and/or transfer of securities pursuant to the IPO as contemplated by the IPO Disclosure Document.
Corporations Act	The <i>Corporations Act 2001</i> (Cth).
Debt Service Cover Ratio	<p>On any date, the ratio of A:B where:</p> <p>A = Adjusted EBITDA of the Security Group in respect of the 12 month period ending on that date:</p> <p>(a) minus the amount of Net Capital Expenditure paid in cash;</p> <p>(b) minus all corporate Taxes or other Taxes on income or gains of the Security Group paid by a Security Group Member in cash (net of cash Tax refunds or other Tax receipts received); and</p> <p>(c) plus the amount of any decrease, or minus the amount of any increase, as the case may be, of the Working Capital of the Security Group (excluding changes in Working Capital relating to acquisitions),</p> <p>in each case, for the same period; and</p> <p>B = the aggregate of:</p> <p>(a) Net Interest Expense (excluding capitalised and suspended interest);</p> <p>(b) scheduled repayments of Senior Debt Facilities; and</p> <p>(c) the principal or capital payments on finance leases and hire purchase agreements,</p> <p>in each case, for the same period.</p>
Delisting Event	<p>Will occur if:</p> <p>(a) the Notes cease to be quoted or admitted to trading on ASX; or</p> <p>(b) trading of the Notes on ASX is suspended for a period of more than 15 consecutive Business Days.</p>
Delisting Redemption Date	The Business Day that is 20 Business Days after the expiry of the Delisting Redemption Period.
Delisting Redemption Period	The period beginning on the date the Issuer provides the notification described in clause 4.4(c) and ending on the Business Day 20 Business Days after that Date.
Director	A Director of the Issuer.
Early Redemption Amount	<p>In respect of any Note:</p> <p>(a) in respect of any Early Redemption Date falling from (and including) the date that is 12 months after the Issue Date to (and including) the date that is 24 months after the Issue Date, 105% of the principal amount of such Note on such day;</p> <p>(b) in respect of any Early Redemption Date falling from (but excluding) the date that is 24 months after the Issue Date to (and including) the date</p>

	<p>that is 36 months after the Issue Date, 104% of the principal amount of such Note on such day;</p> <p>(c) in respect of any Early Redemption Date falling from (but excluding) the date that is 36 months after the Issue Date to (and including) the date that is 48 months after the Issue Date, 103% of the principal amount of such Note on such day; and</p> <p>(d) in respect of any Early Redemption Date falling from (but excluding) the date that is 48 calendar months after the Issue Date to (and including) the Maturity Date, 100% of the principal amount of such Note on such day.</p>
Early Redemption Date	Any day on which Notes are redeemed prior to the Maturity Date in accordance with clause 4.3 or clause 4.4.
Event of Default	<p>Any of the following:</p> <p>(a) the Issuer fails to pay within three Business Days after the due date any principal on any Note;</p> <p>(b) the Issuer fails to pay within 14 Business Days after the due date any interest on any Note;</p> <p>(c) the Issuer fails to comply with any of its other obligations under these Terms of Issue or the Trust Deed and such failure remains unremedied for a period of 30 Business Days after the Issuer has received written notice from the Trustee in respect of the failure;</p> <p>(d) the occurrence of an Insolvency Event with respect to the Issuer or any other Obligor; or</p> <p>(e) any Finance Debt greater than A\$15,000,000 (or its equivalent in any other currency) of any Obligor becomes due and payable or can be made due and payable before its stated maturity due to the occurrence of an event of default (however described).</p>
Excess Cashflow	<p>For any period, Adjusted EBITDA for that period (without double counting):</p> <p>(a) minus all corporate Taxes or other Taxes on income or gains of the Security Group paid by a Security Group Member in cash during that period (net of cash Tax refunds or other Tax receipts received);</p> <p>(b) minus Net Interest Expense (including capitalised and suspended interest that has been paid) paid in cash during that period;</p> <p>(c) minus any permanent prepayment or repayment of principal (and, if the facility is revolving, where there is a contemporaneous and equal reduction in the commitment in respect of the facility that has been repaid), during that period;</p> <p>(d) minus the amount of Net Capital Expenditure paid in cash during that period;</p> <p>(e) minus unspent Capital Expenditure which can be carried forward to the next year as permitted under the Senior Facility Agreement in relation to that period;</p> <p>(f) plus any amount of Capital Expenditure that was carried forward from a previous period and not spent in the relevant period;</p>

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- (g) plus the amount of any realised (net of applicable Tax) cash gain received (or minus if cash cost incurred) by a Security Group Member in respect of any individually significant (and non-recurring) or extraordinary items or any disposal of assets (not being disposals in the ordinary course of business) during that period, but excluding any cash gain that is:
- (i) permitted under the Senior Finance Documents to be retained or applied for another purpose within any required time period; or
 - (ii) used to prepay the Senior Debt Facilities;
- (h) minus distributions, directors' fees and any management fees paid in cash during that period in accordance with the Senior Finance Documents;
- (i) minus the amount of cash transaction and one-off set-up costs and expenses, and any costs relating to any acquisition (whether or not consummated) by any Security Group Member during that period not exceeding A\$5,000,000 (or its equivalent) in any Financial Year;
- (j) minus any restructuring costs paid in cash;
- (k) minus any cash costs related to unrealised exchange gains or losses and any realised or unrealised gains or losses on derivative financial instruments;
- (l) minus pro-forma Adjusted EBITDA adjustments for entities acquired by the Security Group during the previous 12 months of the Security Group on a full year run rate basis;
- (m) minus pro-forma cost savings for entities acquired by the Security Group during the previous 12 months on a full year run rate basis;
- (n) minus pro-forma Adjusted EBITDA adjustments for Growth Capital Expenditure of the Security Group prior to completion of the relevant project (but no pro forma adjustment shall be made for Growth Capital Expenditure on a project more than 9 months before the scheduled completion of that project as set out in the board paper relating to that project based on forecasts prepared with due care and having regard to historical figures for similar brownfields projects) equal to the Relevant Proportion of the expected Adjusted EBITDA for that project for the first 12 months (as set out in the board paper relating to that project), where "**Relevant Proportion**" means the proportion which that Growth Capital Expenditure represents of the total Growth Capital Expenditure budgeted for that project;
- (o) minus pro-forma Adjusted EBITDA adjustments for Growth Capital Expenditure of the Security Group in relation to a project completed during the previous 12 months equal to the expected Adjusted EBITDA for that project for the relevant 12 months (as set out in the board paper relating to that project based on forecasts prepared with due care and having regard to historical figures for similar brownfields projects) less the actual Adjusted EBITDA relating to that Growth Capital Expenditure for the relevant period, provided that the Adjusted EBITDA adjustments under this paragraph are not negative;
- (p) plus or minus, as the case may be, the change in Working Capital of the Security Group during that period (excluding changes in Working Capital
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	relating to acquisitions); and
	(q) minus any non-cash items in Adjusted EBITDA not otherwise adjusted for in paragraphs (a) to (p) above.
Exchange Notice	Has the meaning given to it in clause 3.2(a).
Exchange Right	Has the meaning given to it in clause 3.1.
Exercised Holding	Has the meaning given to it in clause 3.3(b)(i).
Final Deposit Date	Has the meaning given to it in clause 3.3(c).
Finance Debt	Has the meaning given to it in the Intercreditor Deed.
Finance Lease	A lease constituting a finance lease or a capital lease under the Accounting Standards.
Financial Year	Each 12 month period ending on 30 June.
Growth Capital Expenditure	All Capital Expenditure other than Maintenance Capital Expenditure (and, for the avoidance of doubt, includes expenditure on leasehold properties).
Guarantee	Has the meaning given to it in the Security Trust Deed.
Government Agency	Has the meaning given to it in the Security Trust Deed.
Healthscope Group	Each of Healthscope Hospitals Holdings Pty Ltd (ACN 144 840 639), Healthscope Pathology Holdings Pty Ltd (ACN 145 250 157) and CT HSP (Dutch) Coöperatief U.A. and their subsidiaries and the business conducted by them as described in Section 4 of the prospectus under which the Notes are initially offered, as the context requires.
Hedging Agreement	Has the meaning given to it in the Security Trust Deed.
Holder	In relation to any Note, a person whose name is for the time being registered in the Notes Register as the holder of that Note.
Insolvency Event	Has the meaning given in the Intercreditor Deed.
Intercreditor Deed	The Intercreditor Deed dated 22 September 2010 (as amended) made between, among others, Healthscope Finance Pty Ltd (ACN 145 126 067), the Senior Agent and the Security Trustee.
Interest Payment Dates	In relation to a Note: <ul style="list-style-type: none"> (a) 25 March, 25 June, 25 September and 25 December, commencing on 25 June 2013 and ending on the Maturity Date; and (b) the Maturity Date, unless earlier redeemed or exchanged in accordance with these Terms of Issue.
Interest Period	In respect of a Note: <ul style="list-style-type: none"> (a) the period from (and including) the Issue Date to (but excluding) the first Interest Payment Date; and (b) thereafter, the period from (and including) each Interest Payment Date to (but excluding) the first to occur of:

	(i) the next Interest Payment Date; and (ii) the final Redemption Date in respect of that Note.
Interest Rate	10.25% per annum.
Interest Suspension Financial Covenant	In respect of any period, a Debt Service Cover Ratio of more than 1.10:1 at all times.
IPO	A public offering of: (a) shares in the Issuer, or any Related Body Corporate of the Issuer or any other entity in the Healthscope Group, or any special purpose vehicle established by any such entity; and / or (b) units in a trust, that (in either case, or together) owns or will own directly or indirectly a significant portion of the business currently conducted by the Healthscope Group, for the purposes of the quotation of the relevant shares and / or units on ASX (or any other Australian securities exchange).
IPO Disclosure Document	Has the meaning given to it in clause 3.2(a).
IPO Exchange Amount	In respect of an Exercised Holding, the principal amount outstanding plus any Suspended Interest as at the date of issue or transfer of the relevant Listed Securities.
Issue Date	The date of issue of the Notes.
Issuer	Healthscope Notes Limited (ACN 147 250 780).
Listed Securities	In respect of any IPO, the securities issued or transferred pursuant to such IPO.
Listing Rules	The listing rules of ASX, as amended or replaced from time to time.
Maintenance Capital Expenditure	Payment for non-discretionary expenditure on the maintenance or refurbishment of equipment, machinery, fixed assets, real property, improvements, Authorisations, software and information systems or any other capital assets (including any costs incurred in connection with that expenditure) required to maintain the existing operations and earnings of the Security Group.
Material Disposal	The sale by any Security Group Member of a material business unit of the Security Group or the entry into by a Security Group Member of a sale and leaseback transaction in respect of any real property, the impact of which would be a pro forma decrease, assuming that the sale or sale and leaseback transaction became effective on the first day of the previous 12 months, of at least 20% in the Adjusted EBITDA for the previous 12 months prior to the sale or sale and leaseback transaction becoming effective.
Maturity Date	25 March 2018.
Maximum Leverage Level	At any time: (a) prior to Material Disposal, 5.00x; and (b) on or after a Material Disposal, 4.25x.
Net Capital Expenditure	For any period, Capital Expenditure during that period not funded by:

	<ul style="list-style-type: none"> (a) a drawdown under Facility C of the Senior Facility Agreement; (b) amounts received which are permitted to be applied towards reinvestment in assets or to fund additional Capital Expenditure in accordance with the mandatory prepayment provisions of the Senior Facility Agreement or any other amounts received or receivable in respect of Permitted Disposals; (c) an equity raising or additional debt that is subordinated to the Senior Facilities; (d) any Excess Cashflow following any voluntary or mandatory prepayments of the Senior Facilities; or (e) any amount under the Additional Leasing Facility or the Additional Capex Facility.
Net Interest Expense	<p>For a period, an amount equal to all interest, margin, discount and other recurring payments of a similar nature paid by a Security Group Member in relation to any Finance Debt and any receivables purchase facility to which a Security Group Member is a party (or any replacement of that facility) (after taking into account the net effect of any difference payments under any Hedging Agreements) including fees payable for any Guarantee or letter of credit and the interest element of Finance Leases but excluding:</p> <ul style="list-style-type: none"> (a) capitalised interest and suspended interest; (b) any distribution (or similar payment) in respect of equity contributions; and (c) any amounts payable to another Security Group Member, net of any interest received by the Security Group for that period.
Notes	The subordinated notes to be issued by the Issuer on these Terms of Issue.
Notes Register	<p>The register of Holders (established and maintained in accordance with the Trust Deed) and, where appropriate, includes:</p> <ul style="list-style-type: none"> (a) a sub-register conducted by or for the Issuer pursuant to the Corporations Act, the Listing Rules or ASTC Settlement Rules; and (b) any branch register.
Obligor	Any Security Group Member which grants Security and includes each 'Obligor' as defined in the Intercreditor Deed.
Outstanding Interest	<p>In relation to a Note at any time, the aggregate of:</p> <ul style="list-style-type: none"> (a) any Suspended Interest in respect of that Note at that time; and (b) any other unpaid interest which is due and payable in respect of that Note at that time (including any interest accrued or compounded under clause 2.4).
Permitted Disposals	Has the meaning given to it in the Intercreditor Deed.
Permitted Finance Debt	<p>The following types of Finance Debt:</p> <ul style="list-style-type: none"> (a) any Finance Debt owed under a Senior Finance Document or a Subordinated Finance Document; (b) any Finance Debt owed by a Security Group Member to an Obligor or,

up to in aggregate at any time of A\$10,000,000 (or its equivalent), to a Security Group Member who is not an Obligor;

- (c) any Finance Debt under interest rate hedging arrangements and foreign exchange dealings entered into in the ordinary course of business or as approved by the Senior Agent;
- (d) any Finance Debt under transactional banking facilities up to in aggregate at any time of A\$60,000,000 (or its equivalent);
- (e) any Finance Debt under leasing facilities (including Additional Leasing Facilities) or capital expenditure facilities (including Additional Capex Facilities);
- (f) any subordinated shareholder debt;
- (g) any Finance Debt that is subordinated to the Senior Facilities, provided that incurring such Finance Debt does not cause the Total Leverage Ratio on such day to exceed the Maximum Leverage Level;
- (h) any other Finance Debt in the ordinary course of business where the total amount outstanding does not exceed \$10,000,000 (or its equivalent) in aggregate for the Security Group;
- (i) any other additional Finance Debt not exceeding A\$10,000,000 (or its equivalent) in aggregate at any time which is incurred if there is no Senior Event of Default (as defined in the Intercreditor Deed) or Senior Potential Event of Default (as defined in the Intercreditor Deed) subsisting;
- (j) any Finance Debt for the purposes of refinancing any other Permitted Finance Debt on terms consistent with the Intercreditor Deed;
- (k) any existing Finance Debt of a Security Group Member agreed by the Senior Agent in writing;
- (l) a Guarantee pursuant to Part 2M.6 of the Corporations Act or its equivalent; or
- (m) any Finance Debt incurred with the prior written consent of the Senior Agent, provided that incurring such Finance Debt does not cause the Total Leverage Ratio on such day to exceed the Maximum Leverage Level.

Potential Event of Default	Any event or circumstance which would, with the expiry of a grace period or the giving of notice, or both, be an Event of Default.
Proper ASTC Transfer	Has the meaning given in regulation 1.0.02 of the <i>Corporations Regulations 2001</i> (Cth).
Ratio Testing Date	The last day of each calendar quarter commencing on 31 March 2013 .
Record Date	In relation to an Interest Period, the date that is 7 days (or such other period as determined by the Directors from time to time in accordance with the Listing Rules) before the Interest Payment Date in respect of that Interest Period.
Redemption Date	In respect of any Note, the date for redemption of that Note in accordance with the Terms of Issue, including any Early Redemption Date and any date of exchange determined in accordance with clause 3.

Refinancing Event	The completion of the refinancing of the outstanding indebtedness of the Obligors under the Senior Facilities.
Related Body Corporate	Has the meaning given to it in the Corporations Act.
Security	Has the meaning given to it in the Security Trust Deed.
Security Group	The corporate group comprising: <ul style="list-style-type: none"> (b) Healthscope Hospitals Holdings No. 2 Pty Limited ACN 145 126 094 and each of its subsidiaries; (c) Healthscope Pathology Holdings No.2 Pty Limited ACN 146 342 832 and each of its subsidiaries; and (d) CT HSP Holdings (Dutch) B.V. (company number 34308383) and each of its subsidiaries.
Security Group Member	A member of the Security Group.
Security Trust Deed	The Security Trust Deed dated 22 September 2010 (as amended) made between, among others, Healthscope Finance Pty Ltd ACN 145 126 067 and the Security Trustee (as amended or restated from time to time).
Security Trustee	The security trustee pursuant to the Security Trust Deed, being initially Westpac Banking Corporation.
Senior Agent	The agent for the senior lenders appointed under the Senior Facility Agreement, being initially Westpac Banking Corporation.
Senior Creditor	Has the meaning given to it in the Security Trust Deed.
Senior Debt	Has the meaning given to it in the Intercreditor Deed.
Senior Debt Facilities	The Senior Facilities, transactional banking facilities permitted to be provided to an Obligor and any leasing (including Additional Leasing Facilities) or Additional Capex Facilities.
Senior Facilities	Facility A, Facility B, Facility C and Facility D referred to in the Senior Facility Agreement.
Senior Facility Agreement	The Senior Syndicated Facility Agreement dated 22 September 2010 (as amended) between, among others, Healthscope Finance Pty Ltd ACN 145 126 067, the Senior Agent and the Security Trustee.
Senior Finance Documents	Has the meaning given to it in the Security Trust Deed.
Subordinated Finance Document	Has the meaning given to it in the Security Trust Deed.
Suspended Interest	At any time, any interest deferred under clause 2.3(a) which has not been paid at that time.
Suspension Condition	In respect of any payment of interest on any Interest Payment Date or any Redemption Date: <ul style="list-style-type: none"> (a) the relevant payment would cause a breach of the Interest Suspension Financial Covenant; (b) an 'event of default' or 'potential event of default' under the Senior Finance Documents subsists; or (c) any other condition referred to in clause 3.2(b) of the Intercreditor Deed

	is not satisfied.
Tax	Any charge, deduction, duty (including stamp duty, financial institutions duty, transaction duty and bank account debt tax), fee, impost, levy, tax (including any consumption tax, goods and services tax and value added tax) and withholding (together with any interest, penalties, fines and expenses in connection with any of them).
Tax Event	<p>Occurs where, on or after the Issue Date, the Issuer receives an opinion of a nationally recognised legal counsel or other tax adviser in a relevant tax jurisdiction, experienced in such matters that, as a result of a tax event:</p> <p>(a) any payment of interest, the principal amount outstanding or the Early Redemption Amount is, or may be, subject to an amount of withholding or deduction in respect of any Taxes or other governmental charges for which the Issuer must pay an additional amount; or</p> <p>(b) payment of interest is not, or may not, be allowed as a deduction for the purposes of the Issuer's Australian tax purposes or the tax purposes of any other relevant tax jurisdiction.</p>
Terms of Issue	These terms and conditions of issue.
Total Leverage Ratio	<p>On any date, the ratio calculated as follows:</p> <p>Total Leverage Ratio = $A \div B$, where:</p> <p>A = the aggregate amount outstanding on that date under all Finance Debt of the Security Group on a consolidated basis (other than any contingent Finance Debt, the exposure under any Hedging Agreement, shareholder debt and intra-group liabilities or indebtedness, each in the Australian dollar equivalent where applicable) less cash or cash equivalents of the Security Group on that date; and</p> <p>B = Adjusted EBITDA of the Security Group in respect of the 12 month period ending on that date.</p>
Trust Deed	The Trust Deed dated 4 March 2013 between the Issuer and the Trustee as amended from time to time.
Trustee	The Trust Company (Australia) Limited ACN 000 000 993
Working Capital	<p>(a) The sum of:</p> <p>(i) debtors less provision for doubtful debts;</p> <p>(ii) sundry debtors;</p> <p>(iii) prepayments;</p> <p>(iv) other current assets; and</p> <p>(v) inventory less inventory reserve,</p> <p>(b) minus the sum of:</p> <p>(i) accounts payable;</p> <p>(j) accrued compensation;</p> <p>(k) other accrued liabilities; and</p> <p>(l) accrued provisions.</p>



Schedule 2

Meetings of Holders

1 Notice of Meeting

- (a) At least 10 Business Days notice in writing (15 Business Days notice for a Special Resolution) of any Meeting must be given to the Trustee, the Company and the Holders by the party convening the Meeting.
- (b) If a Holder does not receive notice, the Meeting is still valid.
- (c) The party convening the Meeting must notify the Trustee, the Company and Holders (as the case requires) in writing of:
 - (1) the place, day and time of the Meeting; and
 - (2) the nature of the business to be transacted.
- (d) If either the Company or the Trustee omits to give notice under paragraph 1(c) or if either does not receive notice, the Meeting is invalid unless the person who did not receive notice waives the notice requirement.

2 Who may attend and address Meeting

Each Holder is entitled to attend and vote at any Meeting or any rescheduled Meeting (which was adjourned pursuant to paragraph 3(c)). The Trustee, the Company, any person invited by any of them and the Auditor is entitled to attend and address a Meeting or rescheduled Meeting of Holders.

3 Quorum

- (a) No business may be transacted at any Meeting unless a quorum of Holders is present at the time when the Meeting proceeds to business.
- (b) A quorum for any Meeting is at least 5 persons holding or representing by attorney, representative or proxy at least 10% of the Notes.
- (c) If a quorum is not present within half an hour from the time appointed for the Meeting, the Meeting must be adjourned as the chair directs.
- (d) At a rescheduled Meeting (which was adjourned pursuant to paragraph 3(c)) the Holders with at least 5% of the Notes who are present either in person or by proxy constitute a quorum and are entitled to pass the resolution.

4 Chair

- (a) Subject to the Corporations Act, a nominee of the Trustee must preside as chair at a Meeting of Holders.
- (b) If the Trustee's nominee does not appear within 15 minutes from the time appointed for the Meeting, the Holders present must elect one of their number to preside as chair.

5 Voting

- (a) Subject to Holders being entitled to vote, any question submitted to a Meeting must be decided in the first instance by a show of hands, but a poll will be taken in any case where:
 - (1) it is required by this deed or by law that the question be decided by a majority which is to be measured by a percentage of the votes cast by those present; or
 - (2) either before or immediately after any question is put to a show of hands a poll is demanded by the chair of the Meeting, the Trustee, the Company, or at least 5 Holders, present personally or by proxy, representative or attorney, holding or representing by proxy, representative or attorney at least 5% of the Notes.
- (b) In the case of equality of votes, the chair of a Meeting of Holders has a casting vote in addition to his votes (if any) as a Holder both on a show of hands and on a poll.

6 Votes

At a Meeting:

- (a) on a show of hands each Holder present personally or by proxy, attorney or representative with the right to vote at that Meeting has one vote; and
- (b) on a poll each Holder present personally or by proxy, attorney or representative with a right to vote at that Meeting is entitled to one vote for each Note.

7 Voting by Joint holders

- (a) If Notes are held jointly, the most senior Holder's vote either in person or by proxy is accepted to the exclusion of the other Joint Holders.
- (b) The most senior Holder is the person whose name appears first on the Notes Register.



8 Voting by corporation

- (a) A corporation who is a Holder may vote through a representative authorised in writing.
- (b) The corporation's representative is regarded as a Holder and has the same rights as a Holder.

9 Voting by person of unsound mind

If a Holder is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Holder's committee or Trustee or other person who properly has the management of the Holder's estate may exercise any rights of the Holder in relation to a Meeting of Holders as if the committee, Trustee or other person were the Holder.

10 Objection to voter's qualification

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

11 Proxies

A Holder is entitled to appoint another person as his proxy to attend and vote at a Meeting. Any person including a Holder may act as a proxy, and that proxy has the same rights as the appointor to vote whether on a show of hands, to speak, and be reckoned in the quorum.

12 Proxy instrument

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



13 Voting authority to be deposited with Trustee

- (a) The instrument appointing a proxy or a facsimile copy of it and the original or certified copy of the power of attorney or authority under which it is signed or a facsimile copy of it must be deposited with the Trustee or the Trustee's agent at least 48 hours, or any shorter period determined by the Trustee from time to time, before the time appointed for the Meeting at which the proxy proposes to vote. The original of any facsimile instrument provided under this paragraph 13(a) must be deposited with the Trustee or the Trustee's agent before the time appointed for the Meeting.
- (b) If paragraph 13(a) is not complied with, the proxy is invalid.
- (c) An instrument appointing a proxy is only valid for 12 months from its execution date.

14 Effect of death or insanity on vote under proxy

- (a) A vote given under an instrument of proxy is valid even though the principal is insane at the time, has died or has revoked the proxy or the authority under which the proxy was executed.
- (b) Paragraph 14(a) does not apply if the Trustee has notice in writing of the death, insanity or revocation before the Meeting at which the proxy is to be used.

15 Adjournments

The chair may adjourn a Meeting with the consent of the majority of Holders present.

16 Declaration by chair of voting

Unless a poll has been demanded, a declaration by the chair that a resolution has been carried or lost by a particular majority is conclusive evidence of that fact.

17 Demand for a poll and manner of poll

- (a) A poll is to be conducted as directed by the chair at the Meeting or any adjournment of the Meeting.
- (b) The demand for a poll may be withdrawn by the person who demanded it.
- (c) The demand for a poll does not discontinue the Meeting except to decide the question for which the poll is demanded.
- (d) The result of the poll is regarded as the resolution of the Meeting.

18 Poll on election of chair or question of adjournment

A poll demanded on the election of a chair or on a question of adjournment must be taken forthwith.

19 Effect of resolution

A resolution passed at a Meeting of Holders held in accordance with this deed is binding upon all the Holders.

20 Minutes

- (a) The chair must ensure that minutes of proceedings at every Meeting of Holders are taken and entered in a minute book provided by the Company.
- (b) The signature by the chair of minutes of a Meeting is conclusive evidence of the matters stated in the minutes.
- (c) Unless there is proof to the contrary a minuted Meeting is regarded as properly held and a resolution passed at the Meeting is regarded as properly passed.

21 Resolution by Postal Ballot

- (a) A resolution of Holders may be passed by the Holders completing, signing and returning copies of a written resolution, which has been sent by the Company with the approval of the Trustee, within a period specified by the Company.
- (b) In respect of such a resolution each Holder is entitled to have one vote for each Note held.

22 Powers

Without derogating from the powers conferred on the Trustee by this deed, a Meeting of Holders may exercise the following powers by Special Resolution:

- (a) power to authorise the Trustee to take or to refrain from taking any action which may be taken by the Trustee under any express or implied power or authority howsoever conferred;
- (b) power to sanction the release by the Trustee or the Company from any obligation under this deed either unconditionally or upon such conditions as the Trustee may arrange with the Company;
- (c) power to sanction agreement by the Trustee to any modification or compromise of any of the rights of all the Holders against the Company;
- (d) power to authorise the Trustee to agree to the postponement of the repayment of the principal secured in respect of any part of the Notes beyond their due



dates and to the suspension or postponement of the payment of interest on any part of the Notes;

- (e) power to authorise the Trustee to sanction on behalf of all the Holders any scheme for reconstruction of the Company or for the amalgamation of the Company with any other corporation;
- (f) power to authorise the Trustee to accept on behalf of the Holders any other property or securities instead of any part of the Holder's rights and in particular any debt securities of the Company;
- (g) power to approve the appointment of a new trustee in accordance with the provisions of this deed; and
- (h) power to give any release or waiver in respect of anything done or omitted by the Trustee or any breach or default by the Company.



Signing page

Executed as a deed

Signed sealed and delivered by
Healthscope Notes Limited
by

sign here ► _____
Company Secretary/Director

print name _____

sign here ► _____
Director

print name _____

Signed sealed and delivered by

_____ as attorney for **The Trust Company (Australia) Limited** pursuant to a power of attorney dated 12 July 2010, who declares that he has no notice of revocation of the power of attorney, in the presence of

Signature of witness

← _____ ←
Signature of attorney

Name of witness (print)

Name of attorney (print)