

DEED OF COMPANY ARRANGEMENT

Kalium Lakes Limited (Administrators
Appointed) (Receivers and Managers
Appointed)
ACN 613 656 643

Company

Martin Jones
Matthew Woods
Clint Joseph

Alt Finance Pty Ltd
ACN 624 034 340

Proponent

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Deed of Company Arrangement

Entered into on 11 March 2024

Parties:

Company	Name: Kalium Lakes Limited (Administrators Appointed) (Receivers & Managers Appointed) (ACN 613 656 643) Address: C/- KPMG, Level 8, 235 St Georges Terrace, Perth WA 6000 Postal: C/- KPMG, Level 8, 235 St Georges Terrace, Perth WA 6000As Phone: (08) 9263 7171 Email: kchu2@kpmg.com.au
Administrators	Name: Martin Jones, Matthew Woods and Clint Joseph Address: C/- KPMG, Level 8, 235 St Georges Terrace, Perth WA 6000 Postal: C/- KPMG, Level 8, 235 St Georges Terrace, Perth WA 6000 Phone: (08) 9263 7171 Email: kchu2@kpmg.com.au
Proponent	Name: Alt Finance Pty Ltd (ACN 624 034 340) Address: Level 2, 350 Kent Street, Sydney, NSW 2000 Postal: GPO Box 166, Sydney NSW 2001 Phone: +61 (0)2 9299 2289 Email: steve@benelong.com Contact: Steve Nicols
Deed Administrators	Name: Martin Jones, Matthew Woods and Clint Joseph Address: C/- KPMG, Level 8, 235 St Georges Terrace, Perth WA 6000 Postal: C/- KPMG, Level 8, 235 St Georges Terrace, Perth WA 6000 Email: martinjones@kpmg.com.au or kchu2@kpmg.com.au Contact: Martin Jones or Kieran Chu

Recitals:

- A. On 3 August 2023, the *Administrators* were appointed as joint and several Voluntary Administrators of the *Company* pursuant to section 436A(1) of the *Corporations Act*.
- B. On 7 February 2024, the Proponent submitted the DOCA Proposal.
- C. At the meeting of *creditors* held on 16 February 2024 convened pursuant to the Corporations Act, it was resolved by creditors that the *Company* accept the DOCA Proposal and to enter into a deed of company arrangement in accordance with the terms of the DOCA Proposal and to appoint the Administrators as deed administrators of the deed of company arrangement (**Resolution**).
- D. The *Deed Administrators*:
 - (a) are registered liquidators under the *Corporations Act*;
 - (b) are not disqualified from being appointed and acting as *administrators* of this Deed; and
 - (c) have consented to their appointment as administrators of this deed.
- E. This deed gives effect to the Resolution and is the instrument that records the deed of company arrangement for the purposes of s444A of the *Corporations Act*.
- F. Prior to effectuation of this *deed*, the *Deed Administrators* will procure that the *trustee* establish the *creditors' trust* in accordance with the terms of this *deed*.

Operative Terms:

In consideration of the mutual covenants set out in this *Deed*, this *Deed* now provides:

1.1. Glossary

Words in this *deed* that are italicised are defined in the Glossary located in Schedule 1.

2. TERM AND EFFECT

2.1. Commencement and term

This *deed* commences on the *execution date* and will terminate on the *termination date*.

2.2. Interim effect

Insofar as a person would be bound by this *deed* if this *deed* had already been executed, the person must not, at any time after the *creditors* resolve that the *Company* enter into this *deed*, but before this *deed* is executed, do anything inconsistent with the terms of this *deed* except with the leave of a *Court*.

2.3. Binding effect

2.3.2 This *deed*:

- (a) becomes a deed of company arrangement in accordance with subsection 444B(6) of the *Corporations Act*; and
- (b) has binding effect generally as a deed of company arrangement in accordance with the *Corporations Act*,

as soon as the *deed* has been executed by the *Company*, the *Proponent*, the *Administrators* and the *Deed Administrators*.

2.3.3 Subject to the terms of this *deed*, this *deed* binds:

- (a) all *creditors* in accordance with section 444D of the *Corporations Act*; and
- (b) the *Company*, the *officers* and the *members* in accordance with section 444G of the *Corporations Act*.

2.4. Moratorium on actions

2.4.1 Subject to section 444D of the *Corporations Act*, this *deed* may be pleaded by the *Company* as against any creditor as an absolute bar and defence to any Claims to the extent that the *Company's* liability has been released and discharged in relation to that Claim and creditors must not, in relation to their respective Claims against the *Company*:

- (a) make, or concur in the making of, an application for an order to wind

up the *Company*;

- (b) proceed with, or concur in proceeding with, any legal proceedings, or other procedure of any kind in relation to their Claim except with the leave of the Court and in accordance with such terms (if any) as the Court imposes;
- (c) exercise any right of counterclaim, set-off or cross-claim to which a *creditor* would not have been entitled had the *Company* been wound up at the *appointment date being the day on which the winding up was taken to have commenced*;
- (d) commence or take any further step in any arbitration against the *Company*, or to which the *Company* is a party;
- (e) begin or continue with any proceeding or action of any kind against the *Company* in relation to any of its *property*;
- (f) begin or continue with any *Enforcement Process* against the *Company* in relation to its *Property except with the leave of the Court and in accordance with such terms (if any) as the Court imposes*; or
- (g) take any other step whatsoever to recover a *Claim from the Company*.

2.4.2 The moratorium provisions in sections 440A, 440D, 440F and 444E of the *Corporations Act* apply to all *creditors* and members of the *Company*.

2.4.3 Nothing in this Deed limits the rights of the Deed Administrators to apply for orders, directions, leave or relief under any applicable law including but not limited to sections 444F, 444GA and 447A(1) of the *Corporations Act* and sections 60 and 90-15 of the Insolvency Practice Schedule.

2.5. Proponent

2.5.1. The *Proponent* will act as exclusive proponent to manage and assist with:

- (a) the *Company's* recapitalisation; and
- (b) the implementation of this *deed* and the *creditors' trust deed*.

2.5.2. In the event that:

- (a) prior to *effectuation*, any change occurs to an applicable law or regulation, or to the policy for the application of a law or regulation by a governmental or regulatory body (including AS/C or ASX), which



would, in the *proponent's* reasonable opinion, have a material adverse effect on the *company* or giving effect to the transactions in this deed; or

- (b) *effectuation* does not occur on or before the *completion date* or such later date as agreed by the parties,

the *proponent* may give the *Deed Administrators* notice that it does not intend to continue with this Deed, following which the *Deed administrators* will convene a meeting of *creditors* under clauses 13 and 15.2.1 to determine the future of the *company*.

2.6. Acknowledgements

2.6.1. The *company* and the *proponent* acknowledge that:

- (a) the Receivers intend to retire from their appointment upon:
- (b) completion of the sale of shares in Kalium Lakes Potash Pty Ltd (Receivers and Managers Appointed) (Subject to Deed of Company Arrangement) and Kalium Lakes Infrastructure Pty Ltd (Receivers and Managers Appointed) (Subject to Deed of Company Arrangement); and
- (c) receipt of Research and Development tax incentives anticipated to by the Company on or before 30 June 2024;
- (d) any entitlements to the Research and Development tax incentives in clause 2.6.1(b) of this deed do not form property of the company for the benefit of the creditors;
- (e) the Deed Administrators will become the trustees of the creditors' trust upon effectuation.
- (f) at *completion*, the Deed Administrators must execute the creditors' trust deed for and on behalf of the Company and in their capacity as trustees of the creditors' trust.

2.7. Prescribed provisions

- 2.7.1. This *deed* is intended to take effect in accordance with Part 5.3A of the *Corporations Act*.
- 2.7.2. Each of the prescribed items contained in Schedule 8A of the *Corporations Regulations*, other than items 3(c) and 11 thereof, is expressly incorporated into this *deed*, except to the extent inconsistent with this *deed*.



3. CONDITIONS PRECEDENT FOR COMPLETION

3.1. Conditions

3.1.1. *Completion* is conditional on the following conditions being satisfied or waived by the *end date*:

- (a) the following *approvals* being obtained:
 - (i) **(consolidation)** *approval* of the *company's* shareholders under section 254H of the *Corporations Act* and *listing rules* 7.18 to 7.26 to undertake the *consolidation*;
 - (ii) **(approval to issue securities)** *approval* of the *company's* shareholders under Chapter 2E of the *Corporations Act* and *listing rules* 7.1 and 10.11 for the *company* to issue *securities* as contemplated by this *deed*, which for the avoidance of doubt includes the *placement*, the *creditors' trust placement* and the *consolidation*; and
 - (iii) **(change of directors)** *approval* of the *company's* shareholders under the *company's* constitution and section 203D of the *Corporations Act* to appoint the *nominee directors* referred to in clause 4.2.
 - (b) prior to completion, no change occurring to a law, regulation or the policy for the application of a law or regulation by a governmental or regulatory body (including AS/C or ASX) which would, in the reasonably-held opinion of the *proponent*, have a material adverse effect on the *company* or the implementation of the *proposal*,
 - (c) prior to completion, the *Deed administrators* ensure that all PPSR charges, if any, are removed;
 - (d) the Deed Fund is established,
- (each a **condition precedent**).

3.2. Satisfaction or waiver of conditions precedent

- (a) The *Deed administrators*, the *company* and the *proponent* must each take all reasonable steps to satisfy the *conditions precedent* as soon as practicable after the date of this *deed* and in any event on or before the *end date*.

- (b) With the exception of clause 3.1(d), the *conditions precedent* (or any of them) may be waived by the *proponent* by notice in writing to the *Deed administrators*.
- (c) The *Deed administrators* undertakes to use their reasonable endeavours (but without being required to incur any costs) to assist in satisfying the *conditions precedent* to the extent that those *conditions precedent* are within the *Deed administrators'* control.
- (d) The *Deed administrators* consent to the *proponent* and its officers, agents and advisors liaising with ASX, ASIC, and the auditors in any way with respect to the *company* insofar as the communications are necessary to give effect to the obligations under this *deed*, save to say that the *proponent* must keep the *Deed administrators* promptly informed in relation to the *proponent's* communications, correspondence and liaison with the ASX.

3.3. Failure of conditions precedent

If the *conditions precedent* are not satisfied or waived in accordance with this *deed* on or before the *end date*, then save for this clause 3.3 and the *surviving clauses*:

- (a) The *deed* will automatically terminate under clause 15.2.2; and
- (b) without limiting clause 3.3(a), the *proponent* may, on giving written notice to the *Deed administrator*, cease to be bound by the *transaction documents*.

3.4. Not to act inconsistently with deed

Until such time as the *conditions precedent* are satisfied or waived, or the *deed* terminates before the satisfaction or waiver of those conditions, insofar as a person would be bound by the *deed* if all of the other clauses of this *deed* had come into effect, subject to clauses 3.3 and 15, the person must not do anything inconsistent with the other clauses of this *deed*.

4. RECAPITALISATION TRANSACTIONS

4.1. Approvals

- 4.1.1. The *proponent* will assist the *company* with the following at the *proponent's* own cost:



- (a) preparation by the *company* of the following meeting materials (***meeting documents***) to convene a general meeting of the *company* for the purpose obtaining shareholder *approvals* required to satisfy the *condition precedent* set out in clause 3.1.1(a) (***general meeting***):
 - (i) a notice of meeting, explanatory memorandum and proxy form; and
 - (ii) if required, an independent expert's report for the purposes of obtaining approval under section 611 (item 7) of the *Corporations Act* or otherwise under the *listing rules*;
- (b) submit or lodge the draft *meeting documents* with any regulatory body to which the *company* is required to submit or lodge such documents for review before finalisation and issue, including ASIC and ASX (as applicable);
- (c) provide the *Deed administrators* with drafts of the *meeting documents* prior such that the *Deed administrators* have sufficient time to review the *meeting documents* prior to their issuance;
- (d) prepare and submit to applicable regulatory bodies such submissions or applications for determinations, rulings, legal relief or regulatory waivers the *proponent* reasonably determines are required to satisfy the *condition precedent* set out in clause 3.1.1(a), including submissions or applications to ASIC and ASX (as applicable); and
- (e) convene the *general meeting*.

4.1.2. The costs to be paid by the *proponent* under clause 4.1.1 exclude the legal costs of the *Deed administrators* and the *trustees* (as applicable).

4.1.3. To the extent that the *Deed administrators* incur costs or expenses in assisting the *proponent* or the *company* under clause 4.1.1, including but not limited to the *Deed administrators'* costs in relation to the convening, holding or attending of the *general meeting* or assisting with the preparation of the *meeting documents*, any and all of those future costs will form part of the *Deed administrators' costs, expenses and remuneration*.

4.2. Change of directors

4.2.1. The *Deed administrators* must, subject to clauses 4.2.2 and 4.2.3 do all acts and things necessary to:

- (a) remove all *existing directors* holding office as *directors* and *officers*(as applicable); and
- (b) appoint up to 3 new *directors*, as *nominated* by Benelong Capital Partners Pty Ltd, as *directors*.

4.2.2. The appointment of the 3 new *directors* is subject to each such person having provided their written consent to act in such office.

4.2.3. The removal and appointment of *directors* under clause 4.2.1 is to occur on the date that this *deed* comes into effect or such other date as approved by the *proponent* in its discretion.

4.3. Consolidation of share capital

4.3.1. Subject to clause 4.3.3, the *company* will undertake the *consolidation* at completion.

4.3.2. The *proponent* may, by notice to the *Deed administrators* prior to the date that the *meeting documents* are despatched to *members*, require the *company* to conduct the *consolidation* by applying a different consolidation ratio to that specified at Schedule 1.

4.3.3. The *company's* obligation to give effect to the *consolidation* is conditional on the *company* first obtaining the *approvals* set out in clause 3.1.1(a)(i).

4.4. Proponent payments

4.4.1. Upon creditor approval of the *proposal* and by no later than 2 days of the *execution date*, the *proponent* (or its nominee) must pay the *Deed Administrators* the *deposit*.

4.4.2. If the *receivers* do not retire from their appointment over the Company by 31 May 2024 or such later date as agreed by the *proponent* and the *deed administrators* in writing then the *deed administrators* must refund the *proponent* the *deposit*.

4.4.3. The *proponent* (or its nominees) must pay the *proponent payment* to the *Deed administrators* upon satisfaction of clause 3.1.1(a) and without set-off, deduction or counterclaim.

4.4.4. The *deposit* and the *proponent payment* will be paid by the *Deed administrators* to the *trustee* and will form part of the *trust fund* under the *creditors' trust*.

4.5. Placement

4.5.1. *General*

- (a) Subject to clause 4.5.1(b), the *company* will undertake the *placement*.
- (b) The *company's* obligation to undertake the *placement* is conditional on:
 - (i) the *company* first obtaining the *approvals* referred to at clause 3.1.1(a)(ii); and
 - (ii) the *placement* closing with *shares* (**placement shares**) being issued at *completion* or as per ASX Listing Rules, unless the *proponent* and the *Deed administrators* agree otherwise.
- (c) The *placement* will be conducted on a post-consolidation basis.
- (d) Subject to necessary legal and shareholder *approvals* first being obtained, the *proponent* may require that the closing date, issue price or the number of shares to be issued under the *placement* be amended before any *shares* are issued under the *placement*.

4.6. Creditors' Trust Placement

Concurrent with the *placement* and subject to obtaining any necessary shareholder approvals and any relevant requirements under the ASX Listing Rules and the Corporations Act, the *Company* must do all acts and things necessary to issue 3 million post-consolidation shares in the *Company* to the *trustee*, to be held on trust for the benefit of the *admitted creditors*.

4.7. Deed Fund

The *deed fund* will comprise the *deposit* and the *proponent payment*.

4.8. Completion

4.8.1. Time, date and location

Completion is to take place at 11:00am on the *completion date* at the offices of the *proponent* or at such other time, date or location as agreed between the *Deed administrators* and the *proponent* in writing.

4.8.2. Steps

The following steps must be completed at or prior to *completion* which are interdependent, provided that the *conditions precedent* and clauses 4.2 to 4.6 have been satisfied (or waived) at or prior to *completion*:

- (a) the *trustee* and the *company* must execute the *creditors' trust deed*;

- (b) the *proponent* must pay the *proponent payment* to the *Deed administrators* without set-off, counterclaim or deduction;
- (c) the *company* must have approval to consolidate its share capital in accordance with the *consolidation and in accordance with ASX Listing Rules timetables*;
- (d) the *Deed administrators* must transfer the *deed fund* to the *trustees* for the purposes of and to be held and dealt with by the *trustees* in accordance with the *creditors' trust deed*;
- (e) the *company* and the *Deed administrators* will execute and deliver to the *trustees* those forms necessary to transfer the *deed fund*, to the *trustees* in their capacity as *trustees of the creditors' trust*;
- (f) if any *existing directors* have not resigned or been removed from that office, those *existing directors* will be removed from office by the *Deed administrators*;
- (g) if any new *director* has not been appointed as a *director*, those new *directors* will be so appointed by the *Deed administrators*; and
- (h) following satisfaction of each of the matters referred to above at clauses 4.8.2(a) to 4.8.2(g), the *Deed administrators* will:
 - (i) provide the *proponent* with an executed Form 5056 that will electronically be lodged by the *deed administrators* with ASIC immediately following completion;
 - (ii) deliver the books and records of the *company* available to the *Deed administrators* to the *proponent*, or if held by an external party, transfer the access rights to the *proponent* and the *proponent* will become responsible for the ongoing storage and maintenance of such books and records; and
 - (iii) provide the ASIC corporate key to the *proponent*.

4.8.3. *Effecting completion*

- (a) The actions under clause 4.8.2 which are to occur at or prior to *completion* are interdependent upon each other and must take place, as near as possible, simultaneously.
- (b) *Completion* is taken to have occurred when each *party* has performed that *party's* obligations under clause 4.8.2.

- (c) If any obligations required to be performed by a *party* at *completion* are not performed as and when required by this *deed* and the *proponent*, the *Deed administrators* and the *company* do not agree to waive such obligation, the *parties* must take such actions and steps as reasonably required to place each of the *parties* in the same position as if none of the steps under clause 4.8.2 had occurred.

4.8.4. Trust transfer and post-Completion obligations

- (a) As soon as is reasonably practicable following *completion*, the *Deed administrators* must transfer the remaining balance of the *deed fund* after payment of such of the *Deed administrators' costs, expenses and remuneration* to the *trustee* for the purposes of and to be held and dealt with by the *trustee* in accordance with the *creditors' trust deed*.
- (b) Notwithstanding *completion*, the *company* shall take those steps and do all things as may be necessary, including executing any documents that may reasonably be requested by the *trustee*, for the purpose of giving effect to clauses 4.8.4(a).

5. EFFECT ON CLAIMS

5.1. Release of claims

Subject to clause 2.3, each *creditor* agrees that the *creditor's claims* are extinguished, discharged and released upon *effectuation*.

5.2. Execution of all necessary documents

Each *creditor* must, if required by the *company* or the *Deed administrators*, execute any document that the *company* or the *Deed administrators* may require from time to time to give effect to the releases in clause 5.1.

5.3. Conversion of claims

The *Deed administrators* and the *creditors* agree that, upon all *claims* being released pursuant to clause 5.1, each *creditor* who had a *claim*, will become a *trust claimant* and will be entitled to make a claim against the *trust fund* for an amount equal to their released *claim*, in accordance with the *creditors' trust deed*.

5.4. Creditors' trust

The trustees will act as *trustees* for each *admitted creditor* pursuant to the *creditors' trust* in accordance with the *creditors' trust deed*.



5.5. Bar to claims

Subject to section 444D of the *Corporations Act*, this deed may be pleaded by the *company* or the *Deed administrators* against any person having a *claim* against the *company* as an absolute bar and defence to any legal proceedings brought or made at any time in respect of that *claim*.

5.6. Eligible employee creditors

For the purposes of section 444DA of the *Corporations Act* and notwithstanding anything to the contrary in this deed or the creditors trust deed, *employees* will retain a priority:

- (a) until *completion* in relation to the *assets* and the *property* which are under the *Deed administrators*' control; and
- (b) after *completion*, in relation to the *trust fund*, equal to the amount that which they would have been entitled to receive under sections 556, 560 and 561 of the *Corporations Act* had the *company* been wound up in liquidation.

5.7. Superannuation contribution debts

For the purposes of section 444DB of the *Corporations Act*, the *trustees* must determine that a debt (or part thereof) by way of a *superannuation contribution* is not admissible to proof as *trust claim* if:

- (a) that debt (or part of the debt) by way of *superannuation guarantee charge*:
 - (i) has been paid; or
 - (ii) is, or is to be admissible against, the *company*; and
- (b) the *Deed administrators* are satisfied that the *superannuation guarantee charge* is attributable to the whole of the first-mentioned debt.

5.8. Insurance Claims

- 5.8.1. Subject to this clause, the *company* shall be released from all *insurance claims*.
- 5.8.2. On receipt by the *company* from an insurer of any monies relating to an *insurance claim*:

- (a) such monies shall (after deduction of all costs, fees and expenses of and incidental to recovering those monies incurred by the *company*) be paid by the *company* to the claimant of that *insurance claim*;
- (b) in the event that there are any monies remaining after the claimant of the *insurance claim* has been paid, the *company* shall pay such monies to the *trust fund*; and
- (c) any such *insurance claim* shall be limited to and satisfied by the application of the monies in accordance with clause (i) and not be paid from the *trust fund*.

5.8.3. To the extent that the *company* is entitled to or receives amounts in respect of any *insurance claim* from insurers, that *insurance claim* is not released by this deed.

6. DEED ADMINISTRATORS

6.1. Appointment and term

- 6.1.1. The *Deed administrators* are appointed as joint and several deed administrators of this *deed*.
- 6.1.2. The *Deed administrators'* appointment begins on the *execution date* and continues until the *termination date* or until their retirement or removal from office.
- 6.1.3. The *Deed administrators*:
 - (a) consents to and accepts their appointment as administrators of this *deed*; and
 - (b) agrees to act as administrators of this *deed* for the period of their appointment under clause 6.1.2.

6.2. Agents of the company

The *Deed administrators* are the agents of the *company* insofar as they exercise powers, obligations, functions and duties in administering this *deed*.

6.3. Powers of deed administrators

- 6.3.1. The *Deed administrators* will administer this *deed* and have all the powers, functions and duties conferred on them by this *deed*, the *Corporations Act*, and other than to the extent inconsistent with this *deed*, Schedule 8A of the *Corporations Regulations*.



- 6.3.2. Subject to the appointment of the *receivers*, the *Deed administrators* will continue to maintain control of the *assets and property* of the *company*, subject to the terms of this *deed*, from the *execution date* until the *termination date*.
- 6.3.3. In addition to, and without limiting, the powers referred to elsewhere in this *deed*, the *administrators* will have the power:
- (a) to perform any function and exercise any power that the *directors* could perform or exercise if the *company* was not under external administration;
 - (b) to do anything that is incidental to exercising a power set out in this *deed*;
 - (c) to remove any *director* or *officer*;
 - (d) to appoint any person as any *director* or *officer*;
 - (e) upon the retirement of the *receivers*, to sell the *assets* in the ordinary course of business; and
 - (f) to do anything else that is necessary or convenient for the purpose of exercising their powers to administer this *deed including to bring, prosecute and defend any claim or other action in the name of the Company*.
- 6.3.4. The *Deed administrators* will be entitled to engage the services of their *personnel* to assist them in the performance or exercise of their duties, obligations, responsibilities and powers under this *deed*.
- 6.3.5. Where a power or discretion is conferred on the *Deed administrators* (whether by this deed, the Corporations Act, the Corporations Regulations or otherwise), each Administrator may exercise that power or discretion in such manner as they, in their absolute discretion, see fit.

6.4. Obligations of the Deed administrators

Without limiting the duties which the *Deed administrators* may have under the Corporations Act or otherwise at law, during the term of this *Deed*, the *Deed administrators* will as far as the *Deed administrators* consider reasonably practical, ensure the *Company's* compliance with the matters contemplated by this *Deed*; and in

accordance with the terms of this Deed, facilitate the establishment of the Trust and thereafter effectuate this Deed.

6.5. Joint and several rights, powers and privileges

- 6.5.1. The rights, powers and privileges of the Deed Administrators may be exercised by them jointly and severally.
- 6.5.2. Any obligations or liabilities of the Deed Administrators bind them all jointly and severally

6.6. Books and records

- 6.6.1. The *Deed administrators* have the power to access books and records of the *company*.
- 6.6.2. To the extent that the *Deed administrators* are given access to or possession of the books and records of the *company*, the *Deed administrators* agree to maintain them in accordance with the requirements of the *Corporations Act*.
- 6.6.3. After effectuation of this *deed* the *company* will provide the *trustees* with all reasonable access to the books and records of the *company* to enable the *trustees* to adjudicate *claims* by *creditors*.

6.7. Deed administrators not personally liable

- 6.7.1. To the maximum extent permitted by law, the *Deed administrators* shall not be personally liable for:
 - (a) any debts incurred or any claims, demands, actions, loss, damage, costs, charges, expenses or liabilities caused by any act, omission or default by or on behalf of the *Deed administrators* in administering this *deed* or exercising their duties and obligations under this *deed*;
 - (b) any debts incurred or any claims, demands, actions, loss, damage, costs, charges, expenses or liabilities caused by any act, omission or default by or on behalf of the *company*; or
 - (c) any debts incurred or any claims, demands, actions, loss, damage, costs, charges, expenses or liabilities suffered or sustained or incurred by any *directors*, *officers* or *creditors* of the *company*.

6.8. Calling for proofs of debt

The *Deed administrators* maintain the power to adjudicate *claims* of the *creditors* and may call for proofs of debt.



6.9. Deed administrators' resignation

- 6.9.1. The *Deed administrators* may resign or retire at any time by giving at least 14 days' prior written notice to the *company* unless that resignation or retirement would result in there being no remaining *Deed administrators*, in which event the *Deed administrators* must:
- (a) convene a meeting of *creditors* in accordance with clause 13 of this *deed* for the purpose of approving the appointment of a replacement *administrator*;
 - (b) assign and transfer to a replacement *administrators* appointed by the *creditors* all of the *administrators'* rights, title and benefit under this *deed*; and
 - (c) do all things reasonably necessary to effect the assignment and transfer referred to in clause 6.9.1(b).
- 6.9.2. Nothing in this section affects the *Deed administrators'* right to remuneration pursuant to this *deed* or the *Deed administrators'* lien created pursuant to clause 9.1.6.

7. THE COMPANY

7.1. Suspension of powers

- 7.1.1. Subject to clause 4.2:
- (a) each *director* remains in office subject to the provisions of the *Corporations Act*; and
 - (b) the *directors* powers under the *Corporations Act* will remain suspended for the duration of the *deed*, unless reinstated by the *Deed administrators* under clause 7.1.3.
- 7.1.2. Where the powers of the *Deed administrators* and the *directors* overlap, the *Deed administrators'* powers operate to the exclusion of the *directors'* powers unless the *Deed administrators* grant prior consent to the exercise by the *directors* of their powers.
- 7.1.3. The *Deed administrators* may delegate to the *directors* such operations, functions and powers as the *Deed administrators* in their sole discretion think fit and the *Deed administrators* shall not be responsible or liable for anything done by the *directors* in relation to any operation, function or power so delegated.

7.2. Other officers

As and from the *execution date*, each *officer* who is not a *director* remains in their office subject to the provisions of the *Corporations Act*.

7.3. Appointment and removal

The powers of the *Deed administrators* under this *deed* to remove and to appoint *directors* or *officers* apply in precedence to, and to the exclusion of, any *members'*, *directors'* or *officers'* power to remove or to appoint *directors* or *officers* (or both).

7.4. Assistance

The *company* and each *officer* must use all of their respective reasonable endeavours to co-operate with and assist the *Deed administrators* in carrying out their duties and functions under this *deed* and the *Corporations Act*.

7.5. Control of the Company

- 7.5.1. Control of the Company will not revert to the directors and officers on execution of this Deed.
- 7.5.2. Subject to the appointment of the Receivers, the Deed Administrators will maintain control of the Company's business, property and affairs during the period of the *execution date* and the termination date.
- 7.5.3. Nothing in this clause is to be construed as preventing the Deed Administrators from delegating some or all of their powers as they, or any one of them, sees fit.
- 7.5.4. Following effectuation of this deed, control of the Company will transfer to the new directors appointed pursuant to clause 4.2.1 of this deed and the deed administrators will not have any obligation or responsibility for the affairs of the Company.

8. REMUNERATION

- 8.1.1. The *Deed administrators'* remuneration for their services as *Deed administrators* of this *deed* is to be calculated at the hourly rates charged by KPMG Perth, plus GST.
- 8.1.2. The *Deed administrators* may draw the *Deed administrators' costs, expenses and remuneration* from the *deed fund*.



9. INDEMNITY

9.1. Deed administrators' indemnity

- 9.1.1. To the maximum extent permitted by law, the *Deed administrators* are entitled to be indemnified out of the *deed fund*, for the *administrators' costs, expenses and remuneration*.
- 9.1.2. The *Deed administrators* are not entitled to an indemnity out of the *deed fund*, against any claims arising out of any fraudulent or grossly negligent act or omission by the *Deed administrators* or the *Deed administrators' personnel*.
- 9.1.3. The indemnity under this clause shall not:
- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the *Deed administrators*, and extends to all actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the *Deed administrators*, the approval and execution of this *deed* or otherwise; or
 - (b) affect or prejudice any or all rights that the *Deed administrators* may have against the *company* or any person to be indemnified against the costs, charges, expenses and liabilities incurred by the *Deed administrators* by or incidental to the exercise or performance of any of the powers or authorities conferred on the *Deed administrators* by this *deed* or otherwise.
- 9.1.4. The *Deed administrators' right of indemnity* conferred by this clause has priority over the *claims* of any *creditor* or all *creditors* generally (including, to the extent permitted by law, any *priority claims*).
- 9.1.5. The *Deed administrators* are entitled to exercise the *Deed administrators' right of indemnity* conferred by this *deed* whether or not the *Deed administrators* have paid or satisfied the *admitted claims*.
- 9.1.6. The *Deed administrators* are entitled to exercise a lien on the *proponent payment*, to secure the *Deed administrators' right of indemnity* under this *deed* and otherwise at law and in equity.
- 9.1.7. Nothing in this *deed* affects or limits the operation of Subdivision B of Division 9 of Part 5.3A of the *Corporations Act*, which is to apply with all necessary modifications to the voluntary administration of the *company* and subsequent administration of this *deed*.

10. SCOPE OF THIS DEED

10.1. Objectives of the Deed

10.1.1. The objectives of this *deed* are:

- (a) to comply with the Corporations Act and the resolution of creditors by which the Company executes this *deed*;
- (b) to maximise the chance of the *Company* continuing in existence;
- (c) to maintain the moratorium on actions described in clause 2.4 of this *deed*.
- (d) to attempt to provide a greater return to creditors than would be available to the Company's creditors in liquidation; and
- (e) to establish the deed fund and transfer it to the *creditors' trust* to form a trust fund from which *admitted claims* will be paid dividends..

10.2. Deed binds all persons

10.2.1. This *deed* binds:

- (a) all *parties* to this *deed*;
- (b) in accordance with section 444D of the *Corporations Act*, all *creditors* of the *company* to the extent of *claims* arising on or before the *appointment date*, being the day specified in this *deed* under section 444A(4)(i) of the *Corporations Act*; and
- (c) in accordance with section 444G of the *Corporations Act*, the *company*, the *Deed administrators* and the *members* and *officers* of the *company*.

10.2.2. For the avoidance of doubt, subject to subsection 444D(2) of the *Corporations Act*, the *deed* does bind the *claims* of *secured creditors* of the *company*, any *owners* or *lessors* of *property* used by or occupied by the *company*.

10.3. Proponent

Without limiting anything in this clause 10 or otherwise in this *deed*, the *proponent* is bound by this *deed* both:

- (a) as a *party* to this *deed*; and

(b) as a *creditor* so far as the *proponent* is a *creditor*.

10.4. Secured creditors

10.4.1. Subject to subsection 444D(2) of the *Corporations Act* and clause 10.2.2, this *deed* binds *secured creditors* of the *company*.

10.5. Owners and lessors

10.5.1. Subject to subsection 444D(3) of the *Corporations Act* and clause 10.2.2, this *deed* binds *owners* or *lessors* of *property* that is used or occupied by, or in the possession of, the *company*, and who are also *creditors*.

10.5.2. Throughout the *deed period*, an *owner* or *lessor* referred to in clause 10.5.1 must not, without the consent of the *Deed administrators* or the leave of a *court*, bring or proceed with any *enforcement process* in relation to that *property*.

10.5.3. Notwithstanding anything in this *deed*, the terms of this *deed* do not prejudice the rights of an *owner* or *lessor* referred to in clause 10.5.1.

10.6. Liability

The *Deed administrators* will not be taken to have adopted, ratified or in any manner become personally bound under any agreement, deed or other binding undertaking between the *company* and any *owner* or *lessor* of *property* or any other person or entity as a result of:

- (a) any discussions or correspondence with any *owner* or *lessor* of *property* or any other person or entity;
- (b) the use, occupation or possession of the *property* of the *owner* or *lessor* of *property* by the *company*, whether that use, occupation or possession is during this *deed period*, or during the period in which the *company* was under voluntary administration;
- (c) any other act, matter or thing done or omitted to be done by the *Deed administrators* or the *company*;
- (d) any debts incurred or any claims, demands, actions, loss, damage, costs, charges, expenses or liabilities caused by any act, omission or default by or on behalf of the *Deed administrators*, their personnel, the *Company* or any other party in administering this *Deed* or exercising their duties and obligations under this *Deed*.

11. REPORTS AND ACCOUNTS

11.1. Reports to admitted creditors

During the *deed period*, the *Deed administrators* may, but are not obliged to, report to *admitted creditors* on the *company's* state of affairs or on any matters which the *Deed administrators* consider should be brought to their attention.

11.2. Court orders regarding returns and accounts

Section 434 of the *Corporations Act* applies to the *Deed administrators* as if the references to a 'controller' were references to the *Deed administrators*.

12. EFFECTUATION OF DEED

Effectuation under this *deed* is to occur on the same day as:

- (a) satisfaction (or waiver) of the *conditions precedent*;
- (b) payment of the *proponent payment* to the *company* under clause 4.4;
- (c) the completion of each of the steps referred to at clauses 4.8.2(a) to 4.8.2(g); and
- (d) the *Deed administrators* forthwith lodges a Form 5056 on the ASIC Portal.

13. MEETINGS OF CREDITORS

13.1. Meetings of *creditors* may be convened by the *Deed administrators* from time to time in accordance with Division 75 of the *Insolvency Practice Rules*.

13.2. Except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this *deed*, regulations 5.6.12 to 5.6.36A of the *Corporations Regulations* inclusive apply to meetings of *creditors* convened under the *Corporations Act* or this *deed*.

14. VARIATION OF DEED

14.1. Variation by creditors

Pursuant to section 445A of the *Corporations Act*, this *deed* may be varied by resolution of *creditors* passed at a meeting of *creditors* convened in

accordance with clause 13, but only if the variation is not materially different from a proposed variation set out in the notice convening such meeting.

14.2. Variation in writing

Subject to the provisions of the *Corporations Act*, a variation of any term of this *deed* must be in writing and signed by all *parties*.

15. TERMINATION OF DEED

15.1. Termination of deed on effectuation

- 15.1.1. This *deed* will terminate immediately upon *effectuation* occurring in accordance with clause 12.
- 15.1.2. Forthwith upon *effectuation*, the *Deed administrators* must execute and lodge with ASIC a notice in the form of the notice prescribed by ASIC for the purposes of section 445FA(2) of the *Corporations Act*, if a form is not prescribed, in the form set out in Schedule 2.
- 15.1.3. The *Deed administrators* must not perform the acts set out in clause 15.1.2 if:
- (a) any *party* to this *deed* is in breach of its obligations; or
 - (b) if obligations (other than those in this clause 15) of any *party* have not been fulfilled which obligations are necessary for the full *effectuation* under this *deed*; or
 - (c) if any of the steps referred to at clauses 4.8.2(a) to 4.8.2(g) have not been completed.

15.2. Termination prior to effectuation

15.2.1. Initiation of termination or variation by *Deed administrators*

- (a) The *Deed administrators* may, in their absolute discretion, convene a meeting of *creditors* if the *Deed administrators* determines:
 - (i) that it is no longer practicable or desirable to continue to implement this *deed*; or
 - (ii) the terms of this *deed* cannot be fulfilled.

- (b) A meeting under clause 15.2.1(a) will be convened for the purpose of the *creditors* resolving either:
 - (i) to vary this *deed*; or
 - (ii) if there is an unrectified breach of this *deed*, terminating this *deed*.
- (c) The *Deed administrators* must forward to each *creditor*, at least 14 days prior to a meeting pursuant to clause 15.2.1(a), an up-to-date report as to the position of the *company* accompanied by:
 - (i) such financial information as the *Deed administrators* think appropriate; and
 - (ii) a statement that:
 - (1) the *Deed administrators* do not think that it is practicable or desirable to continue this *deed*; and
 - (2) this *deed* will either be varied or terminated if the *creditors* so resolve.

15.2.2. *Automatic termination*

In the event that:

- (a) the *conditions precedent* are not met by the *end date*;
- (b) *completion* does not occur by the *completion date*;
- (c) *effectuation* does not occur by the *completion date*;
- (d) the *receivers* do not retire from their appointment over the *company* by 31 May 2024 or such later date as agreed by the *proponent* and the *deed administrators* in writing;
- (e) the *Deed administrators* and the *proponent* agree in writing prior to *effectuation* that the terms of this *deed* cannot be fulfilled, and it should be terminated;
- (f) a meeting of *creditors* is convened in accordance with Division 75 of the *Insolvency Practice Rules* and, at that meeting, the *creditors* pass a resolution terminating this *deed* in accordance with sections 445C(b) and 445CA of the *Corporations Act*; or
- (g) a *court* makes an order terminating this *deed* under section 445D of the *Corporations Act*,



then:

- (h) this *deed* will automatically terminate;
- (i) the *company* will be taken to have passed a special resolution under section 491 of the *Corporations Act* that the *company* be wound up voluntarily and to have done so without a declaration having been made under section 499 of the *Corporations Act* that the *administrators* be appointed as liquidators of the *company*; and
- (j) subsections 446A(3), 446A(5) and 446A(7) of the *Corporations Act* shall apply as if the *company* were being wound up under section 446A of the *Corporations Act*.

15.2.3. Effect on claims

Claims of *creditors* will not be released under clause 5.1 if this *deed* is terminated prior to *effectuation* occurring except to the extent of the amounts or credits, if any, received by *creditors* under this *deed* or otherwise in relation to the *claim*.

15.3. Consequences of termination

Pursuant to section 445H of the *Corporation Act*, the termination or avoidance (whether in whole or in part) of this *deed* does not affect the previous operation of this *deed*.

15.4. Survival

The *survival clauses* will continue to apply despite termination of this *deed*.

16. APPLICATIONS TO COURT

16.1. Unforeseen circumstances

If any circumstances arise for which this *deed* does not either expressly or by necessary implication provide, the *Deed administrators* will in their absolute discretion make such provision as they think fit for the purpose of *effectuating* this *deed* and may, if they think fit, apply to a *court* for directions.

16.2. Application to the court

The persons bound by this *deed* (other than the *Deed administrators* or *proponent*) may not make any application to a *court* in relation to any matter arising under this *deed* unless at least 5 *business days* prior notice in writing

has been given to the *Deed administrators* and the *proponent*, with such notice to give particulars of the proposed application and attach a copy of any papers proposed to be filed with the *court* in support of that application.

17. MISCELLANEOUS PROVISIONS

17.1. Governing law

The laws of the State of New South Wales, Australia, govern this *deed*.

17.2. Jurisdiction

17.2.1. The *parties* submit to the exclusive jurisdiction of the *court* .

17.2.2. Any legal proceedings in relation to this *deed* must be held in Sydney, New South Wales, Australia, unless otherwise agreed between the *parties* in writing.

17.3. Severance

17.3.1. Subject to clause 17.3.2, if any provision of this *deed* is invalid, illegal or unenforceable, that provision must be severed from and ignored in the interpretation of this *deed* to the minimum extent necessary and with the intent that the remaining provisions of this *deed* remain in full force and effect.

17.3.2. Any provision of this *deed* or any right, power, authority, discretion or remedy of a *party* under this *deed* which is:

- (a) prohibited in a jurisdiction, is ineffective in that jurisdiction only to the extent of that prohibition; or
- (b) invalid, 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.

17.3.3. The application of clause 17.3.2 is not limited by any other provision of this *deed* in relation to severability, prohibition or enforceability.

17.4. Waiver

17.4.1. A *party* granting a waiver of a right under this *deed* must give written notice of that waiver to the *party* which benefits from the waiver.

17.4.2. A *party's* failure, partial failure or delay in exercising a right relating to this *deed* is not a waiver of that right.

17.4.3. A *party* may not claim that another *party's* delay or failure to exercise a right relating to this *deed*:

- (a) constitutes a waiver of that right; or
- (b) is a defence to its own action or inaction.

17.5. Entire agreement

This *deed* constitutes the entire agreement between the *parties* and supersedes all previous discussions, undertakings and agreements in relation to the subject matter of this *deed*.

17.6. Survival

17.6.1. All of the indemnities provided for in the *deed*, including those set out at clause 9, survive the performance of obligations relating to this *deed* and the termination of this *deed*.

17.6.2. To the extent that a *party* has not satisfied an obligation, or it is a continuing obligation, that obligation survives termination of this *deed*.

17.7. Merger

A *party's* rights and obligations in relation to this *deed* do not merge on the execution of this *deed* or the completion of a transaction under this *deed*.

17.8. Representations

Subject to the express provisions in this *deed*:

- (a) neither a *party* nor its representative has made any representation to another *party* to induce that other *party* to execute this *deed*; and
- (b) neither a *party* nor a person acting on a *party's* behalf was induced to execute this *deed* by relying on a representation that another *party* has made.

17.9. Further assurances

Each *party* at its own expense must exercise such powers as are available to them, do all such acts, sign, execute and deliver such documents or



instruments, provide all such assistance, and otherwise do everything necessary to give full effect to this *deed*.

17.10. Rights of third parties

- 17.10.1. Subject to the rights of *creditors* under the *Corporations Act*, to the extent permitted by law, a person who is not a *party* to this *deed* does not have any right to enforce any term of this *deed* pursuant to the laws of any jurisdiction, except where and to the extent expressly set out in this *deed*.
- 17.10.2. Notwithstanding any rights of persons who are not *parties* to enforce this *deed*, this *deed* may be:
- (a) varied by the *parties* in accordance with clause 14 without the consent of any person who is not a *party*; and
 - (b) terminated in any manner and circumstance in which termination is allowed under this *deed*, without the consent of any person who is not a *party*.

17.11. Expenses

Except as otherwise provided in this *deed*, each *party* must pay its own costs and expenses in relation to negotiating, preparing, executing and performing this *deed*.

17.12. Indemnities

- 17.12.1. All of the indemnities provided for in the *deed*, including those set out at clause 9 is a continuing obligation, separate and independent from the other obligations of the *parties*, and survives termination, completion or expiration of this *deed*.
- 17.12.2. It is not necessary for a *party* to incur expense or to make any payment before enforcing a right of indemnity conferred by this *deed*.
- 17.12.3. A *party* must pay on demand any amount it must pay under an indemnity in this *deed*.

17.13. Time of the essence

Time is of the essence in relation to this *deed* in all respects.



17.14. Notices

17.14.1. Each communication (including each notice, consent, approval, request and demand) given by a *party* to another *party* in relation to this *deed*:

- (a) must be in writing and in the English language;
- (b) must be addressed to the recipient *party* using the contact details of the recipient *party* specified in this deed or as otherwise notified by the recipient *party* to each other *party* from time to time;
- (c) must be signed by the *party* making it or by that *party*'s lawyer, attorney, director, secretary or authorised agent;
- (d) must be delivered by hand, sent by prepaid post, sent by facsimile or sent by email to the recipient *party* at the address or using the contact details specified in this *deed*; and
- (e) is taken to be received by the recipient *party*:
- (f) in the case of delivery by hand, upon delivery;
- (g) in the case of prepaid post sent to a recipient *party* in the same country as the sending *party*, on the 4th *business day* after the date of posting;
- (h) in the case of prepaid post sent to a recipient *party* in another country to the sending *party*, on the 6th *business day* after the date of posting;
- (i) in the case of facsimile transmission, at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the facsimile machine from which it was sent; or
- (j) in the case of email, at the time it is delivered to the recipient *party*'s host server.

17.14.2. Notwithstanding clause 17.14.1(e), if a communication given under clause 17.14.1 is taken to be received on a day that is not a *business day* or after 5.00pm in the place where the communication is received, it will be taken to be received at 9.00am on the next *business day*.

17.15. Counterparts

- (a) This *deed* may be executed in any number of counterparts which taken together are one and the same document.
- (b) This *deed* is binding on the *parties* on the exchange of counterparts.

- (c) A copy of an entire signed counterpart of this *deed* sent by facsimile or email must be treated as an original counterpart.

17.16. Company may execute this deed

The *company* is authorised by the *Deed administrators* to execute this *deed*.

17.17. Stamp duty

Any *stamp duty* assessed on this *deed* is to be paid by the *proponent* on behalf of the *company*.

18. INTERPRETATION

18.1. Application

This clause 18 applies to the interpretation of this *deed* unless inconsistent with the context.

18.2. General

- 18.2.1. If a word or phrase is defined, then its other grammatical forms have a corresponding meaning.
- 18.2.2. The singular includes the plural and vice versa.
- 18.2.3. A reference to a gender includes any gender.
- 18.2.4. A reference to a living thing includes a reference to an inanimate thing and vice versa.
- 18.2.5. A reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure to this *deed*.
- 18.2.6. The words "includes", "including" and similar words are not words of limitation and do not restrict the interpretation of a word or phrase in this *deed*.
- 18.2.7. A reference to a document includes a variation or replacement of it.
- 18.2.8. A reference to a statute includes its subordinate legislation and a modification, replacement or re-enactment of either.
- 18.2.9. A reference to this *deed* includes an annexure.
- 18.2.10. A reference to person includes a reference to:

- (a) an individual, a body corporate, a trust, a partnership, a joint venture an unincorporated body or other entity, whether or not it is a separate legal entity;
 - (b) if the person is an individual, the person's personal representatives and assigns; and
 - (c) if the person is not an individual, the person's successors and assigns.
- 18.2.11. A reference to a thing, including a right, is a reference to either the whole thing or a part of the thing.
- 18.2.12. Part performance of an obligation does not constitute performance of an obligation.
- 18.2.13. A term, condition or warranty in this deed in favour of or on the part of two or more people benefits or binds them jointly and severally.
- 18.2.14. A reference to currency is to Australian currency unless specified otherwise.
- 18.2.15. A reference to time is to AEST (i.e. Sydney Time).
- 18.2.16. If the date on which a thing must be done is not a *business day*, then that thing must be done on the next *business day*.
- 18.2.17. A reference to a day is a reference to the period which starts at midnight and ends 24 hours later.
- 18.2.18. If a period of time runs from a given date, act or event, then the time is calculated exclusive of the date, act or event.
- 18.2.19. A clause is not to be construed against a *party* solely on the ground that the *party* is responsible for the preparation of this *deed* or that clause.
- 18.2.20. A reference to a right includes a benefit, remedy, discretion or power.
- 18.2.21. The phrase "in relation to" has the widest possible import and encompasses the phrases "in relation to", "in connection with", "in respect of", "arising out of", "caused by" and "resulting from".
- 18.2.22. In the event of an inconsistency between the main body of this *deed* and any of the Schedules, the main body of this *deed* prevails to the extent of that inconsistency.

18.3. Headings

A heading in this *deed* is for convenience only and does not affect the interpretation of this *deed*.



18.4. Inconsistency with other transaction documents

- 18.4.1. If this *deed* is inconsistent with any other *transaction document* or other agreement between the *parties*, this *deed* prevails to the extent of the inconsistency.
- 18.4.2. If there is any inconsistency between the provisions of this *deed* and the *Corporations Act* then the *Corporations Act* will, only to the extent of the inconsistency and if that *Corporations Act* provision may not be varied or excluded by contract, prevail and this *deed* will be interpreted accordingly.
- 18.4.3. If there is any inconsistency between the provisions of this *deed* and the constitution of the *company* or any other obligations binding on the *company*, then the provisions of this *deed* will prevail to the extent of this inconsistency.



Schedule 1 – Glossary

In this *deed*, unless the context otherwise requires, the *parties* defined commencing on Page 1 shall have the meanings ascribed to them there, and the following terms bear the following meanings:

Voluntary administrators	means Martin Jones, Matthew Woods and Clint Joseph in their capacity as administrators of the <i>company</i> and subsequently as administrators of this <i>deed</i> , and includes any replacement administrators(s) of this <i>deed</i> appointed pursuant to this <i>deed</i> (including as varied).
Deed administrators' costs, expenses and remuneration	<p>means:</p> <p>(a) as to the <i>Deed administrators</i> in their capacity as <i>Deed administrators</i> of this <i>deed</i>:</p> <p>(i) the <i>Deed administrators'</i> rights of remuneration, indemnity and reimbursement under this <i>deed</i> and otherwise at law and in equity;</p> <p>(ii) all actions, demands, suits, proceedings, accounts, awards, judgments, debts, claims, losses, damages or other liabilities (whether present or future, certain or contingent, ascertained or sounding only in damages) arising out of, in connection with or incidental to any debts incurred by the <i>company</i>, any <i>administrators</i> or any of their <i>personnel</i> arising out of, or in connection with or incidental to the administration of this <i>deed</i>; and</p> <p>(iii) all actions, demands, suits, proceedings, accounts, awards, judgments, debts, claims, losses, damages or other liabilities (whether present or future, certain or contingent, ascertained or sounding only in damages) against any <i>administrators</i> or any of their <i>personnel</i>, arising out of, or in connection with or incidental to the administration of this <i>deed</i>; and</p> <p>(b) as to the voluntary administrators of the <i>company</i>:</p> <p>(i) the voluntary <i>administrators'</i> rights of remuneration, indemnity and reimbursement as voluntary administrators of the <i>company</i> pursuant to Part 5.3A of the <i>Corporations Act</i>;</p> <p>(ii) all actions, demands, suits, proceedings, accounts, awards, judgments, debts, claims, losses, damages or other liabilities (whether present or future, certain or contingent, ascertained or sounding only in damages) arising out of, or in connection with or incidental to any debts incurred by the <i>company</i>, any <i>administrators</i> or any of their <i>personnel</i> arising out of, or in</p>

OBDEED OF COMPANY ARRANGEMENT –
Schedule 1– Glossary

	connection with or incidental to the voluntary administration of the <i>company</i> ; and
(iii)	all actions, demands, suits, proceedings, accounts, awards, judgments, debts, claims, losses, damages or other liabilities (whether present or future, certain or contingent, ascertained or sounding only in damages) against any <i>administrators</i> or any of their <i>personnel</i> , arising out of, or in connection with or incidental to the voluntary administration of the <i>company</i> .

admitted claim	mean a <i>claim</i> by a <i>creditor</i> , the proof of debt for which has been admitted to proof by the <i>Deed Administrators</i> or the <i>trustee</i> (as the case may be) at their discretion.
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admitted creditor	means a <i>creditor</i> with an <i>admitted claim</i> .
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appointment date	means 3 August 2023, being the date on which the <i>voluntary administrators</i> were appointed or were taken to be appointed pursuant to section 436A of the <i>Corporations Act</i> .
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approval	means any and all legal, regulatory, creditor or shareholder approvals, as required by government entities and regulatory bodies, including <i>ASIC</i> and <i>ASX</i> .
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ASIC	means the Australian Securities & Investments Commission.
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ASX	means ASX Limited (ACN 008 624 691) or the financial market conducted by it under the name Australian Securities Exchange, as the context requires.
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assets	means all <i>property</i> , <i>receivables</i> , rights, chooses in action, subsidiaries and other assets of the <i>company</i> on or before execution date, and proceeds of sale or other realisation of those assets.
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business day	means a day other than a Saturday, a Sunday or a public holiday in Sydney, New South Wales, Australia.
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claim	means a debt payable by, or a liability of or claim against, the <i>company</i> (present or future, certain or contingent, ascertained or sounding only in damages) being a debt, liability or claim: (a) the circumstances giving rise to which occurred on or before the <i>appointment date</i> ; or (b) which was due or arising or which may become due or arise because of anything done or omitted by or on behalf of the <i>company</i> on or before the <i>appointment date</i> ,
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	(whether arising under common law, equity or statute) and which would be admissible to proof against the <i>company</i> under Division 6, Part 5.6 of the <i>Corporations Act</i> had the <i>company</i> been wound up and the winding up was taken to have commenced on the <i>appointment date</i> , including but not limited to:
	(c) debts, liabilities or claims against the <i>company</i> in relation to a <i>pre-administration contract</i> , including by way of a convertible note;
	(d) claims relating to the termination of the employment of <i>employees</i> ;
	(e) a debt by way of a <i>superannuation contribution</i> ; and
	(f) a debt by way of a <i>superannuation guarantee charge</i> .
<i>company</i>	means Kalium Lakes Limited (Receivers and Managers Appointed) (Administrators Appointed) ACN 613 656 643.
<i>completion</i>	means completion of the steps and transactions contemplated by clause 4.8.2.
<i>completion date</i>	means 4:00pm on 31 December 2024 or such later date as agreed between the <i>proponent</i> and the <i>administrators</i> in writing.
<i>condition precedent</i>	has the meaning given to that term in clause 3.1.1 of this <i>deed</i> .
<i>consolidation</i>	means a consolidation of the <i>company's</i> share capital at the <i>completion date</i> on approximately a 1 for 400 basis, subject to compliance with applicable laws. The consolidation will result in approximately 100,000,000 <i>shares</i> on issue following completion of the consolidation and issue of fresh shares.
<i>Corporations Act</i>	means the <i>Corporations Act 2001</i> (Cth); and includes Insolvency Practice Rules and Insolvency Practice Schedules.
<i>Corporations Regulations</i>	the <i>Corporations Regulations 2001</i> (Cth).
<i>court</i>	means any court having jurisdiction to hear and determine matters under the <i>Corporations Act</i> .
<i>creditor</i>	means any person who would have been entitled to prove in a winding up of the <i>company</i> if the <i>company</i> had been wound up and the winding up was taken to have commenced on the <i>appointment date</i> , including <i>employees</i> and <i>priority creditors</i> .

OBDEED OF COMPANY ARRANGEMENT –
Schedule 1– Glossary

creditors' trust	the trust to be established and governed by the <i>creditors' Trust deed</i> .
creditors' trust deed	the trust deed to be executed by the <i>company</i> and the <i>trustee</i> , substantially in the form of the Annexure to This <i>deed</i> .
creditors' trust placement	means the 3 million post-consolidated <i>shares</i> representing 3% of the total <i>shares</i> issued in the <i>Company</i> to be issued to the <i>trustees</i> of the <i>creditors' trust</i> .
deed	this Deed of Company Arrangement, as amended from time to time.
Deed Administrator's Bank Account	means the following bank account: Bank: Macquarie Bank Account name: Kalium Lakes Limited (Subject to Deed of Company Arrangement) BSB: 186-300 Account No.: 237796743
deed fund	means the <i>deposit</i> and the <i>proponent payment</i> .
deed period	the period commencing on the <i>execution date</i> and ending on the <i>termination date</i> .
deposit	means the sum of \$25,000.
director	any person who, by reason of the definition of "director" in section 9 of the <i>Corporations Act</i> , is a director of the <i>company</i> from time to time.
dividend	has the meaning given to that term in the <i>creditors' Trust deed</i> .
dollar, A\$ or \$	means the lawful currency of the Commonwealth of Australia.
effectuation	means effectuation of this <i>deed</i> under clause 12.
employee	means current or former employees of the <i>company</i> .
employee entitlements	means the <i>claim</i> of any <i>employee</i> that would rank for payment in priority to the payment of other unsecured <i>claims</i> under section 556 of the <i>Act</i> if the <i>company</i> had been wound up with the winding up taken to have commenced on the <i>appointment date</i> .
end date	means 31 December 2024, or such later date as may be agreed in writing between the <i>administrators</i> and the <i>Proponent</i> .

OBDEED OF COMPANY ARRANGEMENT –
Schedule 1– Glossary

enforcement process	has the meaning given to that term in section 9 of the <i>Corporations Act</i> .
execution date	means the day upon which this <i>deed</i> is executed by the <i>party</i> executing last in time.
exempt investor	means a person of the nature described in section 708 of the <i>Corporations Act</i> to whom <i>securities</i> may be issued or granted without disclosure under Chapter 6D of the <i>Corporations Act</i> .
existing director	means a <i>director</i> who holds office at the <i>execution date</i> .
general meeting	has the meaning given to that term in clause 4.1.1(a).
GST	means goods and services tax levied or imposed pursuant to the <i>GST Act</i> .
GST Act	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Insolvency Practice Rules	has the meaning given to that term in the <i>Corporations Act</i> .
Insolvency Practice Schedule	means Schedule 2 of the <i>Corporations Act</i> .
insurance claim	means a liability of the <i>company</i> covered by insurance policies taken out prior to the <i>appointment date</i> .
lessor	means any person who is the lessor of <i>property</i> at the <i>appointment date</i> .
listing rules	means the listing rules of ASX and any other rules of ASX applicable to a company admitted to the official list of ASX.
meeting documents	has the meaning given to that term in clause 4.1.1(a).
member	means, in relation to the <i>company</i> , a person who is a member of the <i>company</i> under section 231 of the <i>Corporations Act</i> .
nominee Director	means a person who is to be appointed as a <i>director</i> , as nominated by the <i>proponent</i> to the <i>Deed administrators</i> in writing, at any time prior to <i>completion</i> .

OBDEED OF COMPANY ARRANGEMENT –
Schedule 1– Glossary

officer	any person who, by reason of the definition of “officer of a corporation” in section 9 of the <i>Corporations Act</i> , is an officer of the <i>company</i> .
owner	means any person (other than the <i>company</i>) who is the legal or beneficial owner of <i>property</i> at the <i>appointment date</i> .
party	a party to this <i>deed</i> , including that party’s successors and permitted assigns.
personnel	means, in relation to the <i>Deed administrators</i> or the <i>Voluntary administrators</i> , their respective partners, officers, employees, contractors, agents and advisors, as the context requires.
placement	means a private placement by the <i>company</i> to investors identified by the <i>proponent</i> , under which the <i>company</i> seeks to raise up to \$500,000 (before costs).
PPSR	means the personal property securities register established and maintained under the <i>Personal Property Securities Act 2009</i> (Cth).
pre-administration contract	means a contract, agreement, deed, lease or legally binding commitment entered into by the <i>company</i> on or prior to the <i>appointment date</i> .
priority claim	means <i>claim</i> (including a <i>priority employee claim</i>) which, if the <i>company</i> had been wound up with the winding up taken to have commenced on the <i>appointment date</i> , would have been a <i>claim</i> payable in priority to all other unsecured <i>claims</i> against the <i>company</i> by reason of sections 556(1)(df), (e), (f), (g), (h), (1A), (1B), (1C), 560 or 561 of the <i>Corporations Act</i> .
priority employee claim	means any <i>employee entitlements</i> of any <i>employee</i> for which the <i>employee</i> would be entitled to prove in priority to other unsecured <i>creditors</i> as a <i>claim</i> against the <i>company</i> pursuant to section 556 of the <i>Corporations Act</i> had that the <i>company</i> been wound up and the winding up was taken to have commenced on the <i>appointment date</i> , save that such right or entitlement is subject to the limitations in section 556 of the <i>Corporations Act</i> , including in particular sections 556(1A) and (1B) of the Act.
priority employee creditor	means a <i>creditor</i> who is an <i>employee</i> and who has a <i>priority employee claim</i> .
property	means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property

	of any description, including intellectual property and a chose or thing in action, and any real or personal property owned, used, occupied by or in the possession of, the <i>company</i> that existed or came into existence on or before the <i>execution date</i> .
<i>proponent</i>	means Alt Finance Pty Ltd (ACN 624 034 340).
<i>proponent payment</i>	means the sum of \$100,000 payable in cash by cheque or by electronic funds transfer to the <i>Deed Administrators account</i> .
<i>proposal</i>	means the proposal for the recapitalisation of the <i>company</i> by way of a deed of company arrangement under Part 5.3A of the <i>Corporations Act</i> , made by the <i>proponent</i> on the terms set out in its letter to the <i>voluntary administrators</i> dated 7 February 2024, as approved at the meeting of <i>creditors</i> held on 16 February 2024 for the purposes of sections 445A of the <i>Corporations Act</i> .
<i>recapitalisation transactions</i>	means the <i>placement</i> , <i>creditors' trust placement</i> and the <i>consolidation</i> .
<i>receivable</i>	means each amount owing to the <i>company</i> by a debtor as at the <i>execution date</i> and includes any amount payable to the <i>company</i> in relation to any <i>claim</i> under a policy of insurance held by the <i>company</i> for losses arising from acts or omissions prior to the <i>execution date</i> .
<i>receivers</i>	means Robert Kirman, Robert Brauer and Jason Preston of McGrathNicol who were appointed as receivers and managers of the <i>company</i> on 3 August 2023.
<i>secured creditor</i>	means any <i>creditor</i> with the benefit of a <i>security interest</i> at the <i>appointment date</i> over all or any <i>property</i> of the <i>company</i> securing all or any part of that <i>creditor's claim</i> .
<i>security interest</i>	means: <ul style="list-style-type: none">(a) a 'security interest' for the purposes of the <i>Personal Property Securities Act 2009</i> (Cth); or(b) any other security for payment of money, performance of obligations or protection against default, including a mortgage, bill of sale, charge, lien, pledge, trust, power or title retention arrangement, right of set-off, assignment of income, garnishee order or monetary claim and flawed deposit arrangements (as applicable).
<i>share</i>	means a fully paid ordinary share in the capital of the <i>company</i> .

OBDEED OF COMPANY ARRANGEMENT –
Schedule 1– Glossary

stamp duty	means any stamp, transfer, landholder, transaction, loan, mortgage, instrument or other duty of a like kind.
subsidiary	means a subsidiary of the <i>company</i> .
superannuation contribution	has the meaning given to it in section 556 of the <i>Corporations Act</i> .
superannuation guarantee charge	has the meaning given to it in the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth).
surviving clauses	clause 3.3 and 9 of this <i>deed</i> .
termination date	means the date on which this <i>deed</i> terminates in accordance with clause 15.
transaction documents	means any one or more of the following: (a) this <i>deed</i> ; (b) the <i>creditors' trust deed</i> ; and (c) the letter from the <i>proponent</i> to the <i>administrators</i> containing the <i>proposal</i> .
trust claim	has the meaning given to that term in the <i>creditors' trust deed</i> .
trust claimant	has the meaning given to that term in the <i>creditors' trust deed</i> .
trust fund	has the meaning given to that term in the <i>creditors' trust deed</i> .
trustee	means the trustee of the <i>creditors' trust</i> .
Voluntary administration period	means the period starting on the <i>appointment date</i> and ending on the <i>execution date</i> .
Voluntary Administrators	means Martin Jones, Matthew Woods and Clint Joseph

Schedule 2 – Notice of termination

Kalium Lakes Limited (Subject to Deed of Company Arrangement)
ACN 613 656 643

We, Martin Jones, Matthew Woods, Clint Joseph, Level 8, 235 St Georges Terrace, Perth, in the State of Western Australia, as Deed administrators of the deed of company arrangement for the above company, executed on [date] 2024, certify that the *deed* is wholly effectuated by circumstances set out in the *deed*.

Date *deed* effectuated: _____

_____	_____	_____
Signature	Signature	Signature
_____	_____	_____
Date:	Date	Date

Signing Page:

company EXECUTED AS A DEED for and on behalf of **Kalium Lakes Limited (Receivers and Managers Appointed) (Administrators Appointed) ACN 613 656 643** by its Deed administrators in the presence of:



Signature of Witness

Kieran Chu

Full name of Witness (please print)



Signature of Deed administrator

Martin Jones

Full name of Deed administrator (please print)

administrators EXECUTED AS A DEED by **Martin Jones as Deed Administrators** of Kalium Lakes Limited ACN 613 656 643 in the presence of:



Signature of Martin Jones



Signature of witness

administrators EXECUTED AS A DEED by **Matthew Woods as Deed Administrators** of Kalium Lakes Limited ACN 613 656 643 in the presence of:



Signature of Matthew Woods



Signature of witness

administrators EXECUTED AS A DEED by **Clint Joseph as Deed Administrators** of Kalium Lakes Limited ACN 613 656 643 in the presence of:



Signature of Clint Joseph



Signature of witness

proponent EXECUTED AS A DEED by **Alt Finance Pty Ltd (ACN 624 034 340)** in accordance with section 127 of the *Corporations Act 2001* (Cth):



Signature of director



Full name of director



Signature of director/Secretary



Full name of director/Secretary



Attachment – creditors' trust deed

(attached as a separate document)



CREDITORS' TRUST DEED

Kalium Lakes Limited (Subject to Deed of
Company Arrangement)
ACN 613 656 643

company

Martin Jones

Matthew Woods

Clint Joseph

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Creditors' Trust Deed

Entered into on _____ day of March 2024

Parties:

Company	Name:	Kalium Lakes Limited (Subject to Deed of Company Arrangement) ACN 613 656 643
	Address:	C/- KPMG, Level 8, 235 St Georges Terrace, Perth WA 6000
	Postal:	C/- KPMG, Level 8, 235 St Georges Terrace, Perth WA 6000
	Phone:	(08) 9263 7171
	Email:	kchu2@kpmg.com.au

Trustees	Name:	Martin Jones, Matthew Woods and Clint Joseph
	Address:	C/- KPMG, Level 8, 235 St Georges Terrace, Perth WA 6000
	Postal:	C/- KPMG, Level 8, 235 St Georges Terrace, Perth WA 6000
	Phone:	(08) 9263 7171
	Email:	kchu2@kpmg.com.au

Recitals:

- A. On the 3 August 2023, Martin Jones, Matthew Woods and Clint Joseph were appointed as voluntary administrators of the *Company* pursuant to Part 5.3A of the *Corporations Act*.
- B. At the meeting of *creditors* held on 16 February 2024, convened pursuant to section 439A of the *Corporations Act*, it was resolved that the *Company* would execute a deed of company arrangement.
- C. On 11 March 2024, the *Deed Administrators*, the *proponent* and the *Company* executed the *DOCA*.
- D. Under clause 4.6.2 of the *DOCA*, at completion under the *DOCA*, the *Deed Administrators* and the *Company* must execute a trust deed to establish a trust to hold the *trust fund* on the terms specified in the *DOCA*.

- E. The *Deed Administrators* are to become the *Trustees*.
- F. The *Deed Administrators* are to transfer the *trust fund* to the *Trustees* to distribute to the *admitted creditors* with *admitted claims*.
- G. Following re-capitalisation, the Company will do all acts and things and execute all documents necessary to issue the *Trustees* with 3 million post-consolidation shares (constituting 3% of the issued share capital) in the *Company* as required by the *DOCA*.
- H. Pursuant to the deed and in order for the Company to continue in existence without being the subject of a Deed of Company Arrangement, the *DOCA* terminated on the Termination Date and the terms of this Trust Deed took effect.
- I. By this *deed*, the *Company* and the *Trustees* now establish the *trust* in accordance with the *DOCA*.

Operative Terms:

In consideration of the mutual covenants set out in this *deed*, this *deed* now provides:

1. GLOSSARY

Words in this *deed* that are italicised are defined in the Glossary located in Schedule 1.

2. DECLARATION OF TRUST

2.1. Declaration

The *Trustees* acknowledge and declare that the *trust fund* will be held on trust by the *Trustees* for the *admitted creditors* and, for any surplus remaining in the *Trustees* hands after all other proper payments required to be made under this *deed*, for the *Company*, on and subject to the terms of this *deed*.

2.2. Name of trust

The name of the *trust* constituted by this *deed* is the "Kalium Lakes Creditors' Trust".

2.3. Appointment of Trustees

- 2.4. In accordance with the terms of the DOCA, each *creditor* and the *Company* have appointed the *Trustees* as their trustee on the terms and conditions contained in this *deed*.
- 2.5. Subject to clause 9, the appointment of the *Trustees* is irrevocable prior to the payment out of the *trust fund* pursuant to this *deed*. Once the *trust fund* has been distributed under this *deed* and the *Trustees*, *Administrators* and *Deed Administrators* have received all costs and expenses and remuneration payable to them, this *deed* shall be at an end.

2.6. Powers of Trustee

- 2.6.1. Without limiting the *Trustees* powers under any law with respect to trustees or otherwise, the *Trustees* may deal with the property comprising the *trust fund* in any manner as if the *Trustees* were the legal and beneficial owners of that property and may also exercise any power in respect of the property comprising the *trust fund*.
- 2.6.2. The *Trustees*' also have the power to determine and admit or reject any claims under this *deed* as they were entitled to exercise in their capacities as *Deed Administrators* under the terms of the *DOCA*.
- 2.6.3. Without limiting clause 2.6.1:
- (a) the *Trustees* also have, with respect to the property comprising the *trust fund*, all of the powers set out in paragraph 2 of Schedule 8A of the *Corporations Regulations*, with all modifications as are necessary to give effect to this *deed* as if:
 - (i) the *trust* was a company subject to a deed of company arrangement; and
 - (ii) the *Trustees* were the deed administrators of that deed; and
 - (b) the *Trustees* may appoint any person to manage the property comprising the *trust fund* on terms determined by the *Trustees*.
- 2.6.4. The *Trustees* may exercise any discretion under this *deed* in the *Trustees* absolute and unfettered discretion.

2.7. Perpetuity period

Notwithstanding any other provision in this *deed*, each:

- (a) interest in property; and
- (b) *Trustee's* power over or in relation to property,

created or granted by this *deed* that, but for this provision, might vest, take effect, or be exercisable after the expiry of 80 years commencing on the date of this *deed*, but which has not vested nor taken effect by that date,

- (c) will vest or take effect on the last day of that period; and
- (d) is exercisable only on or before the last day of that period.

3. TRUST FUND

3.1. Trust fund

The *trust fund* comprises:

- (a) the *deposit*;
- (b) the *proponent payment*;
- (c) the benefits of the covenants made in the *Trustees'* favour in the *DOCA* and in this *deed*; and
- (d) 3% of the *company's* post consolidated share capital.

3.2. Benefit to be held in accordance with deed

The *trust fund* is to be held by the *Trustees* for the benefit of the following, on and subject to the terms of this *deed*:

- (a) the *admitted creditors*; and
- (b) in relation to any surplus remaining in the *Trustees'* hands after all other proper payments required to be made under this *deed*, the *company*.

3.3. Distribution of the trust fund

3.3.1. Subject to clause 3.3.2, the *trust fund* will be available for distribution in the following order of priority:

- (a) first, in payment of the *administrators'* unmet *remuneration, expenses and liabilities*;
- (b) second, in payment of the *Deed Administrators'* unmet remuneration, expenses and liabilities;
- (c) third, in payment of the *Trustees'* remuneration and expenses or other amounts provided for in clause 7 of this *deed*; and
- (d) fourth, in payment of all *admitted claims* which are *priority claims* on a *pari passu* basis; and

- (e) fifth, in payment proportionately of all other *admitted claims* for any balance remaining after distributions in accordance with clauses 3.3.1(a),(c) (d) and (d).

3.3.2. For the purposes of clause **Error! Reference source not found.**, the *Trustees* must comply with:

- (a) sections 556, 560 and 561 of the *Corporations Act* as if the references to the 'liquidator' were references to the *Trustees*, references to 'winding up' were references to the trust and such other modifications as are necessary to give effect to the deed; and
- (b) section 444DB of the *Corporations Act*.

3.4. Surplus in trust fund

Any surplus or balance in the *trust fund* after the relevant beneficiaries have received their distributions in accordance with clause 3.3, including payment to the *admitted creditors* of 100 cents in each dollar of their *admitted claims*, will be paid by the *Trustees* in the following order of priority:

- (a) first, in payment to any person who has a subordinate claim within the meaning of section 563A of the *Corporations Act*; and
- (b) secondly, to the *company*.

3.5. Unclaimed funds

In the event that the *Trustees*, for any reason, are unable to locate an *admitted creditor*, or if any cheque sent by the *Trustees* to an *admitted creditor* has not been presented within 6 months (***stale cheque***), then:

- (a) the *Trustees* will stop payment of the *stale cheque*;
- (b) the moneys represented by a *stale cheque* or held by the *Trustees* on behalf of the *admitted creditor* will be paid to ASIC; and
- (c) the provisions of sections 544(1) and 544(3) of the *Corporations Act* will apply, with such modifications as are necessary, to such payment as if references in those sections to 'liquidator' were references to the *Trustees*.

3.6. Postponement of distributions

3.6.1. The *Trustees* may, at their sole discretion, determine to postpone the payment of any *dividend* if:

- (a) proceedings are brought by any person in relation to the distribution of the *trust fund*; and

- (b) the *Trustees* have made or apprehend that they will make a claim on the indemnity under clause 7.

3.6.2. Postponement of a *dividend* under clause 3.6.1 will continue until the *Trustees* determine whether they will make a claim on the indemnity under clause 7 and, if so determined, the amount of such claim.

4. TRUST CLAIMS

4.1. Admissibility of trust claims

- 4.1.1. On effectuation of the *DOCA* in accordance with clause 11 of the *DOCA* and establishment of the *trust*, all *claims* will be converted to and become *trust claims* under this *deed*.
- 4.1.2. Unless *claims* have already been admitted or rejected by the *administrators* or the *Deed Administrators*, the *Trustees* will consider the *claims* as *trust claims* for the purposes of deciding whether to admit them under this *deed*.
- 4.1.3. Interest from the *appointment date* does not accrue, nor is it payable, on any *trust claim*.

4.2. Trustee's discretion

The *Trustees* may, in their absolute discretion, do any of the following in accordance with the provisions of this *deed*:

- (a) admit all or part of a *trust claim*;
- (b) reject all or part of a *trust claim*; or
- (c) pay any *admitted claim*.

4.3. Determination of claims

- 4.3.1. Subdivisions A, B, C, D and E of Division 6 of Part 5.6 of the *Corporations Act* (except sections 554A(3) to 554A(8) inclusive and section 556 (other than to the extent expressly incorporated) of the *Corporations Act*) apply to the admission of *trust claims* under this *deed*:
 - (a) as if the reference to the 'liquidator' were references to the *Trustees*;
 - (b) as if the references to 'winding up' were references to this *deed*;
 - (c) with such other modifications as are necessary to give effect to this *deed*; and
 - (d) except to the extent that those provisions are varied expressly or impliedly by this *deed*.

- 4.3.2. Regulations 5.6.11A, 5.6.37, 5.6.39 to 5.6.53 (inclusive), and 5.6.55 to 5.6.72 (inclusive) of the *Corporations Regulations* apply to this *deed* and to the *Trustees*:
- (a) as if the reference to the 'liquidator' were references to the *Trustees*;
 - (b) as if the references to 'winding up' were references to this *deed*;
 - (c) with such other modifications as are necessary to give effect to this *deed*; and
 - (d) except to the extent that those provisions are varied expressly or impliedly by this *deed*.
- 4.3.3. Any notice (Call for Proofs) given by the *Deed Administrators* in accordance with the terms of the *DOCA* requiring a *creditor* to submit particulars of the *creditor's claim*, or to formally prove the *creditor's claim*, will be treated for the purpose of this *deed* as sufficient to comply with regulations 5.6.39 and 5.6.49 of the *Corporations Regulations* respectively as applied by this clause 4.3.
- 4.3.4. The *Trustees* may make interim distributions of assets from the *trust fund* under this *deed*.
- 4.3.5. The *Trustees* must declare and distribute the *trust fund* under this *deed* as soon as practicable after the *trust* comes into effect under clause 2.1.
- 4.3.6. Subject to clauses 4.3.1 and 4.3.2, the *Trustees* have an absolute and unfettered discretion as to the admission of *claims*, and the amount and timing of the distribution of the *trust fund* in payment of *admitted claims*.
- 4.3.7. Where the *Trustees* propose to reject a *claim*, whether in part or in full, the *Trustees* must send a notice to the *trust claimant* informing the *trust claimant* of the proposed rejection and giving the *trust claimant* at least 14 days within which to make an application to the *court* to determine the questions relating to the rejected *claim*.
- 4.3.8. The *Trustees* are entitled to rely upon any steps and determinations made by the *Deed Administrators* for the purposes of this clause 4.3 in relation to whether a *trust claim* asserted for the purposes of claiming under this *deed* is an *admitted claim*, together with any information, and proofs or particulars or debt provided to the *Deed Administrators*.

4.4. Retention of and access to records

- 4.4.1. The *Trustees* may at any time inspect the books and records of the *company*.
- 4.4.2. The *Company* authorises the *Trustees* and their staff to enter the *Company's* premises on any *business day* between the hours of 9.00am and 5.00pm upon at least 48 hours' prior notice for the purpose of conducting such an inspection and for the purpose of doing anything necessary or desirable in the exercise of their powers and discretions and the performance of their duties, obligations and responsibilities as *Trustees* under this *deed*.

4.5. Superannuation debts not admissible

For the purposes of section 444DB of the *Corporations Act*, the *Trustees* must determine that a *claim* (or part thereof) by way of a *superannuation contribution* is not admissible to proof as an *admitted claim* if:

- (a) that *claim* (or part of the debt) by way of *superannuation guarantee charge*:
 - (i) has been paid; or
 - (ii) is, or is to be, admissible against, the *Company*; and
- (b) the *Trustees* are satisfied that the *superannuation guarantee charge* is attributable to the whole of that first-mentioned debt.

4.6. Insurance Claims

- (a) On receipt by the *Company* from an insurer of any monies relating to an *insurance claim*:
 - (i) such monies shall (after deduction of all costs, fees and expenses of and incidental to recovering those monies incurred by the *Company*) be paid by the *company* to the claimant of that *insurance claim*;
 - (ii) in the event that there are any monies remaining after the claimant of the *insurance claim* has been paid, the *Company* shall pay such monies to the *trust fund*; and
 - (iii) any such *insurance claim* shall be limited to and satisfied by the application of the monies in accordance with clause (i) and not be paid from the *trust fund*.
- (b) To the extent that the *Company* is entitled to or receives amounts in respect of any *insurance claims* from insurers, that *insurance claim* is not released by the *DOCA*.

4.7. Creditors' costs and expenses

Any costs and expenses incurred by an *admitted creditor* in asserting a *trust claim* under this *deed* will be borne by that *admitted creditor* and will not form part of that *trust claim* under this *deed*.

4.8. Abandonment of claims

A *trust claimant* will have abandoned, and will be taken for all purposes to have abandoned, all *trust claims* and all other entitlements (if any) in the *trust fund*:

- (a) which are not the subject of a proof of debt lodged with the *administrators* or the *Trustees* in the form required by the *Trustees* prior to the declaration of the *final dividend*; or

- (b) which have been rejected by the *administrators* or the *Trustees* and which are not the subject of any appeal or application to the *court* within the time allowed for appeals by clause 4.3.7.

4.9. Discharge of debts

All *trust claimants* having a *trust claim* must accept their entitlements under this *deed* (if any) in full satisfaction and complete discharge of all *claims* which they have or claim to have against the *Trustees* or the *trust fund* and each of them will, if called upon to do so, execute and deliver to the *Trustees* such forms of release of any such *claim* as the *Trustees* require.

4.10. Claims extinguished

On distribution of the *final dividend* to the *admitted creditors*, all *trust claims* are extinguished.

4.11. Bar

After distribution of the *final dividend* to the *admitted creditors*, the *Trustees* may plead this *deed* in bar to any *trust claim*.

5. GST

5.1. Defined terms

Words and expressions used in this clause 5 which are defined in the *GST Act* have the meaning given to those words and expressions under the *GST Act*.

5.2. GST credits claimed or claimable by the company

To the extent that input tax credits on *admitted claims* have been or will be claimed by the *Company*, following the payment of distributions to those *admitted creditors* by the *Trustees* from the *trust fund*, the *company* will be responsible for making any adjustment required by the provisions of the *GST Act* insofar as those adjustments relate to those *admitted claims* and Practice Statement PS LA 2012/1 (GA) issued by the Australian Taxation Office under the authority of the Commissioner of Taxation will be applied by the *Company* to calculate the impact of those adjustments.

5.3. GST credits during operation of trust

To the extent that an input tax credit is available in relation to a *trustees cost* which is incurred and paid for by the *Trustees* during the operation of the *trust*, the *Trustees* (acting in their capacity as trustees of the *trust*) will be responsible for the claiming those input tax credits.

6. MEETING OF ADMITTED CREDITORS

- 6.1. The *Trustees* may at any time convene a meeting of *admitted creditors* (***creditor meetings***).
- 6.2. Except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this *deed*, Division 75 of the *Insolvency Practice Schedule* and Division 75 of the *Insolvency Practice Rules* apply, with such modifications as are necessary, to *creditor meetings* as if the references to an 'external administrators' or 'chairperson' were references to the *Trustees*.

7. INDEMNITY AND REMUNERATION

7.1. Indemnity

- 7.1.1. The *Trustees* shall not be personally liable for:
- (a) any debts incurred or any claims, demands, actions, loss, damage, costs, charges, expenses or liabilities caused by any act, omission or default by or on behalf of the *Company*; or
 - (b) any debts incurred or any claims, demands, actions, loss, damage, costs, charges, expenses or liabilities suffered or sustained or incurred by any *officer*, shareholder or *creditor* of the *Company*.
- 7.1.2. Subject to clause 7.1.3, the *Trustees* are jointly and severally entitled to be indemnified out of the *trust fund* for:
- (a) their reasonable remuneration, costs, fees and expenses payable pursuant to clause 7.5; and
 - (b) all actions, suits, proceedings, accounts, claims and demands arising out of or relating to this *deed* or the *DOCA* which may be commenced, incurred by or made on the *Trustees* by any person and against all reasonable costs, charges and expenses incurred by the *Trustees* in relation to them.
- 7.1.3. The *Trustees* are not entitled to an indemnity under clause 7.1 in relation to any liabilities or demands to the extent that:
- (a) the indemnification contravenes the *Corporations Act* or the *Trustees Act*; or
 - (b) the *Trustees* or any partner, officer, employee, authorised agent or delegate of the *Trustees* have acted dishonestly, negligently, in breach of fiduciary duty or in breach of trust.

7.2. Lien

To secure the rights of indemnity under clause 7.1, the *Trustees* are entitled to exercise a lien over the *trust fund*.

7.3. Continuing indemnity

The indemnity under clause 7.1:

- (a) takes effect on and from the *commencement date*;
- (b) will be without limitation as to time; and
- (c) operates notwithstanding:
 - (i) the removal of the *administrators*, the *Deed Administrators* or the *Trustees* and the appointment of a replacement(s) in that role; or
 - (ii) the termination of the *trust* for any reason whatsoever.

7.4. Indemnity not to be affected or prejudiced

The indemnity under clause 7.1 will:

- (a) not be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the *Trustees*, the *administrators* or *Deed Administrators* (as applicable);
- (b) extend to all actions, suits, proceedings, accounts, liabilities, claims and demands relating to or arising in any way out of any defect in the appointment of the *Trustees*, the approval and execution of this *deed*, or otherwise; or
- (c) not affect nor prejudice all or any rights that the *Trustees* may have against the *Company* or any other person to be indemnified against the reasonable costs, charges, expenses and liabilities incurred by the *Trustees* of or incidental to the exercise or performance of any of the powers of authorities conferred on the *Trustees* by the *DOCA*, this *deed* or otherwise.

7.5. Remuneration of trustee

7.5.1. The *Trustees* are to be:

- (a) reasonably remunerated from the *trust fund* in relation to any work done by the *Trustees*, and any officer, partner or employee of the *Trustees*, in relation to:
 - (i) the calling for and adjudicating upon the proofs of *trust claims* under this *deed*;
 - (ii) the distribution of the *trust fund* under this *deed*;
 - (iii) the exercise of the *Trustees* powers and discretions under this *deed*; and

- (iv) the performance of the *Trustees'* duties, obligations and responsibilities under this *deed*; and
 - (b) reimbursed from the *trust fund* in relation to all reasonable costs, fees and expenses incurred in relation to the foregoing including any *stamp duty* payable in relation to this *deed* and the *DOCA*.
- 7.5.2. The *Trustees'* remuneration, costs, fees and expenses must:
 - (a) be paid from the *trust fund* periodically in arrears at the *standard rates*; and
 - (b) must be paid or provided for in full before payment of the *final dividend*.
- 7.5.3. The *parties* acknowledge that the *creditors* of the *company* resolved at a meeting on 16 February 2024 that the *Trustees* are entitled to be remunerated at the *standard rates*.
- 7.5.4. The *Trustees* shall be entitled to call a meeting of *admitted creditors* in accordance with clause 6 for the purpose of seeking further remuneration approval in respect of any work done by the *Trustees*, the *Deed Administrators* or the *administrators*.

8. LIABILITY

8.1. Exclusion of liability

- 8.1.1. The *Trustees* (including their partners, officers, employees, contractors and advisors, as applicable) are not liable for any loss, damages, costs or expenses that may result to the *trust fund* or any person by any of the following, in the absence of wilful default, fraud, gross negligence or breach of trust:
 - (a) the exercise of any discretion or power conferred by this *deed* or by law on the *Trustees* or any delay or failure to exercise any of those discretions or powers; or
 - (b) any disclosure by the *Trustees* of any document, matter or thing relating to the *trust*, the *trust fund* or any *trust claimant* or other beneficiary.
- 8.1.2. All persons claiming any interest in the *trust fund* must be treated as taking it with and subject to notice of the protection conferred by this clause 8.

8.2. Proceedings against co-trustee

The *Trustees* are not bound to take any proceeding against the other *Trustees* for any breach or alleged breach of trust committed by the second-mentioned *Trustees*.

8.3. Reliance on advice

Where the *Trustees* act in reliance upon the advice of any lawyer instructed on behalf of the *trust* obtained in relation to the interpretation of the provisions of this *deed* or any document or statute or any matter concerning the administration of the *trust*, the *Trustees* are not liable to any person in relation to any act done or omitted to be done by the *Trustees* in accordance with the advice.

9. TRUSTEE'S RESIGNATION

The *Trustees* may resign or retire at any time by giving at least 14 days' prior written notice to the *Company* unless that resignation or retirement would result in there being no remaining *Trustees*, in which event the *Trustees* must:

- (a) convene a meeting of *admitted creditors* in accordance with clause 6 of this *deed* for the purpose of approving the appointment of a replacement trustee;
- (b) assign and transfer to a replacement trustee or trustees appointed by the *admitted creditors* all of the *Trustees*' rights, title and benefit under this *deed*; and
- (c) do all things reasonably necessary to effect the assignment and transfer referred to in clause 9(b).

10. TRUSTEES NOT OBLIGATED TO TAKE ACTION

The *Trustees* are not obliged to take any action under this *deed* until such time as there are sufficient immediately available funds in hand to pay, without prior or apprehended claim as referred to in clauses 3.4 and 3.5, their remuneration, costs, fees and expenses.

11. TERMINATION

11.1. General

This *trust* will terminate upon the first of the following to occur:

- (a) when the whole of the *trust fund* has been distributed in accordance with this *deed*; or
- (b) upon the expiry of the perpetuity period referred to in clause 2.7.

11.2. Meeting of admitted creditors

The *Trustees* must convene a meeting of *admitted creditors* to consider a resolution to vary this *deed* or terminate the *trust* if:

- (a) at any time prior to the termination of the *trust*, the *Trustees* determine that it is no longer practicable or desirable to continue to implement or carry out this *deed*; or
- (b) the *court* so orders.

11.3. Court order or admitted creditors' resolution

11.3.1. This *trust* will terminate if:

- (a) a *court* so orders; or
- (b) the *admitted creditors* pass a resolution terminating this *trust* at a meeting of the *admitted creditors* duly convened under clause 11.2(a).

11.3.2. If the *trust* is terminated under clause 11.3.1, the undistributed balance of the *trust fund* must be paid to the *company* and will not be available for distribution to *admitted creditors* or other beneficiaries under this *deed*.

11.4. Report to admitted creditors

11.4.1. Upon a meeting being convened pursuant to clause 11.2(a), the *Trustees* must send each *admitted creditor* prior to the meeting a report as to the state of affairs of the *trust* accompanied by such financial statements as the *trustees* think fit.

11.4.2. A report under clause 11.4.1 must include:

- (a) a statement explaining the circumstances which have caused the *Trustees* to convene the meeting pursuant to clause 11.2(a); and
- (b) a statement that this *trust* will be terminated if the *admitted creditors* so resolve.

11.5. Previous operation of this deed preserved

The termination or avoidance, in whole or in part, of the *trust* does not affect the efficacy of any act done prior to the termination or avoidance.

12. VARIATION OF DEED

12.1. This *deed* may be varied:

- (a) with the consent of the *Trustees* by resolution passed at a meeting of *admitted creditors* by a majority of such *admitted creditors* in number and value, but only if the variation:
 - (i) is not materially different from the proposed variation set out in the notice of that meeting; and

- (ii) does not materially prejudice the interests of any class of *admitted creditors* without the approval of a majority of that class in number and value; or
- (b) by the *court* upon application by the *admitted creditors* or the *Trustees* in accordance with section 90 of the *Trustee Act*.

12.2. Subject to the provisions of the *Corporations Act* and the *Trustee Act* (as applicable), a variation of any term of this *deed* must be in writing and signed by all *parties*.

13. MISCELLANEOUS PROVISIONS

13.1. Governing law

The laws of the State of New South Wales govern this *deed*.

13.2. Jurisdiction

13.2.1. The *parties* submit to the non-exclusive jurisdiction of the *courts* of New South Wales.

13.2.2. Any legal proceedings in relation to this *deed* must be held in Sydney, New South Wales, Australia, unless otherwise agreed between the *parties* in writing.

13.3. Severance

13.3.1. Subject to clause 13.3.2, if any provision of this *deed* is invalid, illegal or unenforceable, that provision must be severed from and ignored in the interpretation of this deed to the minimum extent necessary and with the intent that the remaining provisions of this *deed* remain in full force and effect.

13.3.2. Any provision of this *deed* or any right, power, authority, discretion or remedy of a *party* under this *deed* which is:

- (a) prohibited in a jurisdiction, is ineffective in that jurisdiction only to the extent of that prohibition; or
- (b) invalid, 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.

13.3.3. The application of clause 13.3.2 is not limited by any other provision of this *deed* in relation to severability, prohibition or enforceability.

13.4. Waiver

13.4.1. A *party* granting a waiver of a right under this *deed* must give written notice of that waiver to the *party* which benefits from the waiver.

13.4.2. A *party's* failure, partial failure or delay in exercising a right relating to this *deed* is not a waiver of that right.

13.4.3. A *party* may not claim that another *party's* delay or failure to exercise a right relating to this *deed*:

- (a) constitutes a waiver of that right; or
- (b) is a defence to its own action or inaction.

13.5. Entire agreement

This *deed* constitutes the entire agreement between the *parties* and supersedes all previous discussions, undertakings and agreements in relation to the subject matter of this *deed*.

13.6. Survival

13.6.1. Each indemnity survives the performance of obligations relating to this *deed* and the termination of this *deed*.

13.6.2. To the extent that a *party* has not satisfied an obligation, or it is a continuing obligation, that obligation survives termination of this *deed*.

13.7. Merger

A *party's* rights and obligations in relation to this *deed* do not merge on the execution of this *deed* or the completion of a transaction under this *deed*.

13.8. Representations

Subject to the express provisions in this *deed*:

- (a) neither a *party* nor its representative has made any representation to another *party* to induce that other *party* to execute this *deed*; and
- (b) neither a *party* nor a person acting on a *party's* behalf was induced to execute this *deed* by relying on a representation that another *party* has made.

13.9. Further assurances

Each *party* at its own expense must exercise such powers as are available to them, do all such acts, sign, execute and deliver such documents or instruments, provide all such assistance, and otherwise do everything necessary to give full effect to this *deed*.

13.10. Rights of third parties

- 13.10.1. Subject to the rights of *creditors* under the *Corporations Act*, to the extent permitted by law, a person who is not a *party* to this *deed* does not have any right to enforce any term of this *deed* pursuant to the laws of any jurisdiction, except where and to the extent expressly set out in this *deed*.
- 13.10.2. Notwithstanding any rights of persons who are not *parties* to enforce this *deed*, this *deed* may be:
- (a) varied by the *parties* in accordance with clause 12 without the consent of any person who is not a *party*; and
 - (b) terminated in any manner and circumstance in which termination is allowed under this *deed*, without the consent of any person who is not a *party*.

13.11. Notices

- 13.11.1. Each communication (including each notice, consent, approval, request and demand) given by a *party* to another *party* in relation to this *deed*:
- (a) must be in writing and in the English language;
 - (b) must be addressed to the recipient *party* using the contact details of the recipient *party* specified in this deed or as otherwise notified by the recipient *party* to each other *party* from time to time;
 - (c) must be signed by the *party* making it or by that *party's* lawyer, attorney, director, secretary or authorised agent; and
 - (d) must be delivered by hand, sent by prepaid post, sent by facsimile or sent by email to the recipient *party* at the address or using the contact details specified in this *deed*,
- and is taken to be received by the recipient *party*:
- (e) in the case of delivery by hand, upon delivery;
 - (f) in the case of prepaid post sent to a recipient *party* in the same country as the sending *party*, on the 2nd *business day* after the date of posting;
 - (g) in the case of prepaid post sent to a recipient *party* in another country to the sending *party*, on the 5th *business day* after the date of posting;
 - (h) in the case of facsimile transmission, at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the facsimile machine from which it was sent; or
 - (i) in the case of email, at the time it is delivered to the recipient *party's* host server.

- 13.11.2. Notwithstanding clause 0, if a communication given under clause 13.11.1 is taken to be received on a day that is not a *business day* or after 5.00pm in the place where the communication is received, it will be taken to be received at 9.00am on the next *business day*.

13.12. Counterparts

- (a) This *deed* may be executed in any number of counterparts which taken together are one and the same document.
- (b) This *deed* is binding on the *parties* on the exchange of counterparts.
- (c) A copy of an entire signed counterpart of this *deed* sent by facsimile or email must be treated as an original counterpart.

14. COMPANY MAY EXECUTE THIS DEED

The *Company* is authorised by the *Deed Administrators* to execute this *deed*.

15. STAMP DUTY

Any *stamp duty* assessed on this *deed* is to be paid out of the *trust fund*.

16. INTERPRETATION

16.1. Application

This clause 16 applies to the interpretation of this *deed* unless inconsistent with the context.

16.2. General

- 16.2.1. If a word or phrase is defined, then its other grammatical forms have a corresponding meaning.
- 16.2.2. The singular includes the plural and vice versa.
- 16.2.3. A reference to a gender includes any gender.
- 16.2.4. A reference to a living thing includes a reference to an inanimate thing and vice versa.
- 16.2.5. A reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure to this *deed*.
- 16.2.6. The words “includes”, “including” and similar words are not words of limitation and do not restrict the interpretation of a word or phrase in this *deed*.
- 16.2.7. A reference to a document includes a variation or replacement of it.

- 16.2.8. A reference to a statute includes its subordinate legislation and a modification, replacement or re-enactment of either.
- 16.2.9. A reference to this *deed* includes an annexure.
- 16.2.10. A reference to person includes a reference to:
- (a) an individual, a body corporate, a trust, a partnership, a joint venture an unincorporated body or other entity, whether or not it is a separate legal entity;
 - (b) if the person is an individual, the person's personal representatives and assigns; and
 - (c) if the person is not an individual, the person's successors and assigns.
- 16.2.11. A reference to a thing, including a right, is a reference to either the whole thing or a part of the thing.
- 16.2.12. Part performance of an obligation does not constitute performance of an obligation.
- 16.2.13. A term, condition or warranty in this deed in favour of or on the part of two or more people benefits or binds them jointly and severally.
- 16.2.14. A reference to currency is to Australian currency.
- 16.2.15. A reference to time is to AEST, (i.e. Sydney Time).
- 16.2.16. If the date on which a thing must be done is not a *business day*, then that thing must be done on the next *business day*.
- 16.2.17. A reference to a day is a reference to the period which starts at midnight and ends 24 hours later.
- 16.2.18. If a period of time runs from a given date, act or event, then the time is calculated exclusive of the date, act or event.
- 16.2.19. A clause is not to be construed against a *party* solely on the ground that the *party* is responsible for the preparation of this *deed* or that clause.
- 16.2.20. A reference to a right includes a benefit, remedy, discretion or power.
- 16.2.21. The phrase "in relation to" has the widest possible import and encompasses the phrases "in relation to", "in connection with", "in respect of", "arising out of", "caused by" and "resulting from".

16.3. Headings

A heading in this *deed* is for convenience only and does not affect the interpretation of this *deed*.

16.4. DOCA terms

Unless defined differently in this *deed* or the context otherwise requires, words and phrases defined in the *DOCA* have the same meaning when used in this *deed*.

Schedule 1 – Glossary

In this *deed*, the terms set out below have the following meanings:

<i>administrators</i>	means Martin Jones, Matthew Woods and Clint Joseph in their capacity as voluntary administrators of the <i>company</i> under Part 5.3A of the <i>Corporations Act</i> .
<i>admitted claim</i>	mean a <i>claim</i> by a <i>creditor</i> , the proof of debt for which has been accepted fully or contingently by the <i>administrators</i> , the <i>Deed Administrators</i> or the <i>Trustees</i> (as the case may be) at their discretion.
<i>admitted creditor</i>	means a <i>creditor</i> with an <i>admitted claim</i> .
<i>appointment date</i>	means 3 August 2023, being the date on which the <i>administrators</i> were appointed or were taken to be appointed pursuant to section 436A of the <i>Corporations Act</i> .
<i>ASIC</i>	means the Australian Securities & Investments Commission.
<i>body</i>	means any one or more of the following: <ul style="list-style-type: none">(a) a corporation, company or other body corporate;(b) a managed investment scheme within the meaning of the <i>Corporations Act</i>; or a unit trust or fixed enticement trust.
<i>business day</i>	means a day other than a Saturday, a Sunday or a public holiday in Sydney, New South Wales.
<i>claim</i>	means a debt payable by, or a liability of or claim against, the <i>Company</i> (present or future, certain or contingent, ascertained or sounding only in damages) being a debt, liability or claim: <ul style="list-style-type: none">(a) the circumstances giving rise to which occurred on or before the 3 August 2023; or(b) which was due or arising or which may become due or arise because of anything done or omitted by or on behalf of the <i>company</i> on or before the 3 August 2023,

	(whether arising under common law, equity or statute) and which would be admissible to proof against the <i>company</i> under Division 6, Part 5.6 of the <i>Corporations Act</i> had the <i>company</i> been wound up and the winding up was taken to have commenced on the <i>appointment date</i> , including but not limited to: (c) debts, liabilities or claims against the <i>Company</i> in relation to a <i>pre-administration contract</i> , including by way of a convertible note; (d) claims relating to the termination of the employment of <i>employees</i> ; (e) a debt by way of a <i>superannuation contribution</i> ; and a debt by way of a <i>superannuation guarantee charge</i> .
commencement date	means the date of execution of the <i>DOCA</i> by the <i>company</i> .
court	means any court having jurisdiction to hear and determine matters under the <i>Corporations Act</i> or the <i>Trustee Act</i> , as the context requires.
Corporations Act	means the <i>Corporations Act 2001</i> (Cth).
Corporations Regulations	means the <i>Corporations Regulations 2001</i> (Cth).
creditor	means any person who would have been entitled to prove in a winding up of the <i>Company</i> if the <i>Company</i> had been wound up and the winding up was taken to have commenced on the <i>appointment date</i> .
deed	means this <i>creditors' trust deed</i> as amended from time to time.
Deed Administrators	means Martin Jones, Matthew Woods and Clint Joseph in their capacity as deed administrators of the <i>DOCA</i> .
deposit	means the sum of \$25,000.
dividend	means any amount paid by the <i>Trustees</i> from the <i>trust fund</i> in relation to an <i>admitted claim</i> of an <i>admitted creditor</i> .
DOCA	means the deed of company arrangement entered into by the <i>Company</i> , the <i>administrators</i> and the <i>proponent</i> dated 11 March 2024.

DOCA costs	means: <ul style="list-style-type: none">(a) the remuneration payable to the <i>Deed Administrators</i> for work performed by any of their partners, officers, employees, contractors or advisers in relation to the <i>DOCA period</i> as determined Division 60 of the <i>Insolvency Practice Schedule</i>;(b) costs, charges, fees (including legal fees), government charges, taxes (including any <i>stamp duty</i> and taxes required to be paid by the <i>Deed Administrators</i> under the <i>DOCA</i>) and expenses incurred by the <i>administrators</i> or the <i>deed administrator</i>, including:<ul style="list-style-type: none">(i) those incurred in connection with advisers, incurred in connection with the performance or as a result of any actual or attempted execution or exercise or failure to execute or exercise of the <i>Deed Administrator</i> duties, obligations and responsibilities under the <i>Corporations Act</i> and the <i>DOCA</i> during the <i>DOCA period</i>;(ii) preparation, approval and implementation of the <i>DOCA</i>.
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DOCA period	means the period starting on the date that the <i>DOCA</i> is executed and ending on that date that the <i>DOCA</i> is terminated.
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employee	means current or former employees of the <i>Company</i> .
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final dividend	means the last <i>dividend</i> from the <i>trust fund</i> by which either: <ul style="list-style-type: none">(a) all of the <i>admitted creditors</i> receive (in aggregate with prior distributions) 100 cents in the dollar on their <i>admitted claims</i>; or(b) the <i>Trustees</i> distribute to the <i>admitted creditors</i> the whole of the <i>trust fund</i> or remainder of the <i>trust fund</i> after prior <i>dividends</i>.
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GST	means goods and services tax levied or imposed pursuant to the <i>GST Act</i> .
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GST Act	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
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Insolvency Practice Rules	has the meaning given to that term in the <i>Corporations Act</i> .
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Insolvency Practice Schedule	means Schedule 2 of the <i>Corporations Act</i> .
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<i>insurance claim</i>	means a liability of the <i>Company</i> covered by insurance policies taken out prior to the <i>appointment date</i> .
<i>member</i>	means, in relation to the <i>Company</i> , a person who is a member of the <i>Company</i> under section 231 of the <i>Corporations Act</i> .
<i>party</i>	means a party to this <i>deed</i> .
<i>pre-administration contract</i>	means a contract, agreement, deed, lease or legally binding commitment entered into by the <i>company</i> on or prior to the <i>appointment date</i> .
<i>priority claim</i>	means <i>claim</i> (including a <i>priority employee claim</i>) which, if the <i>Company</i> had been wound up with the winding up taken to have commenced on the <i>appointment date</i> , would have been a <i>claim</i> payable in priority to all other unsecured <i>claims</i> against the <i>Company</i> by reason of sections 556(1)(df), (e), (f), (g), (h), (1A), (1B), (1C), 560 or 561 of the <i>Corporations Act</i> .
<i>priority employee claim</i>	means any right or entitlement of any <i>employee</i> for which the <i>employee</i> would be entitled to prove in priority to other unsecured <i>creditors</i> as a <i>claim</i> against the <i>Company</i> pursuant to section 556 of the <i>Corporations Act</i> had that the <i>Company</i> been wound up and the winding up was taken to have commenced on the <i>appointment date</i> , save that such right or entitlement is subject to the limitations in section 556 of the <i>Corporations Act</i> , including in particular sections 556(1A) and (1B) of the Act.
<i>priority employee creditor</i>	means a <i>creditor</i> who is an <i>employee</i> and who has a <i>priority employee claim</i> .
<i>proponent</i>	means Alt Finance Pty Ltd (ACN 624 034 340).
<i>proponent offer</i>	means the binding offer for the recapitalisation of the <i>Company</i> by way of the DOCA, made by the <i>proponent</i> in its letter to the <i>administrators</i> .
<i>proponent payment</i>	means the sum of \$125,000 cash or telegraphic funds transfer to the <i>Deed Administrator's</i> account.
<i>reorganisation</i>	means, in relation to any corporation, any one of more of the following: (a) a bonus issue by way of capitalisation of profits or reserves;

	<ul style="list-style-type: none">(b) a consolidation, subdivision or reduction of capital dividend or other reconstruction or adjustment relating to the share capital of the corporation (or any shares or stock derived from it);(c) a buy back by the corporation of its own shares;(d) an amalgamation or reconstruction affecting the share capital of the corporation (or any shares or stock derived from it);(e) an issue of rights, options or other interest to shareholders or stockholders in the corporation;(f) any other issue or equity <i>securities</i> with rights of conversion to equity by the corporation; or(g) a call by the corporation for unpaid amounts on any of its share capital.
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<i>securities</i>	means any one or more of the following: <ul style="list-style-type: none">(a) a security within the meaning given to that term in section 92(3) of the <i>Corporations Act</i>;(b) units in a unit trust;(c) beneficial entitlements or other interests in a fixed entitlement trust; or to the extent not covered by paragraphs (a), (b) or (c) of this definition, shares, stocks, debentures, debenture stock, annuities, bonds, obligations or other securities of whatever nature.
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<i>stamp duty</i>	means any stamp, transfer, landholder, transaction, loan, mortgage, instrument or other duty of a like kind.
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<i>standard rates</i>	means the usual and standard rates charged by the <i>Trustees</i> (or the <i>Trustees</i> firm), from time to time, in relation to any work or services performed by the <i>Trustees</i> or their partners, officers, employees, contractors or advisors.
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<i>superannuation contribution</i>	has the meaning given to it in section 556 of the <i>Corporations Act</i> .
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<i>superannuation guarantee charge</i>	has the meaning given to it in the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth).
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<i>trust</i>	means the trust established by this deed.
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<i>trust claim</i>	means a <i>claim</i> against the <i>trust fund</i> .
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<i>trust claimant</i>	means a person who has, or claims to have, a <i>trust claim</i> .
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<i>Trustee Act</i>	means the <i>Trustee Act 1962</i> (WA).
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<i>trustees</i>	means Martin Jones, Matthew Woods and Clint Joseph in their capacity as trustees of the <i>trust</i> .
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<i>trustees costs</i>	means: <ul style="list-style-type: none">(a) means all costs, charges, fees (including legal fees), government charges, duties, taxes and expenses incurred by the <i>Trustees</i> in the performance of their duties, obligations and responsibilities under this <i>deed</i> and the <i>Trustee Act</i>; and(b) the <i>Trustees'</i> remuneration under clause 7.5.
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<i>trust fund</i>	means the trust fund referred to in clause 3.1.
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<i>Voluntary administration period</i>	means the period starting on the <i>appointment date</i> and ending on the date that the <i>DOCA</i> is executed.
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Signing Page:

company EXECUTED AS A DEED for and on behalf of **Kalium Lakes Limited**
(Subject to Deed of Company Arrangement) ACN 613 656 643 by its
deed administrators:

Signature of deed administrator

Signature of witness

Name

Full name of Witness (please print)

trustee EXECUTED AS A DEED by **Martin Jones** in the presence of:

Signature of Martin Jones

Signature of witness

Full name of Witness (please print)

trustee EXECUTED AS A DEED by **Matthew Woods** in the presence of:

Signature of Matthew Woods

Signature of witness

Full name of Witness (please print)

trustee EXECUTED AS A DEED by **Clint Joseph** in the presence of:

Signature of Clint Joseph

Signature of witness

Full name of Witness (please print)

