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Agreement

Shareholders Agreement

Phoenix Industrial Minerals Pty Ltd



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Shareholders Agreement

Date ► 23 June 2023

Between the parties

Company Phoenix Industrial Minerals Pty Ltd ACN 667 231 816
of Suite 5, Level 2, 2 Grosvenor Street, Bondi Junction NSW 2022
(Company)

Shareholders Each Shareholder named in Part 1 of Schedule 2 (as amended from time to time in accordance with this document) and each person holding the legal or beneficial interest to any Share who is a party to this document and is not the Custodian or the Company, including any person who executes a Deed of Accession (in each case, for so long as they legally or beneficially hold Shares)
(Shareholders)

Custodian Perpetual Nominees Limited ACN 000 733 700
of Level 18, 123 Pitt Street, Sydney NSW 2000
(Custodian)

Recitals The parties wish to regulate the operation of their investment in the Company, and to provide for the operation and administration of the Company Group, on the terms of this document.

This parties agree as follows:



1 Definitions and interpretation

- (a) In this document capitalised expressions have the meanings set out in Schedule 1.
- (b) This document will be interpreted in accordance with Schedule 1.

2 Effect

2.1 Effect

This document comes into effect on and from the Implementation Date, except for this clause 2 and clauses 1 (definition and interpretations), 15 (termination and variation), 16 (Notices), 17 (General), 18 (Limitation of liability provisions), and 19 (Custodian arrangements).

2.2 Failure to achieve Scheme implementation

This document terminates if:

- (a) the Scheme fails and cannot be implemented for any reason; or
- (b) the Implementation Deed is terminated for any reason.

3 Objectives

The primary objectives of the Company Group are to explore and implement opportunities to:

- (a) commercially exploit the Industrial Minerals; and
- (b) acquire interests in other resources-based companies and projects.

4 Appointment and removal of directors

4.1 Number of directors

The maximum number of Directors is 5 or such other number from time to time as the Shareholders may determine by Majority Shareholder Approval pursuant to clause 5.4.

4.2 Appointment of directors

- (a) The Directors will be appointed, removed, or replaced as follows:
 - (1) if a Shareholder holds more than 50% of the Shares, that Shareholder may appoint, remove, and replace, in total, up to 5 Directors;



- (2) if no Shareholder holds more than 50% of the Shares but at least one Shareholder holds more than 25% of the Shares:
 - (A) each Shareholder which holds more than 25% of the Shares but not more than 40% of the Shares may appoint, remove, and replace one Director;
 - (B) each Shareholder which holds more than 40% of the Shares but not more than 50% may appoint, remove, and replace, in total, up to two Director; and
- (3) if no Shareholder holds more than 25% of the Shares, then all Directors will be appointed, removed, and replaced by ordinary resolution of the Shareholders up to the maximum determined in accordance with clause 4.1 (provided that any Directors appointed pursuant to this clause 4.2(a)(3) must be promptly removed upon at least one Shareholder or Shareholder Affiliate Group coming to hold more than 25% of the Shares).
- (b) For the purposes of clause 4.2(a), a Shareholder Affiliate Group will be considered a single Shareholder and the number of Shares held by each Shareholder within a Shareholder Affiliate Group will be aggregated and treated as if held by a single Shareholder.
- (c) Subject at all times to the duties of each director to the Company and the Shareholders at law (to the extent that such duties cannot be modified by this document), a Director may:
 - (1) in performing any of his or her duties or exercising any power, right, or discretion as a director of the Company:
 - (A) have regard to and represent the interests of his or her appointor; and
 - (B) act on the wishes of his or her appointor; and
 - (2) disclose to his or her appointor any information obtained in his or her capacity as a director.
- (d) Each Shareholder agrees to exercise its voting power to the extent necessary from time to time to ensure the appointment of directors in accordance with this clause 4.2.

4.3 Initial Board composition

From the Implementation Date, the following persons will be appointed or continue in office (as the case may be) as directors of the Company until they are removed or otherwise cease to hold office pursuant to this document:

- (a) Kevin Maloney; and
- (b) Mark Maloney.

4.4 Chairperson

- (a) The Shareholder which holds, or Shareholder Affiliate Group which collectively holds, the largest number of Shares will be entitled to nominate which Director appointed pursuant to clause 4.2 will act as chairperson.
- (b) If the chairperson is absent from a meeting of directors, or is unwilling to act as chairperson, the Shareholder or Shareholder Affiliate Group (as applicable)



entitled to nominate the chairperson pursuant to clause 4.4(a) may nominate another Director to act as chairperson of that meeting.

4.5 Written appointments and removals

Shareholders making an appointment or removal under this clause 4, must do so by giving written notice of the appointment or removal to the Company. On delivery of the notice the appointment or removal takes effect immediately (or, in the case of an appointment, if later, upon receipt by the Company of a consent to act from the relevant director).

4.6 Removal of Directors

In the case of a Director appointed pursuant to clause 4.2(a)(1), only the party or parties who is or are entitled to appoint that Director may remove or replace that Director. For the avoidance of doubt, a party or parties seeking to replace a removed Director must do so in accordance with clause 4.2(a).

4.7 Director indemnity deeds

Each Company Group Member must enter into a deed of access, indemnity, and insurance between it and each of its directors under which it indemnifies the director to the maximum extent permitted by law and gives the director a right to have access to and make copies of board papers and minutes in respect of the period during which the relevant director is or was a director or officer of a Company Group Member.

5 Meetings and resolutions

5.1 Quorum for Board meetings

- (a) The quorum for a meeting of directors is at least a majority of the total number of Directors, unless the Directors agree otherwise in writing, and if a quorum is not present at a board meeting within 30 minutes from the scheduled time for such meeting, the meeting is adjourned to the same time and place on the following day.
- (b) The quorum for the adjourned meeting is any 2 Directors, and if a quorum is not present at this meeting within 30 minutes for the scheduled time for such adjourned meeting, then the meeting is automatically dissolved.

5.2 Voting entitlements of directors

The voting entitlements of the directors are as follows:

- (a) each director has one vote; and
- (b) the chairperson will have a casting vote.

5.3 Board resolutions

Subject to clause 5.4, all resolutions at meetings of the directors of the Company must be decided by a simple majority of votes cast on the resolution.



5.4 Majority Shareholder Approval

Neither the Company, any other Company Group Member, nor any Shareholder shall take any of the actions specified in Schedule 3 except with a resolution approved by Shareholders collectively holding more than 75% of all Shares (**Majority Shareholder Approval**).

5.5 Notice of Board meetings

Unless all the directors (other than any director on a leave of absence) agree otherwise, they must receive at least two Business Days' written notice of a meeting. In the case of a meeting of the Board which is adjourned pursuant to clause 5.1(b) because a quorum is not present, no notice of the adjourned meeting is required.

5.6 Frequency of Board meetings

- (a) The directors must, unless otherwise agreed by resolution, meet at least quarterly.
- (b) A meeting for the purposes of clause 5.6(a) includes a meeting held by telephone, any electronic means of audio or audio-visual communication, or other means in accordance with section 248D of the Corporations Act.

5.7 Quorum for general meetings

- (a) The quorum for a general meeting of Shareholders will be a Shareholder or Shareholders collectively holding more than 50% of the total issued Shares, and if a quorum is not present at a general meeting of Shareholders within two hours from the time specified in the relevant notice of meeting, the meeting is adjourned for three Business Days to the same time and place on that day.
- (b) The quorum for the adjourned meeting is at least 2 Shareholders which collectively hold more than 25% of the total issued Shares, and if a quorum is not present at the adjourned general meeting of Shareholders within 30 minutes from the scheduled time for such meeting, the meeting is automatically dissolved.
- (c) The person or persons referred to in clause 5.7(a) or 5.7(b) may be personally present at the general meeting or present by proxy, attorney or representative appointed under section 250D of the Corporations Act.

5.8 Resolutions without a meeting

- (a) Subject to clause 5.4 and 5.8(b), if the requisite number of Shareholders or directors (as the case may be) sign a document which:
 - (1) was sent to all Shareholders or to all directors (other than any director on a leave of absence), as the case may be; and
 - (2) contains a statement to the effect that they are in favour of a particular resolution set out in the document,

then for the purpose of this document a resolution in those terms is to be taken as having been passed at a general meeting or Board meeting (as the case may be), which meeting is taken to have been held on the day and at the time at which the document was last signed.



- (b) For the purposes of this clause 5.8:
- (1) a document is signed by the requisite number of:
 - (A) Shareholders, if it is signed by Shareholders entitled to vote on the resolution who, if they voted in favour of the resolution (as a special or ordinary resolution, as applicable) at a general meeting would be able to pass the resolution; and
 - (B) Directors, if it is signed by directors entitled to vote on the resolution who, if they voted in favour of the resolution (as a special or ordinary resolution, as applicable) at a meeting or directors would be able to pass the resolution; and
 - (2) two or more separate documents in identical terms, each of which is signed by one or more Shareholders or directors (as the case may be), are to be taken as constituting one document.
- (c) Each Shareholder hereby irrevocably appoints the Company and each Director as its agent and attorney with the authority to receive, approve and sign in the name of that Shareholder and on its behalf any resolution of Shareholders that has been signed by the requisite number of Shareholders under clause 5.8(a) and 5.8(b), so as to allow the approval of that resolution for the purpose of section 249A of the Corporations Act (and the provisions of clause 11.6 apply in relation to that appointment as attorney).

5.9 Interested Directors

Despite any other provision of this document, any Director who has a material interest in a matter that is being considered by the Board may consider the matter in question, vote on the matter, or sign any written resolution of Directors concerning the matter provided that the general nature and extent of that interest has been disclosed to all of the Directors.

5.10 Directors' fees

- (a) A Director may be paid directors' fees approved by the Board.
- (b) The Company will reimburse the reasonable expenses of Directors for the costs incurred in attending Board meetings and other meetings or events attended on behalf of the Company.

6 Further capital raising

6.1 Right of first refusal

- (a) Subject to clause 6.4, if the Company proposes to issue Securities (**New Securities**) to any person, the Company must first comply with this clause 6.
- (b) Except for Excluded Issues, if the Company proposes to issue Securities, it must serve a notice (the **Notice of Issue**) on the Shareholders specifying:
 - (1) the terms of issue of the New Securities, which must, on issue, rank pari passu with existing Securities of such same class;



- (2) the total number of New Securities available for subscription and the issue price per New Security, which must be the same for each New Security, as well as that number of New Securities which the relevant shareholder would need to subscribe for in order to retain its then-current proportional interest in the Securities of the Company (calculated on the assumption that all New Securities specified in the Notice of Issue are taken up);
 - (3) any other material terms of the proposed issue, including the proposed use of funds raised from the issue; and
 - (4) a statement to the effect that each Shareholder has an option to subscribe for the New Securities on the terms set out in the Notice of Issue if the relevant Shareholder complies with this clause 6.1.
- (c) By notification to the Company within 20 Business Days after the Notice of Issue is given, each Shareholder may offer to subscribe for or otherwise acquire, at the price and on the terms specified in the Notice of Issue, some or all of the New Securities.
- (d) Subject to receipt of the relevant subscription amount, the Company must issue to each Shareholder who exercises an option granted by a Notice of Issue (**Accepting Shareholder Offeree**) the number of New Securities allocated to such Shareholder under clause 6.2.

6.2 Allocation of New Securities

- (a) If the Company receives offers under clause 6.1(c) for a number of New Securities equal to or less than the total number of New Securities, then the Company must:
- (1) notify each Shareholder of the number of New Securities for which offers have been received; and
 - (2) issue to each Accepting Shareholder Offeree the number of New Securities that the Accepting Shareholder Offeree has offered to acquire.
- (b) If the Company receives offers to acquire more New Securities than the total number of New Securities then:
- (1) the Company must notify each Shareholder of the number of New Securities for which offers have been received; and
 - (2) where the offers received by the Company are to acquire more New Securities than the total number of New Securities then, subject to clauses 6.2(d) and 6.2(e), the number of New Securities each Accepting Shareholder Offeree will be allocated is:

$$\frac{ONS}{TNS} \times SS = N$$

where:

ONS means the number of Shares held by the relevant Accepting Shareholder Offeree immediately before service of the Notice of Issue;

TNS means the total number of Shares held by the Shareholders immediately before service of the Notice of Issue;



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SS means the total number of New Securities;

N means the number of New Securities to be allocated to the Accepting Shareholder Offeree.

- (c) Where clause 6.2(b) applies, any remaining New Securities that have not been allocated after the application of that clause are, subject to clause 6.2(d), to be allocated to the Accepting Shareholder Offerees who have been allocated less than the number of New Securities which those Accepting Shareholder Offerees have offered to acquire under clause 6.1(c) as follows:

$$\frac{ONS}{TNS} \times RNS = N$$

where:

ONS means the number of Shares held by the Accepting Shareholder Offeree immediately before service of the Notice of Issue;

TNS means the total number of Shares held by the Shareholders immediately before service of the Notice of Issue;

RNS means the remaining number of New Securities which have not been already allocated to Accepting Shareholder Offerees after the application of the formula set out in clause 6.2(b); and

N means the number of remaining New Securities to be allocated to the Accepting Shareholder Offeree.

- (d) If the number of New Securities allocated to a Accepting Shareholder Offeree calculated by applying clauses 6.2(b) or 6.2(c) is more than the number of New Securities that the Accepting Shareholder Offeree has offered to acquire then that Accepting Shareholder Offeree will be allocated only the number of New Securities that it has offered to acquire.
- (e) In the case where clauses 6.2(c) or 6.2(d) applies, the Company must repeat the application of clause 6.2(c) until all New Securities are allocated.
- (f) As soon as reasonably practicable after the determination of the allocations of each Accepting Shareholder Offeree, the Company must send to each Accepting Shareholder Offeree a notice setting out the number of New Securities that each Accepting Shareholder Offeree is entitled to acquire as determined in accordance with this clause 6.2.

6.3 Shortfall Securities

- (a) The Company may issue any New Securities not subscribed for in accordance with clauses 6.1 and 6.2 (**Shortfall Securities**) to any person or persons determined by the Board within four months after the date of service of the Notice of Issue:
- (1) for an issue price per New Security not less than the price specified in the Notice of Issue; and
 - (2) on terms not generally more beneficial to the subscriber, when taken in aggregate, than those set out in the Notice of Issue.
- (b) If the Company does not issue the New Securities within the time set out in clause 6.3(a) it may not issue those New Securities without complying again with clause 6.1.



6.4 Exceptions

Subject to clause 6.6(b), clauses 6.1, 6.2 and 6.3 do not apply to an issue of Securities (**Excluded Issues**):

- (a) in connection with the Scheme or otherwise pursuant to the Implementation Deed or any document contemplated under the Implementation Deed;
- (b) under the Management Equity Plan up to the Approved MEP Allocation;
- (c) issued by reason of a bonus issue, share split, reconstruction, subdivision, consolidation or analogous event that changes the number of Shares on issue;
- (d) issued as a dividend or distribution;
- (e) with the approval of the Board in consideration for the acquisition of a body corporate, business or part of a business, or interest in a resources project, by merger, purchase of shares, purchase of substantially all of the assets or other reorganisation or pursuant to a joint venture agreement;
- (f) issued or deemed issued on exercise, conversion, or exchange of any right, options, warrants, or convertible securities which are directly or indirectly convertible, exchangeable, or exercisable into Shares issued in accordance with this document pursuant to the terms of such option or convertible security;
- (g) with the unanimous approval of the Board, provided that the number of Shares issued as an Excluded Issue in reliance on this clause 6.4(g) does not exceed, in any 12 month period (**Relevant 12 Month Period**), 25% of the total number of Shares on issue at the commencement of that Relevant 12 Month Period;
- (h) to a provider of debt finance (or any agent, trustee, or nominee of or for any such provider) as part of any genuine debt finance provided to the Company Group or any Company Group Member (including any restricting of existing debt finance);
- (i) pursuant to clause 6.9 (Emergency Fundings); or
- (j) pursuant to a Liquidity Event.

6.5 New subscribers for Securities

- (a) Subject to clause 6.5(c), the Company must not issue Shares (including on exercise or conversion of Securities) to anyone other than another Shareholder unless the subscriber for such Shares executes a Deed of Accession under which:
 - (1) it agrees to be bound by this document as a Shareholder and, if required by the Board, a Beneficial Holder, as if named as a party; and
 - (2) it provides its details for Schedule 2,
 and from the time that the Shares are issued, Schedule 2 will be deemed to be amended to include that subscriber and whether that subscriber is a Beneficial Holder.
- (b) If the Company issues Shares to a member of the management team of a Company Group Member pursuant to a Management Equity Plan, clause 15.3 applies.
- (c) This clause 6 will not apply to any issue of Shares in connection with a Liquidity Event or in a transaction which results in the Company only having one Shareholder, unless the Board otherwise determines.



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- (d) Each party to this document from time to time agrees that any person who executes a Deed of Accession and who has Shares issued to it or to the Custodian to hold for that person on bare trust is bound by the terms of this document, and has rights under this document as a Shareholder (and, if also applicable, as a Beneficial Holder), with effect from the date of the issue of Shares as if that person were named as a party to this document.

6.6 Issue of New Securities

- (a) The Company must refuse to issue and register any Securities in respect of which this clause 6 has not been complied with.
- (b) If the Company is issuing Securities to a party in a manner permitted by this document, the parties must take all steps reasonably required by the Board so as to facilitate that Security issue.

6.7 Company not to have more than 50 Shareholders

Despite any other provision of this document, the Company must not issue Securities to a person who is not a Shareholder if that issue of Securities would result in the Company having more than 50 Shareholders.

6.8 Disclosure

Notwithstanding anything else in this document, the Company is not required to offer to issue, or issue, Securities to any Shareholder under this clause 6, and the Shareholder has no rights under this clause 6, unless:

- (a) the Shareholder is a sophisticated or experienced investor meeting the criteria in sections 708(8) to (11) of the Corporations Act or a “professional investor” as defined under the Corporations Act; or
- (b) if the Shareholder will not receive the offer of the Securities in Australia, the Shareholder is a person to whom securities may lawfully be offered and issued in compliance with applicable laws (including laws of the Shareholder’s place or incorporation or residence) without lodgement, registration, disclosure (including the issue of a disclosure document) or other formality or filing (or any comparable action) with or by a Governmental Agency or stock exchange,

neither the Company nor any other party will be in breach of this document if it fails to offer or issue any Securities to any Person, or give any notice which would constitute an offer of any Securities to any Person, in circumstances where such offer or issue of Securities would require the taking of any action described in this clause 6.8

6.9 Emergency Fundings

- (a) If the Board determines (acting reasonably) that an injection of funds is appropriate in order to prevent, or remedy, any fact, matter, or circumstance that will cause harm to the Business, including to ensure that:
- (1) the Company or any Company Group Member does not become or remain insolvent; or
- (2) if applicable, any Company Group Member does not breach or remain in breach of any undertakings, covenants, or conditions of its external debt financing,

the parties agree that:



- (3) the Board may offer to any Shareholder or Shareholders (**Nominated Investor**) an opportunity to provide or arrange funding to any Company Group Member or otherwise provide credit support for the benefit of a Company Group Member, including by subscription for Securities or any combination of Securities or providing a guarantee or letter of comfort (or similar undertaking) in respect of such funding, whether or not such Securities are redeemable by the Company and whether or not any Company Group Member is to provide security of any form in relation to that funding, in each case, on terms determined by the Board (**Emergency Funding**);
- (4) the Directors, the Company, and the Nominated Investor are authorised to act in accordance with this clause 6.9, so that, despite any other provision of this document or the Constitution:
- (A) the Directors may pass any resolution of Directors which is in their reasonable opinion necessary or desirable to give effect to this clause 6.9, including resolutions to set or approve the terms (which may include compensation to a Nominated Investor on reasonable terms for providing or arranging such Emergency Funding), price, and entry into the arrangement constituting the Emergency Funding (and no other person will have any right to veto or in any way prevent or hinder the implementation of any such resolution); and
- (B) the Shareholders will be obliged to give any approvals and take all other steps reasonably required by the Board in order to give effect to this clause 6.9;
- (5) the Directors will not be considered to have breached any duty to any person, and will not in any circumstances be liable to any Company Group Member, any Shareholder, or any other person in respect of their conduct in approving and implementing the Emergency Funding in accordance with this clause 6.9; and
- (6) clause 6.1 does not apply to any issue of Securities as a result of the Emergency Funding,

provided that within 20 Business Days after the Nominated Investor puts in place the Emergency Funding, the Nominated Investor, the Board, and the Company must use all commercial endeavours to ensure that each Shareholder which did not participate in the provision of the Emergency Funding (**Non-Contributing Shareholder**) is offered the opportunity to acquire a proportion of the arrangements comprising the Emergency Funding from the Nominated Investor:

- (7) on substantially the same terms as those upon which the Nominated Investor provided the Emergency Funding (including as to price, adjusted only as the Board determines to be necessary to reflect accrual of interest, cost of funds, any establishment or similar fees or similar features, so that the opportunity offered to each Non-Contributing Shareholder is in substance economically equivalent to that obtained by the Nominated Investor by providing the Emergency Funding); and
- (8) in proportion to its percentage holding of Shares in the Company immediately prior to the time when the Nominated Investor put in place the Emergency Funding.



- (b) Within 15 Business Days after the date on which a Non-Contributing Shareholder receives notice of any opportunity to acquire a proportion of the arrangements comprising the relevant Emergency Funding pursuant to clause 6.9(a) (the **Catch-Up Acceptance Period**), such Non-Contributing Shareholder must give notice to the Nominated Investor as to whether the Non-Contributing Shareholder elects to exercise that option.
- (c) If a Non-Contributing Shareholder elects to exercise the option within the Catch-Up Acceptance Period, the parties must procure that the transfer of and payment for such Securities or other rights, interests, or benefits comprising the Emergency Funding to the Non-Contributing Shareholder is completed as soon as reasonably practicable after the expiry of the Catch-Up Acceptance Period.
- (d) If a Non-Contributing Shareholder:
 - (1) gives notice that it does not elect to exercise the option; or
 - (2) fails to give the Nominated Investor notice of its election within the Catch-Up Acceptance Period, the offer will be deemed to have lapsed and the Nominated Investor will have no further obligation to extend such offer to the Non-Contributing Shareholder.

7 Management of the Company

7.1 General management – Board

Subject to this document, the day to day business, management, policies, and strategic direction of the Company Group and the Business are to be determined by the Board and any executive team appointed by the Board.

7.2 Financial year

The Company's financial year will be to 30 June each year, unless otherwise determined by the Board.

7.3 No further funding

Nothing in this document creates any obligation on any Shareholder to provide any further funding or financial support, nor to guarantee or secure any obligations of the Company or any of its Subsidiaries.

7.4 Dividends

The dividend policy of the Company Group will be determined by the Board.

8 Financial statements and information

The Company must provide each Shareholder with:

- (a) the unaudited annual financial statements of the Company Group as at the end of each financial year of the Company within 3 months of the end of that financial year; and



- (b) unaudited profit and loss reports for each half-year within 45 Business Days after each half-year end.

For the avoidance of doubt, the Company is under no obligation to prepare its financial statements on an audited basis unless required by applicable law or the rules of any applicable stock exchange.

9 Transfer of Shares

9.1 Company not to have more than 50 Shareholders

- (a) Despite any other provision of this document, a Shareholder (other than the Custodian) may not transfer its Shares if that transfer would result in the Company having more than 50 Shareholders.
- (b) The Board may determine to refuse a transfer of shares if it would result in the total number of Shareholders exceeding 50 registered Shareholders.

9.2 Acquirers of Shares

- (a) A Shareholder who transfers any of its Shares must not transfer those Shares to anyone other than another Shareholder unless the acquirer of such Shares executes a Deed of Accession under which:
 - (1) it agrees to be bound by this document as a Shareholder and, if required by the Board, a Beneficial Holder, as if named as a party; and
 - (2) it provides its details for Schedule 2 (as the case may be),
 and from the time the Shares are acquired, Schedule 2 will be deemed to be amended to reflect the acquirer as the holder of those Shares and whether that acquirer is a Beneficial Holder.
- (b) Each party to this document from time to time agrees that any person who executes a Deed of Accession and who has Shares transferred to it or to the Custodian to hold for that person on bare trust is bound by the terms of this document, and has rights under this document, with effect from the date of the relevant transfer of the Shares as if that person were named as a party to this document as a Shareholder (and, if also applicable, as a Beneficial Holder).

9.3 Transfer and registration

- (a) The Company must refuse to register the transfer of any Shares in respect of which this clause 9 has not been complied with.
- (b) Otherwise, subject to the payment of any applicable stamp duty, the directors must not refuse to register any transfer of any Shares that complies with this document.
- (c) The Company must take all reasonable steps to facilitate a transfer of Shares in accordance with this clause 9.

9.4 Security Interest over Shares

No Shareholder may create a Security Interest over a Share or allow a Security Interest to exist over a Share unless approved by the Board in writing.



9.5 Restructuring Event

In connection with a Restructuring Event, each party must:

- (a) transfer any Securities promptly if requested by the Board for consideration determined by the Board (with the Board acting in good faith), provided that the consideration payable for the Securities transferred pursuant to this clause 9.5 must be the same for all Securities of the same class issued on the same terms; and
- (b) agree to such rights and obligations in respect of the Company Group as are substantially the same in all material respects as the rights and obligations under this document.

10 Tag along rights

10.1 Tag Along Option

If a Selling Shareholder wishes to transfer such number of Shares to a third party (which does not include any Affiliate of the Selling Shareholder) through a transaction or series of related transactions and such transaction is not a Liquidity Event (**Selling Shareholder Transfer**), then the Selling Shareholder must, not less than the date 20 Business Days prior to the proposed date of completion of the Selling Shareholder Transfer, notify each other Shareholder in writing of the proposed sale and provide the following information (**Notice of Sale**):

- (1) the class and number of Shares proposed to be transferred (**Sale Shares**);
 - (2) the identity of the Person and its ultimate holding company (if relevant) to whom the Sale Shares are to be transferred (**Third Party Purchaser**);
 - (3) the sale price per share of the Sale Shares (**Sale Price**);
 - (4) the proposed date for completion of the Selling Shareholder Transfer;
 - (5) the percentage of the total number of Shares collectively held by the Selling Shareholder proposed to be sold to the Third Party Purchaser (**Tag Along Proportion**); and
 - (6) any other material terms and conditions of the proposed transfer.
- (b) During the period of 15 Business Days commencing on the date the Notice of Sale is given (**Exercise Period**), each Shareholder which is not a Selling Shareholder may elect to exercise its tag along option under this clause 10.1 (**Tagging Shareholder**) by serving notice (**Tag Along Notice**) on:
- (1) the Selling Shareholder; and
 - (2) the Company,
- specifying that it wishes to transfer a number of Shares equal to the Tag Along Proportion of the total number of Shares held by that Tagging Shareholder (for the avoidance of doubt, a Tagging Shareholder may not specify less or more Shares than their relevant Tag Along Proportion).
- (c) A Tag Along Notice is irrevocable.



10.2 Restriction on transfer to third party

- (a) If a Tagging Shareholder has given a Tag Along Notice, the Selling Shareholder must not complete the Selling Shareholder Transfer unless the third party also acquires the Tag Along Proportion of each Tagging Shareholder's Shares on the terms set out in the Notice of Sale provided always that the terms and conditions for the sale of the Shares of the Selling Shareholder and the Tagging Shareholders must be substantially the same (including the Sale Price).
- (b) If, despite the Selling Shareholder's reasonable endeavours, the third party refuses to purchase Tag Along Proportion of each Tagging Shareholder's Shares, then the Selling Shareholder must not complete the Selling Shareholder Transfer and each Tag Along Notice lapses.
- (c) If no Tag Along Notice has been given pursuant to clause 10.1(b) during the Exercise Period and the Selling Shareholder still proposes to transfer their Sale Shares to the Third Party Purchaser, they may only do so on the same terms and conditions as set out in the Notice of Sale.
- (d) The Selling Shareholder and its Affiliates must not receive any collateral benefits from the third party purchaser or its Affiliates in relation to any sale to which this clause 10 applies.

10.3 Completion of sale of Shares

- (a) The Selling Shareholder must give each Tagging Shareholder at least 5 Business Days' notice before it intends to complete the sale of the Sale Shares to the third party.
- (b) Completion of the sale of the Tag Along Proportion of each Tagging Shareholder's Shares to the Third Party Purchaser must take place on the date on which the Selling Shareholder completes the sale of its Sale Shares to the Third Party Purchaser as notified under clause 10.1 or such other date as is agreed to by the Tagging Shareholder, the Selling Shareholder, and the Third Party Purchaser.

11 Liquidity rights and drag along

11.1 Actions to be taken

If a Shareholder Majority vote in favour of a Liquidity Event, whether at a meeting or in writing, then each Shareholder hereby agrees:

- (a) if such transaction requires Shareholder approval, with respect to all Shares that such Shareholder owns or over which such Shareholder otherwise exercises voting power, to vote (in person, by proxy or by action by written consent, as applicable) all Shares in favour of, and adopt, the Liquidity Event and to vote in opposition to any and all other proposals that could reasonably be expected to delay or impair the ability of the Company to consummate the Liquidity Event;
- (b) if the Liquidity Event comprises an IPO that will involve the incorporation of a new company, whether in Australia or another country, that will acquire the Shares pursuant to the IPO (including a "top hat" structure), to vote (in person, by proxy or by action by written consent, as applicable) to take all steps necessary to facilitate that incorporation (including exercising voting rights in



respect of Shares and selling Shares to the new company pursuant to the IPO) or any other reorganisation required to achieve an appropriate capital structure for the purposes of the IPO;

- (c) if the Liquidity Event comprises a sale of Shares, to sell the Shares beneficially held by such Shareholder to the same Person to whom the Shareholder Majority sell their Shares and on the same terms and conditions as the Shareholder Majority;
- (d) to vote in favour of and otherwise approve any amendments to this document or the Constitution or the constitution of any of any other Company Group Member that are necessary to consummate the Liquidity Event;
- (d) to execute and deliver all related documentation and take such other action in support of the Liquidity Event as may reasonably be requested by the Company or the Shareholder Majority to carry out the provisions of this clause 11, including, without limitation, executing and delivering instruments of conveyance and transfer, any purchase agreement, merger agreement, indemnity agreement, escrow agreement, resolution, consent, waiver, governmental filing, share certificates duly endorsed for transfer (free and clear of impermissible liens, claims and encumbrances), listing agreements, underwriting agreements, standstill agreements, voluntary or mandatory escrow agreements, reorganisation document, and any documents or instruments necessary or desirable to implement the Liquidity Event;
- (e) not to deposit, except as provided in this document, any Shares of the Company owned by such Shareholder in a voting trust or subject any Shares to any arrangement or agreement with respect to the voting of such Shares, unless specifically requested to do so by the acquirer in connection with the Liquidity Event;
- (f) to refrain from exercising any dissenter's rights or rights of appraisal under applicable law at any time with respect to the Liquidity Event;
- (g) assisting to effect any reorganisation of the Company Group for the purposes of giving effect to the Liquidity Event; and
- (h) if the Shareholder Majority appoints a Shareholder representative (referred to in this clause 11.1(h) as a **Shareholder Representative**) to act on behalf of the Shareholders in connection with the consummation of the Liquidity Event:
 - (1) to consent to:
 - (A) the appointment of such Shareholder Representative;
 - (B) the establishment of any applicable escrow, expense or similar fund in connection with any indemnification or similar obligations; and
 - (C) the payment of such Shareholder's pro rata portion (from the applicable escrow or expense fund or otherwise) of any and all reasonable fees and expenses to such Shareholder Representative in connection with such Shareholder Representative's services and duties in connection with the Liquidity Event and its related service as the representative of the Shareholders, and
 - (2) not to assert any claim or commence any suit against the Shareholder Representative or any other Shareholder with respect to any action or inaction taken or failed to be taken by the Shareholder Representative in connection with its service as the Shareholder Representative, absent fraud or wilful misconduct.



11.2 Preparation for an IPO

If the relevant Liquidity Event which a Shareholder Majority has voted in favour of pursuant to clause 11.1 is an IPO, then, without limiting clause 11.1, to extent permitted by law:

- (a) each party must (and the Company must ensure that the other Company Group Members, and each Shareholder must procure that each director of each Company Group Member) co-operates and uses its best endeavours to do all acts, matters, and things within its power which are requested by the Shareholder Majority or the Board to effect the IPO, including:
- (1) **(application for admission)** applying to the ASX (or other relevant recognised stock exchange) for admission of the Company or IPO Vehicle, as applicable, to its official list and official quotation of the relevant shares on that stock exchange;
 - (2) **(resolutions)** procuring the unanimous passing of all appropriate resolutions of a Company Group Member in general meeting (including any class meeting) or by its directors (subject to fiduciary duties);
 - (3) **(exchange of Securities)** exchanging its Securities for securities in the relevant IPO Vehicle or any other company which is proposed by the Board to become (and following such exchange will become) the ultimate holding company of the Company;
 - (4) **(advisors)** appointing appropriately qualified professional advisors;
 - (5) **(transfer of Securities):**
 - (A) transfer some or all of its Securities (to a newly incorporated sale vehicle or otherwise) and surrendering the certificates (if any) for its Securities, in each case as requested by the Board;
 - (B) allowing, and doing all things reasonably required by the Board to give effect to, the redemption, buy back, purchase and/or cancellation by the Company of all or some of its Securities,

provided that the price per Security (net of costs, if applicable) for any such transfer, disposal, redemption, buy back, purchase or cancellation is the same for all Securities of the same class issued on the same terms;
 - (6) **(prospectus and marketing assistance)** assisting in preparing a prospectus or other disclosure document and in marketing activities, including road shows;
 - (7) **(appointing board)** appointing an appropriate board of directors to the Company or the IPO Vehicle having regard to any advice from the financial advisors appointed in connection with the IPO, including an appropriate number of independent non-executive directors for the Company's or the IPO Vehicle's listed state;
 - (8) **(obtaining approvals)** obtaining any necessary ASX (or other recognised stock exchange) approvals and other regulatory approvals;
 - (9) **(financial reporting requirements)** meeting the financial reporting requirements of the ASX or other relevant stock exchange or trading



- system (including as to trading history, extracts from audited accounts of prior years, cash flow and profit forecasts, working capital reports, and indebtedness statements);
- (10) **(constitutional amendments)** agreeing to amendments to this document, the Constitution, and the constitutional documents of other Company Group Members, as appropriate in connection with the IPO;
- (b) this document must be either terminated or amended, as determined by the Shareholder Majority, in order to comply with applicable laws and stock exchange rules in relation to the IPO;
- (c) each Shareholder must procure that the management of the Company Group, to the extent requested by the Board, applies adequate time, resources, and commitment to the IPO process to enable it to be successfully completed, including for the purposes of:
- (1) **(due diligence)** due diligence, membership of the due diligence committee, and providing sign offs to the due diligence committee in connection with the preparation and verification of the IPO disclosure document;
- (2) **(road shows)** attending and facilitating management presentations, site visits, and investor road shows; and
- (3) **(listing conditions)** satisfying all terms and conditions of admission to listing imposed by the ASX or other relevant stock exchange;
- (d) each Shareholder must procure that the director appointed to the board of the Company or the IPO Vehicle (as applicable) use their best endeavours to approve an earnings forecast for up to a 24 month period (as recommended by the appointed lead manager or underwriter) commencing on or shortly after the date of the IPO, for inclusion in the prospectus or other IPO disclosure document; and
- (e) each party must (and the Company must ensure that each other Company Group Member, and each Shareholder must procure that each director of the Company Group Members) take any other actions as requested by the Board to ensure that the capital structure, debt financing, and leverage of the Company Group is appropriate for a public company listed on a stock exchange, including negotiating and entering into new debt finance facilities, if appropriate.

11.3 Restrictions and escrow

Each Shareholder agrees to:

- (a) such restrictions on the number of securities in the Company or the IPO Vehicle, as applicable, it is permitted to realise for cash as part of an IPO; and
- (b) if the Shareholder holds 10% or more of the shares (in the Company or the IPO Vehicles, as applicable) at the time of the IPO, such escrow arrangements for its securities in the Company or IPO Vehicle, as applicable, on completion of the IPO,

as the Board may reasonably require, having regard to the advice of the financial advisors appointed for the purposes of the IPO on what is reasonably required or desirable for a successful IPO.



11.4 Securities in connection with an IPO

If there is an intervening period between the time at which Shareholders exchange their Securities for securities in an IPO Vehicle and settlement under the IPO, and in that intervening period no substitute for this document is separately agreed for the IPO Vehicle, the securities in the IPO Vehicle will be taken to be Securities for the purposes of this document and the parties must comply with the obligations in this document as if the securities in the IPO Vehicle were Securities and the IPO Vehicle were the Company.

11.5 Exceptions

Notwithstanding the foregoing, a Shareholder will not be required to comply with clause 11.1 in connection with any proposed Liquidity Event unless:

- (a) the approval of the Board to implement the Liquidity Event has been obtained;
- (b) each holder of each class of Shares receives the same form of consideration for their Shares of such class as is received by other holders in respect of their Shares of such same class of Shares; and
- (c) except where the Liquidity Event is an IPO, the aggregate consideration receivable by the Shareholders is allocated among the Shareholders on the basis of the relative liquidation preferences to which the Shareholders are entitled pursuant to the Constitution.

11.6 Power of Attorney

- (a) Each Shareholder (including, for the avoidance of doubt, each Beneficial Holder) (each an **Appointor**) irrevocably appoints each Director of the Company (each an **Attorney**), severally, as its agent and attorney, with power to do everything necessary or expedient in the name of the Appointor and on its behalf to give effect to any of the transactions contemplated by or under this document (**Transactions**) to the extent that the Appointor has failed to act in the manner required by this document, including to:
 - (1) settle, execute, and deliver in the name of the Appointor and on its behalf all Transaction Documents and all documents required to give effect to the Transactions and all documents contemplated by or reasonably, ancillary or incidental to any such documents, including conveyances, assignments, novations and transfers (**Documents**);
 - (2) do everything necessary or expedient in the name of the Appointor and on its behalf to complete the Transactions and any other transactions contemplated by the Documents;
 - (3) complete and execute (under hand or under seal) such instruments for and on its behalf as the Attorney thinks necessary to give effect to the Appointor's obligations under the Documents and any of the Transactions; and
 - (4) exercise any rights attaching to the Appointor's Shares, including voting rights, rights to appoint a proxy or representative, rights to attend and speak at a meeting of members of the Company and agree to them being called on short notice.
- (b) Each Attorney may:
 - (1) appoint or remove any substitute, delegate or sub-attorney at any time; and



- (2) exercise its rights and powers under this clause 11.6;
 - (A) in its own name or in the name of the Appointor; and
 - (B) even if it benefits from the exercise of the rights or powers.
- (c) Each Appointor agrees to:
 - (1) ratify and confirm whatever an Attorney lawfully does, or causes to be done, under the appointment; and
 - (2) deliver to the Company on demand any power of attorney, instrument of transfer or other instrument as the Company may require for the purposes of any of the transactions contemplated by this clause 11.

12 Compulsory transfer

12.1 Notice obligations

Each Shareholder must immediately notify the Company in writing if any of the following occurs in relation to it:

- (a) an Event of Default; or
- (b) a Potential Event of Default.

12.2 Cessation of rights

From the time that an Event of Default or a Potential Event of Default occurs (in each case, other than solely because of an Insolvency Event) in respect of a Shareholder, the Shareholder and any Shareholder Transferee (in the case of an Event of Default or Potential Event of Default under clause 12.3(a)) will cease to be entitled to any information, access, notice, voting rights and director representation rights under this deed or otherwise in respect of all of its Shares until the earlier of:

- (a) the date on which the transfer or buyback the subject of the Compulsory Transfer Notice or Buy Back Notice is completed;
- (b) such time as the Compulsory Transfer Notice or Buy Back Notice is withdrawn; and
- (c) the Event of Default or Potential Event of Default ceases as agreed by the Board acting reasonably.

12.3 Compulsory transfer

- (a) If an Event of Default occurs in relation to a Shareholder (the relevant Shareholder being a **Transferor Shareholder**), then at any time within a 2 month period after the Company actually become aware of the Event of Default:
 - (1) the Board may serve a notice in writing (**Compulsory Transfer Notice**) on the Transferor Shareholder (for the purposes of this clause 12), requiring the Transferor Shareholder to sell all or some of the Shares held by the Transferor Shareholder (**Compulsory Transfer Shares**) to any Person or Persons nominated by the Board (each a **Transferee**) and the Transferor Shareholder must deal with the Compulsory Transfer Shares in accordance with the Compulsory



Transfer Notice and, without limiting clause 11.6, is deemed to appoint the Company as its agent for this purpose; or

- (2) the Board may give a notice in writing (**Buy Back Notice**) to the Company requiring that, the Company buy back some or all of the Shares held by the Transferor Shareholder (the **Buy Back Shares**) subject to and in accordance with the provisions of the Corporations Act and the terms of sale set out in clause 12.4. If such a notice is given then, without limiting clause 11.6, and each Shareholder must do all things required to give effect to the buy back, including all things required under the Corporations Act to approve or otherwise give effect to the buy-back (and, for the purpose of this clause 12, the Company is the Transferee).
- (b) Despite clause 12.3(a)(2):
 - (1) if the Company cannot at any relevant time, in compliance with law, buy back or redeem (as applicable) any Buy Back Shares pursuant to clause 12.3(a)(2) at that time, the Company must buy back or redeem the relevant Buy Back Shares as soon as it is reasonably able to do so in compliance with law; and
 - (2) if the Board is not satisfied (acting reasonably) that the Company has the financial capacity to buy back or redeem any Buy Back Shares pursuant to clause 12.3(a)(2) at that time (including without breaching or potentially breaching the conditions of its external debt financing, if any), the Company must buy back or redeem the relevant Buy Back Shares as soon as the Board is satisfied that the Company has the financial capacity to do so.

12.4 Price and terms of sale

- (a) The price for each Compulsory Transfer Share or Buy Back Share (as applicable) will be an amount equal to 90% of the Fair Market Value of the Compulsory Transfer Share or Buy Back Share; and determined as at either (at the election of the Board) the date the Event of Default first occurs or the date the Compulsory Transfer Notice or Buy Back Notice is served (**Valuation Date**) or such higher price as the Board determines in its absolute discretion (the **Compulsory Transfer Price**).
- (b) The Compulsory Transfer Shares or Buy Back Shares must be sold together with all rights attaching to them and free from all Security Interests.
- (c) Completion of the sale of the Compulsory Transfer Shares or buy back or redemption of the Buy Back Shares must occur on such date as the Board may determine.

12.5 Completion mechanics

In relation to any transfer contemplated in this clause 12:

- (a) the Transferor Shareholder (or any attorney of the Transferor Shareholder) must on the transfer date:
 - (1) transfer the Compulsory Transfer Shares or Buy Back Shares free from all Security Interests to the Transferee; and
 - (2) deliver executed share transfers and all share certificates in respect of the Compulsory Transfer Shares or Buy Back Shares to the Company at or before completion of the transfer (which share



transfer is to be delivered to the Transferee of the Compulsory Transfer Shares or Buy Back Shares at the time of completion);

- (b) The Transferee must deliver on the transfer date a bank cheque (or other form of payment advised by the Company) to the Transferor Shareholder for the aggregate Compulsory Transfer Price of the Compulsory Transfer Shares; and
- (c) if the Transferor Shareholder defaults in transferring the Compulsory Transfer Shares or the Buy Back Shares:
 - (1) the Directors may rely on the power of attorney granted by the Transferor Shareholder under clause 11.6;
 - (2) the Company must hold the aggregate Compulsory Transfer Price on trust for the Transferor Shareholder, and the Company must pay the aggregate Compulsory Transfer Price to the Transferor Shareholder subject to, if share certificates have been issued, surrender of the relevant share certificates or provision of a customary lost share certificate indemnity in the form acceptable to the Board; and
 - (3) if the default relates to the provision of share certificates, then without limiting clause 12.5(c)(2) the Transferor Shareholder hereby indemnifies the Transferee and the Company against any Claim suffered in relation to the non-provision of those share certificates.

12.6 Power of attorney

Without limiting clause 11.6, from the date that the Compulsory Transfer Notice or Buy Back Notice is served on it, the relevant Transferor Shareholder irrevocably appoints each Director jointly and severally as its agent and attorney with power, in relation to all of the Transferor Shareholder's Shares to the exclusion of the Transferor Shareholder, to:

- (a) receive any notices on behalf of the Transferor Shareholder pursuant to this document or the Constitution or otherwise in relation to the Transferor Shareholder's Shares;
- (b) give any approvals, consents or waivers on behalf of the Transferor Shareholder in connection with this document or the Constitution or otherwise in relation to all of the Transferor Shareholder's Shares, and complete and execute such documents for and on the Transferor Shareholder's behalf as the Board thinks necessary or desirable, including any amendments to this document or the Constitution or related documents; and
- (c) vote on any resolution or proposed resolution, including but not limited to any proposed amendments to the Constitution.

12.7 Determination of Fair Market Value

- (a) Subject to clause 12.7(b), for the purposes of this clause 12:
 - (1) Fair Market Value of the Compulsory Transfer Shares or Buy Back Shares (as applicable) will be determined by the Board in good faith as at the Valuation Date;
 - (2) the Board must apply such valuation principles as the Board determines to be appropriate in the circumstances and the Board will conduct the valuation:
 - (A) in accordance with valuation standards, practices, and principles generally accepted in Australia;



- (B) with regard to the historical financial performance of the Company Group profit, strategic positioning, future prospects, and undertaking of the Company Group;
 - (C) on the basis of an arm's length transaction between an informed and willing seller and an informed and willing buyer under no compulsion to sell or buy, respectively;
 - (D) allocating the aggregate value of the Compulsory Transfer Share or Buy Back Share (as applicable) as between each different type or class of Share in accordance with their respective rights to participate in the proceeds of a cash sale of all Shares;
 - (E) applying an appropriate discount to the Compulsory Transfer Share or Buy Back Share (as applicable) to reflect that the Compulsory Transfer Shares or Buy Back Shares (as applicable) represent a minority investment in the Company and are illiquid; and
 - (F) taking into account any other factors or matters it considers, acting reasonably and in good faith, are appropriate to consider when valuing securities in an entity such as the Company.
- (3) the Company must promptly notify the Transferor Shareholder of the aggregate Fair Market Value for the relevant Compulsory Transfer Shares or Buy Back Shares following determination by the Board; and
 - (4) the Board's determination of the Fair Market Value of the relevant Compulsory Transfer Shares or Buy Back Shares will be final and binding on the Transferor Shareholder and may not be challenged by the Transferor Shareholder (except in the case of manifest error or fraud).
- (b) If the relevant Compulsory Transfer Shares or Buy Back Shares (as applicable) represent at least 5% of the total number of Shares at the time that the Compulsory Transfer Notice or Buy Back Notice (as applicable) is provided to the Transferor Shareholder, then the Transferor Shareholder may elect by written notice to the Company within 5 Business Days or receiving a Compulsory Transfer Notice or Buy-Back Notice (as applicable) to have the Fair Market Value of the Compulsory Transfer Shares or Buy Back Shares (as applicable) determined in accordance with the process set out in Schedule 5.

13 Warranties

13.1 Mutual warranties

Each party warrants and represents in respect of itself to each of the other parties, as an inducement to those parties to enter into this document, that:

- (a) the execution and delivery of this document has been properly authorised (including, in the case of a party who is a body corporate, by all necessary corporate action by it);



- (b) it has full power (including, in the case of a party who is a body corporate, full corporate power) and lawful authority to execute and deliver this document and to perform or cause to be performed its obligations under this document;
- (c) its obligations under this document are valid and binding and enforceable against it in accordance with their terms; and
- (d) there are no actions, claims, proceedings or investigations pending or to the best of its knowledge threatened against it or by it that may have a material adverse effect on its ability to perform its obligations under this document.

13.2 Notification of breach

Each party undertakes to give written notice immediately to each other party of any matter or event coming to its attention that:

- (a) shows any of the representations and warranties given by the party in this document to be or to have been untrue or misleading or breached; or
- (b) constitutes or is reasonably likely to constitute (with the passage of time, the giving of notice, or the making of any determination (or any such combination) under this document) a breach of this document by the party.

14 Confidentiality and publicity

14.1 Confidentiality

Subject to clause 14.2, each party must not, and must use its best endeavours to ensure that its auditor, officers, employees, agents and advisers do not:

- (a) disclose any Confidential Information;
- (b) use any Confidential Information in any manner which it knows (or ought reasonably to know) is reasonably likely to cause, or is calculated to cause, loss to the other parties; or
- (c) make any public announcement or issue any press release regarding this document or the transactions contemplated by it.

14.2 Permitted disclosure

A party may disclose, and may permit its auditors, officers, employees, agents and advisers to disclose, any Confidential Information:

- (a) with the prior written consent of:
 - (1) the Board, in the case of Confidential Information of the Company Group; and
 - (2) if the Confidential Information relates solely to a party, that party.
- (b) if it is required to do so:
 - (1) by law (other than under section 275 of the PPSA to the extent that disclosure is not required under that section if it would breach a duty of confidence) or a court order;
 - (2) for use in legal proceedings related to a Transaction Document;



- (3) by any reporting requirement to which it is subject under the terms of any trust deed, contract or other document in effect as at the date of this document; or
- (4) by any recognised stock exchange on which its or its holding company's shares are listed or proposed to be listed;
- (c) if the party is, or holds Shares on behalf of, a fund, partnership, unit trust or any other Fund Vehicle, to any manager, adviser, trustee, custodian, nominee, general partner, limited partner of or in that partnership, trust or Fund Vehicle or any investment advisory, co-investment or similar committee in respect of the relevant fund, on a confidential basis;
- (d) if the Confidential Information has come within the public domain, other than by a breach of this clause 14 or another duty of confidentiality by any party or by a party's auditors, officers, employees, agents and advisers;
- (e) if the Confidential Information was in its possession or known by it without restriction prior to receipt from the party disclosing such information, as can be established by the party's contemporaneous records;
- (f) if the Confidential Information was rightfully disclosed to it by a third party, as can be established by the party's contemporaneous records;
- (g) to the party's financiers or lawyers, accountants, investment bankers, consultants or other professional advisers who have a legitimate need to know and on a confidential basis;
- (h) subject to clause 14.4, to a prospective purchaser of Shares on a confidential basis;
- (i) subject to clause 14.4, to a bona fide prospective financier of the Company on a confidential basis; or
- (j) if required to do so by a Governmental Agency.

14.3 PPSA

Nothing in this document is to be construed as constituting the consent of a party with respect to any security interest (as defined in section 12(1) of the PPSA) created by this document, to the disclosure of the terms of this document for the purpose of section 275(7) of the PPSA. No party who is the grantor of such security interest under this document will, after the Implementation Date, consent to the disclosure of the terms of this document to an interested person for the purpose of section 275 of the PPSA. To the extent not prohibited by the PPSA, each party that is the grantor of such security interest under this document waives its right to receive any notice otherwise required to be given by a secured party under section 157 or any other provision of the PPSA.

14.4 Disclosure to prospective purchaser or financier

Any party that makes or permits a disclosure of Confidential Information under clause 14.2(h) or under clause 14.2(i) must notify the Board of the recipient of the information prior to disclosure, and must ensure that the prospective purchaser or prospective financier as the case may be first enters into a deed with or for the benefit of the Company whereby it agrees to comply with provisions substantially similar to those contained in this clause 14, amended as required.



15 Termination and variation

15.1 Termination and variation

- (a) this document may be terminated or amended by written agreement between Shareholders collectively holding more than 75% of the total Shares, provided that, in the case of a proposed amendment, if such amendment would have the effect of unfairly and disproportionately affecting a particular Shareholder (**Affected Shareholder**) relative to all other Shareholders, then the written consent of the Affected Shareholder will also be required in respect of that amendment.
- (b) Any termination or variation effected in accordance with this clause 15.1 will be binding upon all of the Shareholders, each future holder of Shares, the Custodian, and the Company. Each Shareholder hereby irrevocably appoints the Company and each Director as its agent and attorney with the authority to receive, approve and sign in that Shareholder's name and on its behalf any document necessary or desirable to give effect any termination or amendment of this document approved under clause 15.1(a) (and the provisions of clause 11.6 apply in relation to that appointment as attorney).
- (c) The Company must give prompt written notice of any amendment, termination, exercise or waiver under this clause 15.1 to any party that did not consent in writing under this clause 15.1.
- (d) Any amendment or termination effected in accordance with this clause 15.1 will be binding on each party and all of such party's successors and permitted assigns, whether or not any such party, successor or assignee entered into or approved such amendment or termination.

15.2 Automatic termination

Subject to clause 15.5 and without limiting clause 15.1, this document terminates upon the earliest to occur of:

- (a) immediately prior to an IPO;
- (b) the consummation of a Liquidity Event and distribution of proceeds for the benefit of the Shareholders, other than a Liquidity Event which is a demerger pursuant to paragraph 5 of the definition of Liquidity Event; and
- (c) if a single Shareholder holds all the Shares.

15.3 Amendments for Management Equity Plan

If any participant in the Management Equity Plan becomes a Shareholder and bound by this document, the parties agree to make any amendments necessary to this document, as determined by the Board, to reflect the terms of issue of such Shares under the Management Equity Plan and ensure that the Company has rights in relation to Securities held by those participants that correspond to its rights under the Management Equity Plan and accommodate any restrictions on participants under the rules of the Management Equity Plan.

15.4 Document no longer applies

Any Shareholder who ceases to hold any Shares is no longer bound by this document (subject to clause 15.5) and no longer has any Power under this document.



15.5 Survival of clauses

- (a) Clause 14, and clauses 1, 15, 16 and 17 (to the extent applicable) survive termination of this document.
- (b) If there is a Liquidity Event, clause 11 survives termination of this document to the extent necessary to enforce the provisions of this clause 11 in respect of the Liquidity Event.

16 Notices

16.1 How and where Notices may be sent

A notice or other communication under this document (**Notice**) must be in writing and delivered by hand or sent by pre-paid post or email and addressed to the party in accordance with the details for that party specified below or as otherwise specified by a party by Notice. A Notice may not be sent by facsimile.

Party	Address	Attention	Email
Company	Suite 5, Level 2, 2 Grosvenor Street, Bondi Junction NSW 2022	The board of directors	stephen.maffey@tulla.com.au
Shareholders	The address listed beside the Shareholder's name in Schedule 2.	The Shareholder	The email listed beside the Shareholder's name in Schedule 2.

16.2 Form of Notice

If the sender is a company, the Notice must be signed (or in the case of email, sent) by an officer of the sender.

16.3 When Notices are taken to have been given and received

- (a) Notices are taken to have been given and received as follows:
 - (1) If sent by hand, when delivered to the addressee.
 - (2) A Notice sent by post is regarded as given and received on the fifth Business Day following the date of postage.
 - (3) A Notice sent by email to the address specified by a party is regarded as given and received when received in legible form by the addressee.
- (b) A Notice sent by email is regarded as having been given and received unless the sender receives an automated message that the email has not been delivered or that the recipient is 'out of office'.



- (c) A Notice delivered or received other than on a Business Day or after 5.00pm (recipient's time) is regarded as received at 9.00am on the following Business Day and a Notice delivered or received before 9.00am (recipient's time) is regarded as received at 9.00am.

17 General

17.1 Governing law and jurisdiction

- (a) This document is governed by the law in force in New South Wales, Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.
- (c) Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

17.2 Invalidity and enforceability

- (a) If any provision of this document is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 17.2(a) does not apply where enforcement of the provision of this document in accordance with clause 17.2(a) would materially affect the nature or effect of the parties' obligations under this document.

17.3 Waivers

- (a) Waiver of any right, power, authority, discretion or remedy arising on a breach of this document must be in writing and signed by the party granting the waiver.
- (b) A party may not rely on any conduct of another party as a defence to exercise of a right, power, authority, discretion or remedy by that other party.
- (c) This clause 17.3 may not itself be waived except by writing.

17.4 Parties rights and obligations several

- (a) Each party's rights, powers and remedies in connection with this document are held, and may be enforced and exercised, severally and independently of any other party.
- (b) Each party's obligations and liabilities in connection with this document are several and independent from any other party's obligations and liabilities.

17.5 Assignment

Except as otherwise provided in this document, this document shall bind and inure to the benefit of and be enforceable by the Company and each Shareholder and each of their respective successors, assigns and permitted transferees, in the case of each Shareholder so long as they hold Shares.



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17.6 Cumulative rights

Powers are cumulative and do not exclude any other right, power, authority, discretion or remedy of the parties.

17.7 Further assurances

Each party must, at its own expense, do all things and execute all documents necessary to give full effect to this document and the transactions contemplated by it.

17.8 Entire agreement

This document and the Constitution state all the express terms of the agreement between the parties in respect of their subject matter. They supersede all prior discussions, negotiations, understandings, arrangements and agreements, express or implied in respect of their subject matter.

17.9 No reliance

No party has relied on any statement by any other party not expressly included in this document.

17.10 Counterparts

- (a) This document may be executed in any number of counterparts (which may include some counterparts executed and delivered electronically and some counterparts executed and delivered in physical form). All counterparts, taken together, constitute one instrument. A party may execute this document by signing any counterpart.
- (b) Each party to this document consents to this document (and any deed of accession to this document) being executed and delivered electronically in accordance with applicable law and agrees this will satisfy all other requirements for this document to be in writing and signed by that party. The parties intend that any electronic copy so signed will constitute an executed original counterpart, and any print-out of the copy with the relevant signatures appearing will also constitute an executed original counterpart.

17.11 Attorneys

Any attorney executing this document states that the attorney has no notice of the revocation of the power of attorney appointing that attorney.

17.12 Relationship of parties

No party is the partner, agent, employee or representative of any other party and no party has the power to incur any obligations on behalf of, or pledge the credit of, any other party, subject to clause 11.6.

17.13 Legal Advice

The parties acknowledge they have obtained, or have had the opportunity to obtain, independent legal advice in relation to this document (including in relation to their rights and obligations under this document).



17.14 Costs and expenses

- (a) Tulla Resources will pay the costs and expenses of the Company for preparing this document, including, but not limited to, legal costs and expenses, as part of the transaction costs it is incurring in connection with the Scheme.
- (b) Other than as separately agreed in writing with the Company, each party must pay its own costs and expenses in connection with this document.

17.15 Conflict with Constitution and other relevant matters

- (a) If there is any conflict between the provisions of this document and the Constitution, then the provisions of this document prevail.
- (b) On receipt of a request in writing from another party, each party must take all necessary steps to amend a provision of the Constitution which is inconsistent with this document.

17.16 Fractions

If the operation of any clause in this document results in any party having an entitlement to acquire or an obligation to transfer a fraction of a Share then the Board may round the entitlement or obligation up or down to the nearest Share in its absolute discretion.

18 Limitation of liability provisions

18.1 Limitation of Liability

If a party enters into this document as a trustee, responsible entity, investment manager, general partner, custodian, subcustodian or nominee (as the case may be) (**Relevant Party**) of a trust, fund or entity (as applicable) (the **Relevant Entity**):

- (a) the Relevant Party enters into this document only in its capacity as trustee responsible entity, investment manager, general partner, custodian, subcustodian or nominee (as the case may be) of the Relevant Entity and in no other capacity. A liability arising under or in connection with this document is limited to and can be enforced against the Relevant Party only to the extent to which it can be satisfied out of property of its Relevant Entity out of which the Relevant Party is actually indemnified for the liability. This limitation of the Relevant Party's liability applies despite any other provision of this document or any other document and extends to all liabilities and obligations of the Relevant Party in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document;
- (b) a party may not sue the Relevant Party in any capacity other than as trustee, responsible entity, investment manager, general partner, custodian, subcustodian or nominee (as the case may be) of the Relevant Entity, including seeking the appointment of a receiver, a liquidator, an administrator or any similar person to the Relevant Party (except in relation to property of the Relevant Entity) or prove in the liquidation, administration or arrangement of or affecting the Relevant Party (except in relation to property of the Relevant Entity);
- (c) the provisions of this clause 18.1 do not apply to any obligation or liability of the Relevant Party to the extent that it is not satisfied because under the constituent



document or trust deed (as applicable) establishing its Relevant Entity or by operation of law there is a reduction in the extent of the Relevant Party's indemnification out of the assets of the Relevant Entity, as a result of the Relevant Party's fraud, negligence or wilful default;

- (d) no attorney, agent, receiver or receiver and manager appointed in accordance with this document has authority to act on behalf of the Relevant Party in a way which exposes the Relevant Party to any personal liability and no act or omission of any such person will be considered fraud, negligence or wilful default of the Relevant Party for the purpose of clause 18.1(c);
- (e) the Relevant Party is not obliged to do or refrain from doing anything under this document (including, without limitation, incur any liability) unless the Relevant Party's liability is limited in the same manner as set out in clauses 18.1(a) to 18.1(d); and
- (f) this clause 18.1 applies notwithstanding any other provision of this document.

18.2 Relevant Parties' representations and warranties

Each Relevant Party represents and warrants as follows:

- (a) (**proper administration**) the Relevant Party enters into this document as part of the proper administration of the Relevant Entity and for the benefit of the beneficiaries and has taken all action required under the Relevant Entity's constituent documents or trust deed (as applicable) to carry out transaction and obligations contemplated by this document;
- (b) (**no default**) the Relevant Party is not in breach of the Relevant Entity's constituent documents or trust deed (as applicable) and its constituent documents or trust deed (as applicable) is not void, voidable or otherwise unenforceable;
- (c) (**indemnity against Relevant Entity property**) the Relevant Party has, and at all times will have, a right to be fully indemnified out of the property of the Relevant Entity and such right has priority over the rights of the beneficiaries;
- (d) (**no termination of Relevant Entity**) no resolution has been passed and no direction has been given for the winding up or termination of the Relevant Entity or distribution of the property of the Relevant Entity;
- (e) (**no removal of Relevant Party from responsible role**) no resolution has been passed or direction or notice been given removing the Relevant Party as trustee, responsible entity, investment manager, general partner, custodian, subcustodian or nominee (as the case may be) of a trust, fund, entity (as applicable), of the Relevant Entity;
- (f) (**possession of property of Relevant Entity**) no beneficiary is in possession of or controls, nor has any right to possess or control, any property of the Relevant Entity; and
- (g) (**sub-trusts**) where the Relevant Party is acting as nominee or trustee for one or more beneficiaries who are acting as trustee of a trust (a sub-trust), each of the above representations and warranties is true and correct in relation to the trustee of each such sub-trust.



19 Custodian arrangements

19.1 Custodian provisions

- (a) If the Custodian holds Shares on bare trust for a party on the terms of the Constitution and Custodian Terms, that party has rights and obligations under this document in respect of parties who are "Shareholders" under this document notwithstanding that it does not hold legal title to Shares.
- (b) Schedule 6 sets out:
 - (1) how this document is intended to operate in those cases;
 - (2) the circumstances in which a party to this document may be required to have its Shares held by the Custodian.

19.2 Transfer of existing Shares to the Custodian

- (a) If:
 - (1) any Shareholder holds less than 5% of the total Shares, that Shareholder must transfer the legal title to its Shares to the Custodian to hold its Shares on bare trust on the terms of the Constitution and the Custodian Terms; or
 - (2) any person is to be issued or transferred Shares which, upon issue or transfer (as applicable), will represent less than 5% of the total Shares, and that person is not already a Shareholder, that person must acquire such Shares as a Beneficial Holder such that the Custodian will hold its Shares on bare trust on the terms of the Constitution and the Custodian Terms,unless the Board consents in writing to such Shareholder or person (as applicable) holding or acquiring (as applicable) the legal title to such Shares directly.
- (b) If required by clause 19.2(a), each person (other than a person who receives written consent from the Board under clause 19.2(a) to hold legal title to Shares directly) agrees to transfer legal title to all of its Shares to the Custodian or ensure that legal title to its Shares is acquired by the Custodian (as applicable) as soon as practicable and in any event within 5 Business Days of receiving notice from the Board and to take all other steps reasonably required of it to facilitate such transfer or acquisition and, from the time that the Shares are transferred or acquired (as applicable), Schedule 2 will be deemed to be amended to reflect the Custodian as the holder of those Shares and that Shareholder as the Beneficial Holder of those Shares.

19.3 Transfer or issue of additional Shares to the Custodian

- (a) Each Beneficial Holder agrees that if it becomes entitled to, or agrees to, subscribe for or acquire any additional Shares (whether by way of issue or transfer and whether under this document or otherwise) then, unless the Custodian advises the Company otherwise, those Shares must be issued or transferred to the Custodian to be held by the Custodian as bare trustee for the Beneficial Holder on the terms of the Constitution and the Custodian Terms.
- (b) Each Beneficial Holder directs:



- (1) the other parties to issue or transfer (as applicable) to the Custodian; and
- (2) the Custodian to accept and hold on bare trust on the terms of the Constitution and the Custodian Terms,

any additional Shares referred to in clause 19.3(a) and Schedule 2 will be deemed to be amended to reflect the Custodian as the holder of those Shares and that Beneficial Holder as the Beneficial Holder of those Shares.

- (c) If the Custodian holds or will hold legal title to those Shares as bare trustee for a Beneficial Holder, an:

- (1) issue of, or offer to issue, Shares to the Custodian; and
- (2) a transfer of, or offer to transfer, shares to or from the Custodian,

will not be regarded (for that reason alone) as being on different terms and conditions than the terms and conditions applicable to the issue or transfer to or from another person for the purposes of clauses 6.3(a)(1), 10.2(c) and 11.1(c).



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Schedules

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Schedule 1

Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this document are set out below.

Term	Meaning
Accepting Shareholder Offeree	is defined in clause 6.1.
Affiliate	in respect of a Person (Primary Person), a person: <ul style="list-style-type: none"> • Controlled directly or indirectly by the Primary Person; • Controlling directly or indirectly the Primary Person; • directly or indirectly Controlled by a person who Controls the Primary Person (whether alone or with another Person or Persons); or • directly or indirectly under the common Control of the Primary Person and another person or persons.
Appointor	is defined in clause 11.6(a).
Approved MEP Allocation	at a point in time, a number of Securities which (assuming each such Security was converted into a Share) are equal to no more than 10% of the total share capital of the Company.
Attorneys	is defined in clause 11.6(a).
Beneficial Holder	a party named as 'Beneficial Holder' in Part 2 of Schedule 2 (as amended pursuant to this document) and includes any party that subsequently enters into a Deed of Accession as a 'Beneficial Holder' and any Shareholder who transfers legal title of its Shares to the Custodian.
Beneficial Shares	Shares held by the Custodian as bare trustee for the Beneficial Holders on the terms set out in the Constitution and the Custodian Terms.



Term	Meaning
Board	the board of Directors of the Company from time to time.
Business	the business of the Company Group, being as at the Implementation Date, exploring and implementing opportunities to commercially exploit the Industrial Minerals and acquire interests in other resources based companies and projects.
Business Day	a day, not being a Saturday, Sunday or public holiday on which trading banks are open for business in Sydney, Australia.
Claim	against any person, means any claim, action, proceeding, demand, judgment, loss (realised or unrealised), cost, expense, outgoing, payment or liability incurred or suffered by, or brought or made or recovered against, the person and however arising (whether or not presently ascertained, immediate, future or contingent; and whether made at law, in equity, under statute, or otherwise).
Company Group	the Company and each of its Subsidiaries.
Company Group Member	any entity which forms part of the Company Group.
Confidential Information	any information regarding the Business, the assets, affairs or business of the Company Group, this document or the transactions contemplated by it or the Shareholders that is not in the public domain or is in the public domain only by reason of a breach of this document.
Constitution	the constitution of the Company from time to time.
Control	<p>with respect to any Person (other than an individual), the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of that Person, whether through the ownership of voting securities, by agreement, or otherwise, and includes:</p> <ul style="list-style-type: none"> • direct or indirect ownership of more than 50% of the voting rights of such Person: or • the right to appoint the majority of the members of the board of directors (or similar governing body) of that person or to manage the assets of that person on a discretionary basis. <p>For the purposes of this document:</p> <ul style="list-style-type: none"> • a general partner is deemed to Control the limited partnership of



Term	Meaning
	<p>which it is the general partner;</p> <ul style="list-style-type: none"> • any Fund Vehicle in respect of which a person or an Affiliate of such person is, in a professional capacity in the ordinary course of its business, a manager, trustee, responsible entity, general partner, or investment advisor will also be deemed to be Controlled by such person or its relevant Affiliate; and • a person will also be taken to Control a trust if the person is or Controls the sole trustee of the trust or the person has the power to appoint or determine the trustees or beneficiaries of the trust, and Controlled and Controlling has a corresponding meaning.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Custodian Terms	Schedule 3 of the Constitution.
Director	a director of the Company.
Emergency Funding	is defined in clause 6.9.
Event of Default	<p>In relation to a Shareholder, if any of the following occurs or subsists:</p> <ol style="list-style-type: none"> 1 (material breach) <ol style="list-style-type: none"> (i) the Shareholder materially breaches any material obligation under this document, the Constitution or, in the case of a Beneficial Holder, acts in a manner that is inconsistent with the Custodian Terms (including, for the avoidance of doubt, Schedule 6 of this document); (ii) another party gives written notice of the breach to the Shareholder and to the Company; and (iii) the Shareholder does not remedy the breach within 14 days after the date of the notice; 2 (change in law) the Shareholder is prohibited from being a holder of Securities in the Company by a change in any law; 3 (Insolvency Event) an Insolvency Event occurs in relation to the Shareholder; or 4 (disposal of Shares) without limiting paragraph 1, the Shareholder transfers, or purports to transfer, any of its Shares in breach of the Constitution, this document, or any other obligation that applies with respect to such Shares.
Excluded Issues	is defined in clause 6.4.



Term	Meaning
Fair Market Value	as the relevant Valuation Date, the fair market value of the Share as determined in accordance with clause 12.7 and, if applicable, Schedule 5.
Fund Vehicle	a fund, investment trust, limited partnership, general partnership, or other collective investment scheme (however structured).
Governmental Agency	any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.
Implementation Date	the date on which the Scheme is implemented in accordance with its terms.
Implementation Deed	the Merger Implementation Deed dated 13 February 2023 between Pantoro Limited ACN 003 207 467 and Tulla Resources.
Industrial Minerals	gypsum, iron ore and associated iron (Fe) products, magnesium, manganese, phosphate, potash, rare earths, sands for construction purposes, pea gravel, non-gold bearing quartz, stockpiles of aggregate, and aggregate which is not otherwise produced from gold mining or processing.
Insolvency Event	<p>in relation to a person, the happening of any of the following events:</p> <ol style="list-style-type: none"> 1 an administrator, liquidator or provisional liquidator is appointed to the person or a resolution is passed to appoint any of those persons to the person; 2 an order is made for the winding-up or dissolution of the person or a resolution is passed for the winding-up or dissolution of the person; 3 a bankruptcy notice issued against the person (other than a notice that is withdrawn, struck out, challenged, dismissed or complied with within 21 days of it being made unless the person satisfies the Company (acting reasonably) that the notice is frivolous or vexatious) or a court order is made that the person is declared bankrupt; 4 a receiver, receiver and manager, trustee, other controller or similar officer is appointed over all or any of the assets or undertaking of the person; 5 the person stops or suspends, or threatens to stop or suspend, the payment of all or a class of its debts; 6 the person proposes or effects a moratorium involving any of the person's creditors; 7 the person is unable, or states that the person is unable, to pay



Term	Meaning
	<p>its debts as and when they fall due or is presumed to be insolvent under applicable law;</p> <p>8 the person proposes, enters into or resolves to enter into any scheme of arrangement (other than a scheme of arrangement only in relation to members, and, if applicable holders of options) arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;</p> <p>9 a garnishee notice is given concerning any money that the person is said to owe; or</p> <p>10 anything having a substantially similar effect to any of the events specified above happens under any law of any applicable jurisdiction.</p>
IPO	<p>1 an initial public offering of all or part of the Business by way of an offer of securities in the Company or an IPO Vehicle; and/or</p> <p>2 a sell-down by a Shareholder or Shareholders of its securities in the Company or an IPO Vehicle by way of public offering, in conjunction with an application or the quotation of those securities on a recognised stock exchange (including the ASX).</p>
IPO Vehicle	any Related Corporation (actual or proposed) of the Company and/or any special purpose vehicle established for the purposes of an IPO.
Liquidity Event	<p>any of the following events:</p> <p>1 (sale of the company): the sale of all or substantially all of the shares in the Company or the operating entities of the Company Group;</p> <p>2 (sale of assets): the sale or transfer or other disposition in a single transaction or a series of related transactions (but not including a transfer or disposition by pledge or mortgage to a bona fide lender) of all or substantially all of the assets of the Company Group (other than to a wholly-owned Subsidiary of the Company);</p> <p>3 (merger): a merger or consolidation in which:</p> <ul style="list-style-type: none"> • the Company or one of its Subsidiaries is a constituent party; and • the Company issues shares pursuant to such merger or consolidation, <p>except a merger or consolidation involving the Company or one of its Subsidiaries in which the shares of the Company on issue immediately before such merger or consolidation continue to represent, or are converted into or exchanged for shares that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the issued shares of the surviving or resulting corporation or, if the surviving or resulting</p>



Term	Meaning
	<p>corporation is a wholly owned Subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation;</p> <p>4 (IPO) an IPO;</p> <p>5 (demerger) demerge, distribute, or otherwise transfer, assign, or dispose of rights in relation to a particular Industrial Mineral or subset of Industrial Minerals to a new entity or entities outside of the Company Group;</p> <p>6 (winding up) the liquidation, dissolution, or winding up of the Company; or</p> <p>7 (return of capital) any other return of all or substantially all of the capital by the Company to Shareholders.</p>
Majority Shareholder Approval	is defined in clause 5.4.
Management Equity Plan	the Company's management equity plan approved by the Board from time to time.
New Securities	is defined in clause 6.1.
Notice	is defined in clause 16.1.
Notice of Issue	is defined in clause 6.1.
Notice of Sale	is defined in clause 10.1.
Ordinary Share	an ordinary share in the capital of the Company having the rights set out in the Constitution.
Person	means any individual, corporation, partnership, trust, limited liability company, association or other entity.
Potential Event of Default	anything which would become an Event of Default on the giving of notice (whether or not notice is actually given), the expiry of time, the satisfaction or non-satisfaction of any condition, or any combination of the above.
Power	any right, power, authority, discretion or remedy conferred by this



Term	Meaning
	document or any applicable law.
PPSA	the <i>Personal Property Securities Act 2009</i> (Cth).
Related Corporation	a 'related body corporate' as that expression is defined in the Corporations Act.
Relevant Entity	is defined in clause 18.1.
Relevant Party	is defined in clause 18.1.
Restructuring Event	any event which involves the transfer of Securities by any of the Shareholders and which the Board notifies the Shareholders in writing is part of a genuine corporate restructuring or transaction that will not result in the actual final realisations of the Shareholders' economic interest in the Company Group, including any corporate restructuring or other comparable transaction required in connection with amending or refinancing any of the Company Groups' debt financing facilities or as part of a Liquidity Event.
Scheme	the proposed scheme of arrangements under Part 26 of the Companies Act (UK) under which certain rights in relation to the Industrial Minerals will be demerged from wholly owned subsidiaries of Tulla Resources and certain shareholders in Tulla Resources will be given the opportunity to acquire Shares.
Securities	<ul style="list-style-type: none"> • Shares; • debentures, convertible notes or other debt securities in the Company; • rights, interests, options or warrants to subscribe for, purchase or otherwise acquire Shares; • any other equity or other instruments (including quasi-debt, quasi-equity or hybrid nature) convertible into or exchangeable for Shares; and • rights to purchase any of the above.
Security Interest	a right, interest, power or arrangement in relation to an asset which provides security for the payment or satisfaction of a debt, obligation or liability including under a bill of sale, mortgage, charge, lien, pledge, trust, power, deposit, hypothecation or arrangement for retention of title, and includes an agreement to grant or create any of those things.



Term	Meaning
Selling Shareholder	Any Shareholder or Shareholders collectively holding Shares which represent more than 40% of the issued share capital of the Company.
Selling Shareholder Transfer	is defined in clause 10.1.
Share	a share in the capital of the Company, including (for the avoidance of doubt) Ordinary Shares, having the rights set out in the Constitution.
Shareholder	a shareholder of the Company from time to time and any Beneficial Holder who is taken to be a "Shareholder" as provided for in Schedule 6.
Shareholder Affiliate Group	a group of Shareholders which are Affiliates of each other.
Shareholder Majority	any Shareholder or Shareholders collectively holding Shares which represent more than 50% of the issued share capital of the Company.
Shortfall Securities	is defined in clause 6.3.
Subsidiary	a subsidiary as defined in the Corporations Act.
Tag Along Notice	is defined in clause 10.1.
Tag Along Option	is defined in clause 10.1.
Tagging Shareholder	is defined in clause 10.1.
Transaction Document	<ul style="list-style-type: none"> • this document; and • the Constitution.
transfer	includes any dealing with a Share, including but not limited to, a sale, transfer, assignment, declaration of trust over, granting of an option, swap or any synthetic instrument over or any other alienation



Term	Meaning
	or monetisation of all or any part of the rights attaching to the Share or any interest in (including over any direct or indirect legal or beneficial interest in or over rights of any Share) or exposure to the Share.
Tulla Resources	Tulla Resources Plc (ARBN 122 088 073).

2 Interpretation and document components

2.1 Interpretation

In this document, unless the contrary intention appears:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this document;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this document have a corresponding meaning;
- (e) an expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency as well as an individual;
- (f) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this document;
- (g) a reference to any legislation includes all delegated legislation and amendments, consolidations, replacements or re-enactments of any of them;
- (h) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to a party to a document includes that party's successors and permitted assignees;
- (j) no provision of this document will be construed adversely to a party because that party was responsible for the preparation of this document or that provision;
- (k) a promise on the part of 2 or more persons binds them severally but not jointly;
- (l) a reference to an agreement other than this document includes a deed and any legally enforceable undertaking, agreement or arrangement or understanding whether or not in writing;
- (m) a reference to a month is a reference to a calendar month;
- (n) a reference to time is a reference to time in Sydney, Australia;
- (o) a reference to liquidation or insolvency includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, deregistration, assignment for the



benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person; and

- (p) a reference to a body, other than a party to this document (including, an institute, association or authority), whether statutory or not:
- (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,
- is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

2.2 Interpretation and inclusive expressions

Specifying anything in this document after the words 'include' or 'for example' or similar expressions does not limit what else is included.

2.3 Document components

This document includes any schedule.

2.4 Time

In this document:

- (a) If the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the preceding Business Day;
- (b) if an act prescribed under this document to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day;
- (c) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day; and
- (d) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.

2.5 Currency

In this document:

- (a) a reference to any payment, consideration or price is, unless specified otherwise, a reference to the lawful currency of the United Kingdom; and
- (b) a reference to "dollars" or "\$" is a reference to Australian dollars.



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Schedule 2

Part 1 – Shareholders

Name	Notice details
Tulla Resources Group Pty Limited ACN 124 930 847	Mark Maloney Suite 5, Level 2, 2 Grosvenor Street, Bondi Junction NSW 2022 mark.maloney@tulla.com.au copy to: Mark McIntosh Suite 5, Level 2, 2 Grosvenor Street, Bondi Junction NSW 2022 mark.mcintosh@tulla.com.au



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Part 2 – Custodian and Beneficial Holders

Custodian

Name	Attention	Address	Email
Perpetual Nominees Limited ACN 000 733 700	Head of Custody	Level 18, 123 Pitt Street, Sydney NSW 2000	custodymanagement@perpetual.com.au with a copy to ccscustody@perpetual.com.au

Beneficial Holders

[Redacted]



Schedule 3

Matters requiring Majority Shareholder Approval

For the purposes of clause 5.4, each of the following matters requires prior Majority Shareholder Approval:

- (a) **(Maximum number of Directors)** increasing or decreasing the maximum number of Directors pursuant to clause 4.1;
- (b) **(Capital structure)** any buy-back, capital reduction, financial assistance, or other reorganisation of the capital structure of the Company or any other Company Group Member (except where any such action is being taken in respect of a wholly-owned subsidiary of the Company);
- (c) **(Management Equity Plan)** issue any Securities under the Management Equity Plan above the Approved MEP Allocation;
- (d) **(Constitution)** any amendment or restatement of the Constitution; and
- (e) **(Variation of class rights)** any variation of rights attached to Shares in a class of shares, provided that issuing new shares or securities (including preference shares, options, or convertible securities and including issuing preference shares that rank equally with or senior to existing Shares) will not require Majority Shareholder Approval if all Shareholders have had an opportunity to participate in the issue of such shares or securities in accordance with clause 6 or they are issued pursuant to clause 6.4,

in each case, other than where such matter or action is undertaken in connection with a Liquidity Event which is approved by a Shareholder Majority pursuant to clause 11.



Schedule 4

Deed of Accession

Date ►

1 Introduction

- (a) This deed poll is made, in respect of the Shareholders Agreement (**Shareholders Agreement**) dated *[date]* and as amended from time to time between Phoenix Industrial Minerals Pty Ltd ACN 667 231 816 (**Company**) and each other Shareholder who is a party to the Shareholders Agreement as at the date of this deed poll (collectively the **Parties**), a current copy of which is attached to this deed poll, by *[insert name of New Investor Entity]* (the **New Party**) in favour of the Parties.
- (b) The New Party wishes to *[purchase or have issued to it] / [have transferred or issued to the Custodian to hold on bare trust for the New Party on the terms set out in the Custodian Terms]* the Shares specified in clause 4 subject to the terms of the Shareholders Agreement and with effect on and from the date that *[it is entered into the Company's register of members] / [such Shares are entered into the Company's register of members as being held by the Custodian]* (**Accession Date**).
- (c) *[Other Shares may be transferred or issued to the Custodian to hold on bare trust for the New Party from time to time as contemplated under clause 19 of the Shareholders Agreement.]*
- (d) This deed poll may be relied on and enforced by each Party in accordance with its terms even though the Parties are not a party to this deed poll.

2 Definitions, interpretation and general clauses

- (a) In this deed poll, capitalised words and expressions have the same meaning as in the Shareholders Agreement, unless those words or expressions are otherwise defined in this deed poll.
- (b) Clause 2 of Schedule 1 of the Shareholders Agreement applies to this deed poll.
- (c) Clauses 14 and 17 of the Shareholders Agreement apply to this deed poll and are taken to be incorporated in this deed poll with the necessary changes being made.
- (d) This deed poll is irrevocable.



3 Accession

The New Party:

- (a) agrees to become a party to the Shareholders Agreement and to assume all the rights enjoyed by and perform all the obligations applying to the parties under the Shareholders Agreement who are Shareholder *[and who are Beneficial Holders in respect of all Shares transferred or issued to the Custodian to hold on bare trust for the New Party]*;
- (b) agrees to be bound by the Shareholders Agreement on and from the Accession Date in every way *[in respect of all Shares transferred or issued to the Custodian to hold on bare trust for the New Party]* as if the New Party were named as a party to the Shareholders Agreement as a Shareholder *[and a Beneficial Holder]*;
- (c) acknowledges that it has received a copy of the Shareholders Agreement together with all other information it has required in connection with this deed poll and the Shareholders Agreement; and
- (d) appoints each Attorney as its agent and attorney on the terms of clause 11.6 of the Shareholders Agreement and, if applicable, clause 12.6.

4 Details

The details of the New Party for the purposes of Part [#] of Schedule 2 of the Shareholders Agreement are as follows:

Name	Attention	Address	Email	Share Class	Number of shares [in which the Beneficial Holder holds beneficial title]
[New Party]	[insert]	[insert]	[insert]	[insert]	[insert]

5 Warranties

The New Party represents and warrants to each of the Parties that:

- (a) it has the power to enter into and perform its obligations under this deed poll and the Shareholders Agreement;
- (b) it has taken all necessary action to authorise the entry into and performance of its obligations under this deed poll and the Shareholders Agreement;
- (c) its obligations under this deed poll are valid and binding; and
- (d) the entry into and performance of its obligations under this deed poll and the Shareholders Agreement will not breach in any respect any provision of its



constituent documents (including any constitution or any trust deed), any other document, agreement or other arrangement binding upon it or its assets, or any law or direction of any Governmental Agency.

6 Acknowledgment regarding liability

If the New Party is a trustee, responsible entity, investment manager, general partner, custodian, subcustodian or nominee (as the case may be) of a trust, fund or entity, clause 18 of the Shareholders Agreement applies to the New Party mutatis mutandis as if that clause were set out in full in this deed poll.

7 General

- (a) This deed poll is governed by and construed in accordance with the laws of New South Wales, Australia.
- (b) The New Party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia.
- (c) Any provision of, or the application of any provision of, this deed poll which is prohibited in any jurisdiction is, in that jurisdiction ineffective only to the extent of that prohibition.
- (d) Any provision of, or the application of any provision of, this deed poll which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

Executed as a deed poll

New Party

Signed sealed and delivered by
[New Party]
by

sign here ►

_____ **[Signatory 1]**

_____ **[Signatory 2]**

print name _____



Schedule 5

Fair Market Value (pursuant to clause 12.7(b))

- (a) If the Fair Market Value of a Compulsory Transfer Share or Buy Back Share (as applicable) is required to be determined under clause 12.7(b), the Board and the Transferor Shareholder may within 20 Business Days of the relevant Compulsory Transfer Notice or Buy Back Notice being served (as applicable) (or such later as agreed between those persons in writing) agree the Fair Market Value of the Compulsory Transfer Share or Buy Back Share (as applicable).
- (b) Failing agreement between the Board and the Transferor Shareholder in accordance with paragraph (a), the Company and the Transferor Shareholder may appoint a suitably qualified independent valuer (**Valuer**), being a valuer with not less than 15 years' relevant experience from a reputable firm of valuers or accounts (or similar) to determine the Fair Market Value. Failing agreement between the Company and the Transferor Shareholder to appoint a Valuer within 5 Business Days after either party initiates discussions for the selection of a Valuer, the Company or the Transferor Shareholder may, within the following 10 Business Days, request that the chair of the Resolution Institute (or the chair's nominee), select the Valuer. The Company or the Transferor Shareholder (as applicable) must give written notice to the other party of the Valuer within 2 Business Days of his or her appointment.
- (c) In determining Fair Market Value, the Valuer is to be instructed to conduct the valuation:
- (1) in accordance with valuation standards, practices, and principles generally accepted in Australia;
 - (2) with regard to the historical financial performance of the Company Group profit, strategic positioning, future prospects, and undertaking of the Company Group;
 - (3) on the basis of an arm's length transaction between an informed and willing seller and an informed and willing buyer under no compulsion to sell or buy, respectively;
 - (4) allocating the aggregate value of the Compulsory Transfer Share or Buy Back Share (as applicable) as between each different type or class of Share in accordance with their respective rights to participate in the proceeds of a cash sale of all Shares;
 - (5) applying an appropriate discount to the Compulsory Transfer Share or Buy Back Share (as applicable) to reflect that the Compulsory Transfer Shares or Buy Back Shares (as applicable) represent a minority investment in the Company and are illiquid; and
 - (6) subject to the above, on any other basis it considers appropriate.
- (d) The Company and the Transferor Shareholder must instruct the Valuer to provide a certificate of Fair Market Value, as soon as reasonably practicable and, in any event, no later than 10 Business Days following the Valuer's appointment. The Valuer is to be instructed to determine a specific value rather than a range of values.



- (e) The Company and the Transferor Shareholder must promptly supply the Valuer with any information assistance and co-operation requested in writing by the Valuer in connection with its determination. All correspondence between the Valuer (on the one hand) and the Company or the Transferor Shareholder (on the other hand) must be copied to the Company or the Transferor Shareholder (as applicable).
- (f) Subject to paragraphs (c) and (d), in the absence of agreement between the Company and the Transferor Shareholder, the Valuer will decide the procedures to be followed to determine the Fair Market Value under this Schedule 5.
- (g) The Valuer's certificate of Fair Market Value is final and binding on the Company and the Transferor Shareholder in the absence of manifest error or fraud.
- (h) The Valuer's costs must be borne by the Company.



Schedule 6

Shares held by the Custodian

In this Schedule 6 a reference to a 'paragraph' is a reference to a paragraph of this Schedule 6.

1 Custodian

1.1 Custodian Terms

- (a) The Custodian undertakes to each Beneficial Holder to hold the Shares transferred or issued to it as contemplated in clause 19.2 and 19.3 in accordance with the Constitution and the Custodian Terms.
- (b) The Custodian and the Company each agree and undertake to each Beneficial Holder to:
 - (1) comply with all undertakings and obligations set out in the Custodian Terms; and
 - (2) take all actions required as to enable each Beneficial Holder to exercise rights under the Custodian Terms,expressed to be for the benefit of a Beneficial Holder.
- (c) If the Company and the Custodian propose to amend the Custodian Terms, and such amendment is of a formal or administrative nature only or does or will not adversely affect the rights or interests of Beneficial Holders, each Beneficial Holder undertakes to vote in favour of at a meeting of Shareholders, pass any resolutions, and do all other things necessary to give effect to such amendment as directed in writing by the Company and the Custodian.

1.2 Replacement trustee

The restrictions on transfer of Shares in this document do not apply to prevent the transfer of bare legal title in Shares held by the Custodian as bare trustee for any Beneficial Holders to a replacement trustee as contemplated by the Constitution and the Custodian Terms.

2 Operation of this document in respect of Beneficial Holders

2.1 General principles

- (a) Subject to any express treatment or interpretation to the contrary in clause 19 or this Schedule 6:
 - (1) references in this document to "Shares" (including references to a "Shareholder's Shares" or to "Shares held by the Shareholder" or any



similar expression including “Securities” to the extent such Securities comprise Shares) shall be regarded as a reference to both:

- (A) the Beneficial Shares; and
 - (B) each Beneficial Holder’s beneficial interest in those Beneficial Shares,
- (2) references in this document to “Shareholder” shall be regarded as a reference to both:
- (A) the Custodian in respect of the Beneficial Shares; and
 - (B) each Beneficial Holder in respect of its beneficial interest in those Beneficial Shares.
- (b) Each Beneficial Holder must comply with this document in respect of its beneficial interest in its Beneficial Shares in the same way as Shareholders are required to comply with this document in respect of Shares in which they hold legal title.

2.2 Dealings in Shares

- (a) If this document prohibits, restricts or imposes conditions on a Shareholder in respect of the transfer of its Shares, those prohibitions, restrictions and conditions apply:
- (1) to the Custodian in respect of the Beneficial Shares; and
 - (2) to each Beneficial Holder in respect of its beneficial interest in Beneficial Shares.
- (b) If this document contemplates the sale, purchase, or other transfer of some or all of a Shareholder’s Shares, in the case of the Custodian or a Beneficial Holder the relevant provisions are to be regarded as references to:
- (1) the sale, purchase or transfer of a Beneficial Holder’s beneficial interest in Beneficial Shares; and
 - (2) the Beneficial Holder procuring the concurrent transfer by the Custodian of legal title to those Beneficial Shares (at the Beneficial Holder’s direction, under power of attorney, or otherwise).
- and obligations on Shareholders to offer Shares for sale, purchase or transfer are to be construed in a corresponding manner.
- (c) If this document permits any party to issue, transfer or sell Shares to any person that includes permission to issue, transfer or sell Shares to the Custodian as bare trustee for the relevant person.
- (d) Each party who is a Beneficial Holder must give all necessary directions to the Custodian to ensure compliance with clause 19 and this Schedule 6.

2.3 Percentage interests

- (a) If a right under this document is contingent upon a Shareholder having a certain percentage interest in the issued share capital of the Company, a Beneficial Holder’s percentage interest will be taken to be the same as the percentage that its Beneficial Shares are as a percentage of the issued share capital of the Company.
- (b) For the purposes of, and to the extent that a Beneficial Holder has rights under, clause 6:



- (1) the Custodian may offer to subscribe for or acquire New Securities that comprise Shares on behalf of one or more Beneficial Holders; and
 - (2) calculations of the number of New Securities that comprise Shares allocated to the Custodian as an Accepting Shareholder Offeree on behalf of one or more Beneficial Holders will be done based on the number of Beneficial Shares held on bare trust for each Beneficial Holder with each Beneficial Holder's allocation calculated separately.
- (c) For the purpose of, and to the extent that a Beneficial Holder has rights under, clause 10:
- (1) the Custodian may elect to exercise the tag along option in respect of one or more Beneficial Holders' Shares; and
 - (2) calculations of the Custodian's Tag Along Proportion as a Tagging Shareholder on behalf of one or more Beneficial Holders will be done based on the number of Beneficial Shares held on bare trust for each Beneficial Holder with each Beneficial Holder's allocation calculated separately.

2.4 Liquidity Event

- (a) If the Shareholder Majority votes in favour of a Liquidity Event, each Beneficial Holder and the Custodian must take all actions and do all things that the Shareholders are required to take under clause 11 (including voting, providing consent and executing documents) and all other actions reasonably requested by the Board to ensure that those provisions are given full effect in respect of the Beneficial Shares.
- (b) Each Beneficial Holder agrees that the Board may direct the Custodian to take such actions and the Custodian agrees to act in accordance with any such directions.
- (c) If the Board approves a corporate action which requires the approval of any Shareholders, each Beneficial Holder irrevocably appoints the Company and any two directors of the Company severally as its agent and attorney to provide or sign in the name of the Beneficial Holder and on its behalf any consent, resolution or approval as may be required to give effect to the action which was approved by the Board, and each Beneficial Holder hereby approves the Custodian signing any such document that the Board may require in connection with such corporate action (and the provisions of clause 11.6 apply in relation to that appointment as attorney with such changes as are necessary).

2.5 Voting and decisions

- (a) Under the Custodian Terms, the Custodian has appointed each Beneficial Holder as its attorney to, among other things, execute all proxies and forms of transfer and exercise all voting rights in respect of the Beneficial Holder's Beneficial Shares.
- (b) Obligations in this document of Shareholders to exercise voting rights or take other steps or take other steps as registered holders of Shares are to be interpreted as obligations on the Beneficial Holder to exercise such voting rights or take such steps as the Custodian's attorney and if the Beneficial Holder does not or cannot do so, each party must act to ensure that the Custodian exercises such voting rights and take such other steps as required to comply with those



obligations (whether at the Beneficial Holder's direction, under power of attorney, at the Board's direction or otherwise).

2.6 Dividends and proceeds

- (a) Under the Custodian Terms, the Custodian has appointed each Beneficial Holder as its attorney to, among other things, give directions to the Company in respect of the payment of dividends and proceeds.
- (b) Each Beneficial Holder directs the Company to pay dividends and proceeds in respect of its Beneficial Shares directly to that Beneficial Holder, unless a contrary direction for payment is provided to the Company by that Beneficial Holder.

2.7 Access to information

The Company agrees that it will give to the Beneficial Holders copies of any financial statements, reports, circulars or any other documents in relation to the affairs of the Company which are given by the Company to all Shareholders who are the registered holder of the Shares, at the same time and in the same manner as such documentation is given to such Shareholders.

3 Liability

3.1 Indemnity and liability of Custodian

- (a) The Custodian must, to the maximum extent permitted by law and notwithstanding any other provision of this document, act on the direction of the Beneficial Holders, to the extent that each Beneficial Holder exercises day-to-day control over the operation of the trust under which its Beneficial Shares are held.
- (b) The Custodian need not take (or omit to take) any action where the Custodian is of the opinion, acting reasonably, that taking (or omitting to take) the action would be contrary to law.
- (c) Each Beneficial Holder:
 - (1) indemnifies the Custodian against any cost which the Custodian pays, suffers, incurs or is liable for arising out of or in connection with; and
 - (2) covenants with the Custodian not to claim, sue or take any action against the Custodian in relation to,

anything done by the Custodian at the direction of or on behalf of the Beneficial Holder, or by reason of the Beneficial Holder's Beneficial Shares being registered in the name of the Custodian.
- (d) The indemnity and covenant in paragraph 3.1(c) does not apply to:
 - (1) any Cost (as defined in the Custodian Terms) which arises as a result of the Custodian's (or any of its officers', employees' or agents') fraud, negligence, dishonesty, wilful misconduct, breach of any of its obligations under this document, the Constitution or the Custodian Terms or breach of trust;



- (2) the extent that the Custodian is entitled to recover and is actually indemnified for any such Costs (as defined in the Custodian Terms) by the Company under the Custodian Terms or from the assets of the relevant trust under the Custodian Terms; or
 - (3) the Overhead Costs (as defined in the Custodian Terms) of the Custodian, fees of a Related Corporation of the Custodian as custodian of the Custodian and fees of a sub-custodian, nominee or other delegate of such a custodian of the Custodian.
- (e) Subject to paragraph 3.1(b), each party acknowledges that the Custodian is obliged to act in accordance with the directions of the Beneficial Holders in relation to their respective Beneficial Shares. Any breach of this document that arises out of the Custodian complying with a direction given by a Beneficial Holder in relation to that Beneficial Holder's Beneficial Shares (Directed Breach) is to be construed for all purposes as a breach by the relevant Beneficial Holder and not by the Custodian and, without limitation:
- (1) the Custodian is released from any claim, action, demand, suit or proceeding for damages, debt, specific performance or any other remedy in respect of any Directed Breach; and
 - (2) each party (other than the Custodian) covenants not to claim, sue or take any action against the Custodian in respect of any Directed Breach.
- (f) Each indemnity given by a Beneficial Holder in this paragraph 3.1:
- (1) is an additional, separate and independent obligation of the Beneficial Holder and no one indemnity limits the generality of any other indemnity; and
 - (2) survives the termination of this document and the winding up of the Company.

3.2 Indemnity from Beneficial Holders

- (a) Subject to paragraph 3.2(b), if the Company pays, suffers, incurs or is liable to the Custodian for any Costs under the Custodian Terms arising out of or in connection with any Beneficial Shares held by the Custodian on behalf of a Beneficial Holder, the relevant Beneficial Holder must indemnify the Company against those Costs.
- (b) The Company agrees with each Beneficial Holder that it will meet the Custodian's out of pocket expenses and any internal costs falling within clause 9.1(b) of the Custodian Terms relating to actions and directions by the Beneficial Holder in relation to its Beneficial Shares in the ordinary course. This does not apply in relation to Costs that would have been incurred in comparable circumstances by the Beneficial Holder had it been the registered holder of the relevant shares.
- (c) For the avoidance of doubt, paragraph 3.2(b) does not apply in relation to:
 - (1) any taxes or duties in relation to any Shares or dealings in Shares; or
 - (2) any expenses or liabilities arising in connection with any action or direction by a Beneficial Holder which is in breach of any legal or contractual obligation (including a breach of this document),

nor is it intended to require the Company to meet Costs incurred as a result of actions or directions by a Beneficial Holder that are unreasonable or otherwise outside the ordinary course (for example persistent requests for copies of the



register of Beneficial Holders or other documents beyond what would reasonably expected).

3.3 Limitation of Custodian's liability

- (a) The limitation of the Custodian's liability in this paragraph 3.3 applies despite any other provisions of this document and extends to all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Custodian under or in respect of this document (**Custodian Obligations**) in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
- (b) Subject to paragraphs 3.3(c) and 3.3(d):
- (1) the Custodian is bound by this document only in its capacity as trustee of each trust created on the terms of the Custodian Terms (each, a **Relevant Bare Trust**) and in no other capacity;
 - (2) the parties (other than the Custodian) acknowledge that the Custodian incurs the Custodian Obligations solely in its capacity as trustee of the Relevant Bare Trusts and that the Custodian will cease to have any Custodian Obligations under this document in relation to Beneficial Shares after the time the Custodian ceases to be a legal holder of the relevant Beneficial Shares as trustee of the Relevant Bare Trust;
 - (3) the Custodian will not be liable to pay or satisfy any Custodian Obligations except to the extent that the Custodian is actually indemnified under the each indemnity of the Custodian under the Custodian Terms or paragraphs 3.1(c) and 3.1(d) (**Custodian Indemnity Provisions**) or to the extent that and at the time the Custodian would, if the Custodian exercised its entitlement to be indemnified, be actually indemnified in respect of that liability under the Custodian Indemnity Provisions;
 - (4) the parties (other than the Custodian) may enforce their rights against the Custodian arising from non-performance of the Custodian Obligations only to the extent of the Custodian's right to be indemnified under the Custodian Indemnity Provisions;
 - (5) if a party (other than the Custodian) does not recover all money owing to it arising from non-performance of the Custodian Obligations it may not seek to recover the shortfall by:
 - (A) bringing proceedings against the Custodian in its personal capacity; or
 - (B) applying to have the Custodian put into administration or wound up or applying to have a receiver or similar person appointed to the Custodian or proving in the administration or winding up of the Custodian; and
 - (6) each party (other than the Custodian) waives its rights and releases the Custodian from any personal liability whatsoever, in respect of any loss or damage:
 - (A) which it may suffer as a result of any (i) breach by the Custodian of any of its Custodian Obligations; or (ii) non-performance by the Custodian of the Custodian Obligations; and



- (B) which cannot be paid or satisfied out of the proceeds of the indemnities given under the Custodian Indemnity Provisions.
- (c) The parties acknowledge that the whole of this document is subject to this paragraph 3.3 and that the Custodian shall in no circumstances be required to satisfy any liability of the Custodian arising under, or for non-performance or breach of, any Custodian Obligations out of any funds, property or assets other than the proceeds of the indemnities given under the Custodian Indemnity Provisions as and when they are available to the Custodian to be applied in exoneration for such liability provided that, subject to paragraph 3.3(d), if the liability of the Custodian arising under, or for non-performance or breach of, any Custodian Obligations is not fully satisfied out of the proceeds of the indemnities given under the Custodian Indemnity Provisions due to negligence, breach of any obligations under this document, the Constitution or the Custodian Terms or breach of trust (excluding any negligence or breach that arises as a result of any fraud, dishonesty or wilful misconduct) by the Custodian or any of its officers, employees or agents in the performance of the Custodian's duties as trustee of the Relevant Bare Trusts, the Custodian will be liable to pay out of its own funds, property and assets the unsatisfied amount of that liability, but will not be liable to pay an amount that is greater than the amount that the Custodian would have been able to recover under the Custodian Indemnity Provisions in relation to the relevant liability if its right to be indemnified under the Custodian Indemnity Provisions had not been prejudiced.
- (d) Paragraphs 3.3(b) and 3.3(c) do not apply to any damages suffered by or amounts owing to another party which result from a breach or non-performance of an Custodian Obligation by the Custodian to the extent that those damages or amounts owing are not satisfied because the right of the Custodian to be indemnified under the Custodian Indemnity Provisions is prejudiced as a result of any fraud, dishonesty or wilful misconduct by the Custodian or any of its officers, employees or agents in the performance of the Custodian's duties as trustee of the Relevant Bare Trusts.
- (e) The parties (other than the Custodian) agree that no act or omission of the Custodian (including any failure to satisfy any Custodian Obligations) will constitute fraud, negligence, breach of trust, breach of any obligations under this document, the Constitution or the Custodian Terms, dishonesty or wilful misconduct of the Custodian or of any of its officers, employees or agents for the purposes of this paragraph 3.3 to the extent to which the act or omission was caused or contributed to by any failure of a party to this document (other than the Custodian) or any other person (other than an officer, employee or agent of the Custodian) to fulfil its obligations relating to the Relevant Bare Trusts or by any other act or omission of a party to this document (other than the Custodian) or any other person (other than an officer, employee or agent of the Custodian).
- (f) No attorney, agent or other person appointed in accordance with this document has authority to act on behalf of the Custodian in a way which exposes the Custodian to any personal liability (except in accordance with the provisions of this paragraph 3.3), and no act or omission of such a person will be considered fraud, negligence, dishonesty, wilful misconduct, breach of any obligations under this document, the Constitution or the Custodian Terms or breach of trust by the Custodian or an officer, agent or employee of the Custodian for the purposes of this paragraph 3.3.



HERBERT
SMITH
FREEHILLS

Signing pages

Executed as an agreement

Company

Signed by
**Phoenix Industrial Minerals Pty
Ltd**

by

DocuSigned by:
Stephen Maffey
990C21EA6D754E5
Company Secretary/Director

print name Stephen Maffey

DocuSigned by:
Andrew Greville
0BC57240495A4C6...
Director

print name Andrew Greville

Custodian

Signed for
Perpetual Nominees Limited
by its attorney

in the presence of

sign here ► _____
Attorney

print name _____

sign here ► _____
Witness

print name _____

Shareholder

Signed by
**Tulla Resources Group Pty
Limited**

by

DocuSigned by:
Mark McIntosh
BA1C23BDAA0541A...
Company Secretary/Director

print name Mark McIntosh

DocuSigned by:
Kevin Maloney
FACC044CCA9341B...
Director

print name Kevin Maloney



HERBERT
SMITH
FREEHILLS

Signing pages

Executed as an agreement

Company

Signed by
**Phoenix Industrial Minerals Pty
Ltd**
by

sign here ► _____
Company Secretary/Director

sign here ► _____
Director


print name _____


print name _____

Custodian

Signed for
Perpetual Nominees Limited
by its attorney

in the presence of

sign here ► 
DocuSigned by:
C822EBE1943E4ED...
Attorney

sign here ► 
DocuSigned by:
9280E7502D204C4...
Witness

print name John Newby _____

print name Christine Sacqualini _____

Shareholder

Signed by
**Tulla Resources Group Pty
Limited**
by

sign here ► _____
Company Secretary/Director

sign here ► _____
Director

print name _____

print name _____