

**Form 603**  
Corporations Act 2001  
Section 671B

**Notice of initial substantial holder**

To Company Name/Scheme Medusa Mining Limited (MML)

ACN/ARSN 099 377 849

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

Name Medusa Mining Limited

ACN/ARSN (if applicable) 099 377 849

This notice is given by Medusa Mining Limited on behalf of itself and each of its related bodies corporate (**MML Subsidiaries**) named in the list of 1 page annexed to this notice and marked **A**

The holder became a substantial holder on 24 February 2022

**2. Details of voting power**

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

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
Ordinary Shares	15,829,470	15,829,470	6.94%

**3. Details of relevant interests**

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

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
MML (and each of the MML Subsidiaries listed in Annexure A)	<p>Taken under section 608(1)(c) of the Corporations Act 2001 (Cth) to have a relevant interest arising from the power to control the disposal of securities pursuant to the Share Sale Deed between MML and the Shareholders of Ten Sixty Four Limited (among others) dated 3 February 2022, a copy of which is annexed to this notice and is marked <b>B (Share Sale Deed)</b>. These securities are referred to as the <b>Escrow Shares</b>.</p> <p>MML does not have a right to acquire the Escrow Shares or to exercise or control the exercise of any right to vote attached to the Escrow Shares.</p>	15,829,470 fully paid ordinary shares

**4. Details of present registered holders**

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

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
MML (and each of the MML Subsidiaries listed in Annexure A)	Vitrinite Holdings Pty Ltd ACN 614 033 180	Vitrinite Holdings Pty Ltd ACN 614 033 180	7,248,235 fully paid ordinary shares
MML (and each of the MML Subsidiaries listed in Annexure A)	Vitrinite Holdings LLC	Vitrinite Holdings LLC	5,626,226 fully paid ordinary shares
MML (and each of the MML Subsidiaries listed in Annexure A)	New Canaan Capital Advisors LLC	New Canaan Capital Advisors LLC	855,076 fully paid ordinary shares

MML (and each of the MML Subsidiaries listed in Annexure A)	DDH Graham Limited ACN 010 639 219 as trustee for the Lugarno Fund ABN 97 145 780 707	DDH Graham Limited ACN 010 639 219 as trustee for the Lugarno Fund ABN 97 145 780 707	736,000 fully paid ordinary shares
MML (and each of the MML Subsidiaries listed in Annexure A)	PWD Capital LLC	PWD Capital LLC	368,000 fully paid ordinary shares
MML (and each of the MML Subsidiaries listed in Annexure A)	Fidelity Canada Clearing ULC ITF	Fidelity Canada Clearing ULC ITF	294,000 fully paid ordinary shares
MML (and each of the MML Subsidiaries listed in Annexure A)	William Ian Lambert	William Ian Lambert	148,000 fully paid ordinary shares
MML (and each of the MML Subsidiaries listed in Annexure A)	K.Vedelago & Associates Pty Ltd ACN 066 108 736 as trustee for the Kevin Vedelago Super Fund ABN 98 097 877 128	K.Vedelago & Associates Pty Ltd ACN 066 108 736 as trustee for the Kevin Vedelago Super Fund ABN 98 097 877 128	148,000 fully paid ordinary shares
MML (and each of the MML Subsidiaries listed in Annexure A)	RB & PB Holdings Pty Ltd ACN 649 787 397 as trustee for the RB & PB Holdings Trust	RB & PB Holdings Pty Ltd ACN 649 787 397 as trustee for the RB & PB Holdings Trust	148,000 fully paid ordinary shares
MML (and each of the MML Subsidiaries listed in Annexure A)	Frances Phillips	Frances Phillips	119,560 fully paid ordinary shares
MML (and each of the MML Subsidiaries listed in Annexure A)	Konstandinos Ghoussias	Konstandinos Ghoussias	74,000 fully paid ordinary shares
MML (and each of the MML Subsidiaries listed in Annexure A)	Ronald Phillips	Ronald Phillips	64,373 fully paid ordinary shares

## 5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-cash	
MML (and each of the MML subsidiaries listed in Annexure A)	24 February 2022			15,829,470

The relevant shares referred to in paragraph 3 were issued under the Share Sale Deed. The persons in paragraph 3 comprise certain of the sellers under the Share Sale Deed, being all of the sellers who elected to have the MML shares issued to them be subject to voluntary escrow arrangements. No consideration was payable to these persons for agreeing to have their newly issued MML shares subject to voluntary escrow arrangements.

Under the Share Sale Deed, each seller (including those not listed in paragraph above) received approximately 1 newly issued MML share in consideration for every 6.8 shares in Ten Sixty Four Limited transferred to Medusa (rounded as required).

## 6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
Each of the Medusa Mining Limited Subsidiaries listed in Annexure A	Each entity listed in Annexure A is an associate of MML by virtue of section 12(2)(a) of the Corporations Act 2001 (Cth) as the entities are each controlled by MML.

## 7. Addresses

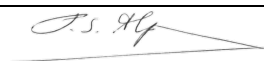
The addresses of persons named in this form are as follows:

Name	Address
MML	Suite A, Level 1, 1 Preston Street Como, Western Australia 6152 PO Box 122 South Perth, Western Australia 6951

## Signature

print name Peter Alphonso capacity Company secretary

sign here



date 28.02.2022

### DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
  - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
  - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown."
- (9) Details of the consideration must include any and all benefits, moneys and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

**Annexure A**

Corporations Act 2001

THIS IS ANNEXURE A OF 1 PAGE REFERRED TO IN FORM 603 – NOTICE OF INITIAL SUBSTANTIAL HOLDER.

corporation name

MEDUSA MINING LIMITED

ACN or ARBN

099 377 849

further details

LIST OF MML SUBSIDIARIES

**Signature**

I certify that the information in this form is true and complete.

print name Peter Alphonso

capacity Company secretary

sign here



date 28.02.2022

Entity	Country of incorporation
Komo Diti Traders Limited	Hong Kong
Medusa Exploration & Development Corporation	Philippines
Medusa Overseas Holding Corporation	Philippines
Mindanao Mineral Processing and Refining Corporation	Philippines
Philsaga Mining Corporation	Philippines
Phsamed Mining Corporation	Philippines
Ten Sixty Four Limited	Australia

**Annexure B**

Corporations Act 2001

THIS IS ANNEXURE B OF 159 PAGES REFERRED TO IN FORM 603 – NOTICE OF INITIAL SUBSTANTIAL HOLDER.

corporation name

MEDUSA MINING LIMITED

ACN or ARBN

099 377 849

further details

SHARE SALE DEED DATED 03 FEBRUARY 2022

**Signature**

I certify that the information in this form is true and complete.

print name Peter Alphonso

capacity Company secretary

sign here



date 28.02.2022



## Share Sale Deed

The parties listed at Schedule 1

and

Medusa Mining Limited

ACN 099 377 849

and

Ryan Welker, Nicholas Williams, Matthew Burgess and  
Lazaros Nikeas

Acquisition of shares in Ten Sixty Four Limited

2022

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## Annexure

A	Form of Sellers' Completion Statement
B	Form of Buyer's Completion Statement

- C Form of Option Cancellation Deeds
- D Form of Offer Letter
- E Investor Certificates for Canadian and US Investors
- F Disclosure Letter
- G Form of deed poll releases

**THIS DEED** is made on

2022

**BETWEEN:**

- (1) **The parties listed at Schedule 1 (Sellers, and Seller** means any one of them);
- (2) **Medusa Mining Limited** ACN 099 377 849 whose registered office is Suite A, Level 1,1 Preston Street , Como, Western Australia 6152 (**Buyer**);
- (3) **Ryan Welker** C/- Vitrinite Pty Ltd, Level 6 Suite 2, Blue Tower, 12 Creek Street, Brisbane QLD 4000 (**Welker**);
- (4) **Nicholas Williams** C/- Vitrinite Pty Ltd, Level 6 Suite 2, Blue Tower, 12 Creek Street, Brisbane QLD 4000 (**Williams**);
- (5) **Matthew Burgess** C/- Vitrinite Pty Ltd, Level 6 Suite 2, Blue Tower, 12 Creek Street, Brisbane QLD 4000 (**Burgess**); and
- (6) **Lazaros Nikeas** C/- Vitrinite Pty Ltd, Level 6 Suite 2, Blue Tower, 12 Creek Street, Brisbane QLD 4000 (**Nikeas**).

**RECITALS:**

- (A) The Sellers are the registered holders of the Sale Shares.
- (B) The Sellers have agreed to sell, and the Buyer has agreed to buy, the Sale Shares on the terms and conditions set out in this document.
- (C) The Covenantors are the directors of the Company, have a financial interest in the sale and purchase of the Sale Shares and have agreed to provide certain covenants to the Buyer on the terms and conditions set out in this document.

**THE PARTIES AGREE AS FOLLOWS:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

**Accounting Principles** means the principles and methodology set out in Schedule 6.

**Acceptance Form** means an acceptance form (in the form contained in Schedule 1 of the Offer Letter, subject to any amendments agreed between the Buyer and the Target Company from time to time) validly completed by a Seller.

**Accounting Standards** means:

- (a) the requirements of the Corporations Act about the preparation and content of accounts; and
- (b) the accounting standards approved under the Corporations Act, being the Australian accounting standards and any authoritative interpretations issued by the Australian Accounting Standards Board.

**Accounts** means the financial statements of the Target Company for the period ending on the Accounts Date, contained in Folder ██████████ in the Data Room.

**Accounts Date** means 30 June 2021.

**Affiliate** means in respect of a person (**Primary Person**), a person:

- (a) Controlled directly or indirectly by the Primary Person;
- (b) Controlling directly or indirectly the Primary Person; or
- (c) directly or indirectly under the common Control of the Primary Person and another person or persons,

and, for the avoidance of doubt, and, solely for the purposes of this document:

- (d) a general partner is deemed to Control a limited partnership;
- (e) a fund advised or managed, directly or indirectly, by a person will also be deemed to be Controlled by such person; and
- (f) a fund will be deemed to be an Affiliate of the Primary Person if the fund is advised or managed, directly or indirectly, by a person Controlling directly or indirectly the Primary Person or a person directly or indirectly under the common Control of the Primary Person and another person or persons.

**Assessment** means something which creates or evidences an obligation to pay an ascertained amount for Tax at or before a fixed time, such as:

- (a) any document received from a Government Agency administering any Tax, assessing, imposing, claiming or indicating an intention to claim any Tax (such as an assessment, penalty notice or demand);
- (b) a notice to a contributing member of a consolidated group given under section 721-15(5) of the Tax Act; or
- (c) lodgement of a Tax return or a request for amendment of an assessment under a law about self-assessment of Tax.

**Assets** means all assets owned or used by the Target Company in connection with the Business, including the Tenements.

**ASX** means ASX Limited ACN 008 624 691 or the securities exchange operated by it (as the context requires).

**Australian Consumer Law** means Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

**Authorisation** includes:

- (a) any authorisation, consent, approval, registration, filing, agreement, notice of non-objection, notarisation, certificate, licence, permit, authority or exemption from, by or with a Government Agency; and
- (b) in relation to anything which will be prohibited or restricted in whole or in part by law if a Government Agency intervenes or acts in any way within a specific period after lodgement, filing registration, registration or notification, the expiry of that period without intervention or action.

**Business** means the business conducted by the Target Company as at the date of this document, being the exploration of minerals on the Tenements.

**Business Day** means a day on which banks are open for business excluding Saturdays, Sundays or public holidays in Perth, Western Australia.

**Business Records** means original copies of all books, files, reports, financial and other records, documents, correspondence, information, accounts and data (whether machine readable or in printed form) owned by or relating to the Target Company.

**Buyer Group** means the Buyer and each of its Related Bodies Corporate, including from Completion the Target Company and **Buyer Group Member** means any one of them.

**Buyer Group Management Representative** means any of:

- (a) Andrew Teo;
- (b) Patrick Warr;
- (c) Peter Alphonso; or
- (d) James Lorca.

**Buyer Warranties** means the warranties set out in clause 15.1.

**Buyer's Completion Statement** means the notification to be delivered in accordance with clause 6.2(b) in the form set out at Attachment B.

**Cash** means the amount of cash and cash equivalents of the Target Company on hand or credited to an account with a bank or other financial institution, including all interest accrued thereon, as at the Effective Time.

**CGT Declaration** means a valid declaration (in the ATO form NAT 74879-06.2016 or any replacement or successor of such form) from a Seller that either:

- (a) the Seller is a resident of Australia as defined in section 995-1 of the Tax Act; or
- (b) the Seller's Sale Shares are not indirect Australian real property interests (as defined in section 995-1 of the Tax Act),

that covers the Completion Date.

**Claim** means any allegation, debt (including any claim by any person or financial institution in respect of secured or unsecured debt), cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

**Cleansing Statement** means a notice in relation to the Consideration Shares given by the Buyer in accordance with section 708A(5) of the Corporations Act.

**CoC Agreements** means the agreements referred to in Schedule 11.

**Commissioner** means the Commissioner of Taxation.

**Completion** means completion of the sale and purchase of the Sale Shares under clause 6 and **Complete** has a corresponding meaning.

**Completion Accounts** means the accounts prepared for the Target Company as at the Effective Time in accordance with clause 7 and Schedule 6, and in the form set out in Schedule 5.

**Completion Date** means the later of:

- (a) the last Business Day in the calendar month in which all of the Conditions have been satisfied or waived unless the satisfaction of waiver of the last of those Conditions

occurs within 3 Business Days of the end of the month, in which case completion will occur on the last Business Day of the following month; or

(b) such other date as the Sellers' Representative and the Buyer agree in writing.

**Completion Net Current Assets Amount** means the "Total Current Net Assets" of the Target Company, as set out in the Completion Accounts.

**Condition** means a condition set forth in clause 2.1, and **Conditions** has a corresponding definition.

**Confidentiality Agreement** means the confidentiality deed between the Buyer and the Target Company dated 2 August 2021.

**Consideration Share** means a fully paid ordinary share in the Buyer.

**Contamination** has the meaning given to it in the *Environmental Protection Act 1994* (Qld) and **Decontaminate** has a corresponding meaning.

**Continuing Officer** means Ryan Welker and Nicholas Williams, and the directors and officers of the Target Company who will continue in those roles following Completion as nominated by the Buyer pursuant to clause 6.2(b)(i).

**Control** has the meaning given to that term in the Corporations Act.

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

**Covenantor** means each of Welker, Williams, Burgess and Nikeas, and together referred to as the **Covenantors**.

**Covenantor Relevant Proportion** means:

- (a) Welker – 25%;
- (b) Williams – 25%;
- (c) Burgers – 25%; and
- (d) Nikeas – 25%.

**Data Room** means the online data room hosted by Ansarada established by or on behalf of the Sellers under the name "Vitrinite" as at 11.30am on 10 January 2022, an electronic copy of which has been provided by the Sellers to the Buyer no later than the date of this document.

**Debt** means, without double counting any liability or indebtedness (whether actual or contingent) which may be described in more than one of the paragraphs of this definition, in respect of the Target Company, the total amount of indebtedness (whether actual or contingent) of the Target Company as at the Effective Time, including in respect of:

- (a) the aggregate of any other amount owed by the Target Company to any other bank or other external lender or financial institution or person in respect of all interest and non-interest bearing loans or other financing liabilities or obligations (including bank overdrafts and overdraft credit card balances);
- (b) any "earn out amount", "contingent payment", "deferral payment", "break fee" or similar payment obligation under a written contract, including the acquisition cost of any asset to the extent payable before or after the time of acquisition or possession, unless the full amount of the payment obligation is being held in escrow by a third

party agent and available to satisfy the payment obligation on it becoming due under the relevant contract;

- (c) the unpaid amount of any dividend which is declared or becomes payable to a Seller Affiliate after the date of this document;
- (d) bank guarantees in respect of the Target Company in favour of customers, suppliers or landlords, which have been called on or drawn;
- (e) all bonuses (including but not limited to incentive bonuses, retention bonuses and bonuses directly related to the completion of the transactions contemplated by this document) and other payments that are accrued and payable (but unpaid, as at Completion) by the Target Company to any Employee or any contractor to the Target Company, including any Tax associated with such bonuses or other payments including superannuation contributions, payroll tax and workers compensation, including any amounts payable or that may be payable by the Target Company under the [REDACTED] Engagement Letter;
- (f) all amounts to payout or otherwise close-out in connection with Completion any swap or derivative if required as a result of the early repayment of any indebtedness referred to in any other paragraph of this definition, including any Tax, costs and fees payable as a result of such payout;
- (g) any obligations under any lease, hire purchase arrangement or similar arrangement which, in accordance with Accounting Standards is classified as a balance sheet liability (other than any liability in respect of a lease, hire purchase arrangement or similar arrangement which would, in accordance with the Accounting Standards in force prior to 1 January 2019, have been treated as an operating lease); and
- (h) accrued but unpaid interest, prepayment and redemption premium or penalties (if any), break costs, unpaid fees, charges and expenses, Taxes and other monetary obligations on, or in relation to, any indebtedness described in paragraphs (a) to (g) of this definition, including all costs and fees (including any indemnity costs) payable by the Target Company in relation to the early repayment of any Debt on the date of Completion.

**Demand** means a written notice of, or demand for, an amount payable or a written notice by a third party in relation to a Third Party Claim.

**Disclosure Letter** means the letter from the Sellers addressed to the Buyer and dated and delivered to it on the date of this document, disclosing matters in relation to the Seller Warranties, a copy of which is attached in Attachment F, and includes all of its schedules and annexures (as relevant).

**Disclosure Materials** means:

- (a) the Medusa Reviewed Data Room Materials;
- (b) the RFI Materials;
- (c) the Due Diligence Report; and
- (d) the Disclosure Letter.

**Dispose of** means dispose of or agree to dispose of, directly or indirectly and legally, beneficially or legally and beneficially, to another person by any means.

**Disputed Matters** has the meaning given in clause 10.2(b).



**Disputing Action** means in respect of an Assessment, any action to cause the Assessment to be withdrawn, reduced or postponed or to avoid, resist, object to, defend, appear against or compromise the Assessment and any judicial or administrative proceedings arising out of that action.

**Due Diligence Report** means [REDACTED].

**Duty** means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them, but excludes any Tax.

**Effective Time** means 11.59pm on the date of Completion.

**Employees** means the employees of the Target Company engaged in connection with the Business.

**Encumbrance** means:

- (a) a mortgage, charge, lien, pledge, trust, encumbrance, retention of title arrangement, or any other security interest securing any obligation of any person or other agreement or arrangement having a similar effect;
- (b) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property; or
- (c) a PPS Security Interest; or
- (d) an easement, restrictive covenant, caveat or similar restriction over property,

and, in respect of paragraph (a), (b) and (c) only, includes any agreement to create any of them or allow them to exist.

**End Date** means 28 February 2022, or such later date as agreed by the parties in writing.

**Enterprise Value** means [REDACTED].

**Environment** has the meaning given to it in the *Environmental Protection Act 1994* (Qld)

**Environmental Law** means:

- (a) any legislation, other Law or standard set by a Government Agency which regulates or has as its purpose, objective or effect the regulation, protection, conservation or enhancement of the Environment; and
- (b) all Authorisations issued under any legislation, other Law or standard described in paragraph (a) above.

**Escrow Party** means each Seller that has elected and agreed in their Acceptance Form to the application of escrow restrictions to their Consideration Shares.

**Escrow Period** means, in respect of an Escrow Party, the period of time for which the Escrow Party's Escrow Shares will be subject to the escrow restrictions set out in clause 7, such period being as specified in column 6 of Schedule 1, being the period of time elected by the Escrow Party in their Acceptance Form.

**Escrow Shares** means, in respect of an Escrow Party, all of the Consideration Shares issued to the Escrow Party at Completion.

**Estimated Net Current Assets Amount** means the Sellers' bona fide estimate of the Completion Net Current Assets Amount, as set out in the Sellers' Completion Statement.

**Existing Options** means all options or rights to acquire shares or other securities in the Target Company.

**Exploration Program** means the only exploration program activities for 1064 for the period from December 2021 to January 2022 being consistent with activities agreed with the Buyer Group Management Representatives.

**Fairly Disclosed** means disclosed in such manner and detail that a sophisticated investor, experienced in deals of the nature of the Transaction, would be able to identify the extent, substance, nature, scope, duration and significance of the relevant matter, event or circumstance.

**Government Agency** means a government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency, office or entity whether foreign, federal, state, territorial or local.

**Group Fundamental Warranty** means each warranty set out in paragraphs 3 and 4 of Schedule 3.

**Group Warranty** means each Seller Warranty other than the Seller Title and Capacity Warranties.

**GST** means goods and services tax or similar value added tax levied or imposed in Australia under the GST Law.

**GST Law** has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

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

**Immediately Available Funds** means cash, bank cheque or telegraphic or other electronic means of transfer of cleared funds.

**Independent Accountant** means a partner of at least 10 years standing from an independent, reputable chartered accounting firm (which is not an auditor or adviser to a party or to an Affiliate of a party):

- (a) who is agreed to by the Buyer and the Sellers' Representative; or
- (b) failing agreement by those parties within two Business Days after the date on which a party requests the appointment of an expert, who is nominated by the Chairman of the Resolution Institute to act in accordance with the Expert Determination Rules of the Resolution Institute.

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

- (a) an administrator being appointed to the person;
  - (i) a controller or analogous person being appointed to the person or any of the person's property;

- (ii) an application being made to a court for an order to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property; or
- (iii) an appointment of the kind referred to in subparagraph (ii) being made (whether or not following a resolution or application);
- (b) the holder of an Encumbrance or any agent on its behalf, appointing a controller or taking possession of any of the person's property (including seizing the person's property within the meaning of section 123 of the PPSA) or otherwise enforcing or exercising any rights under an Encumbrance or Chapter 4 of the PPSA, in each case where the amount owed to that creditor exceeds \$50,000;
- (c) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (d) an application being made to a court for an order for its winding up;
- (e) an order being made, or the person passing a resolution, for its winding up;
- (f) the person:
  - (i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or
  - (ii) being unable to pay its debts or otherwise insolvent;
- (g) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (h) a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or
- (i) any analogous event under the laws of any applicable jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation.

**Intellectual Property Rights** means all industrial and intellectual property rights of whatever nature throughout the world conferred under statute, common law or equity, whether existing now or at any time in the future, and includes rights in respect of or in connection with copyright, inventions (including patents), formulae, databases, business processes and methods, circuit layouts, plant varieties, trade marks, service marks, trading names (including both business and company names), domain names, designs, confidential information, trade secrets and know-how and similar industrial and intellectual property rights, whether or not registered or registrable, and includes the right to apply for or renew the registration of such rights.

**Data Room** means [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED].

**Listing Rules** means the Listing Rules of ASX and any other rules of ASX which are applicable while the Buyer is admitted to the Official List of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.

**Loss** means any cost (including legal costs and expenses of whatsoever nature or description), damages, debt, expense, liability or loss and includes Taxes, Duties and Tax Costs.

**Material Contracts** means [REDACTED].

**[REDACTED] Reviewed Data Room Materials** means [REDACTED].

**Medusa Reviewed Data Room Materials** means the specific documents specified in Schedule 12.

**Mining Act** means the Mineral Resources Act 1989 (Qld) and the Mineral and Energy Resources (Common Provisions) Act 2014 (Qld).

**[REDACTED] Engagement Letter** means the engagement letter dated [REDACTED] between Ten Sixty Four Pty Ltd and [REDACTED].

**Native Title Act** means the *Native Title Act 1993* (Cth).

**New Officers** means the new directors and officers to be appointed in respect of the Target Company with effect from Completion as nominated by the Buyer pursuant to clause 6.2(b)(i).

**Offer Letter** means a letter sent from the Target Company to a Seller, in the form set out in Attachment D (subject to any amendments agreed between the Buyer and the Target Company from time to time).

**Officer** means, in relation to a body corporate, a director or secretary of that body corporate.

**Option Cancellation Deeds** means the option cancellation deeds between the Target Company and each holder of Existing Options, dated on or about the date of this document, in the form contained in Attachment C to this document (subject to any amendments agreed between the Buyer and the Target Company from time to time).

**Permitted Encumbrance** means any:

- (a) security registered by the Buyer over the assets of the Target Company;
- (b) lien or charge arising in favour of a Government Agency by operation of statute so long as the debt it secures is paid when due or contested in good faith;
- (c) that arises by the operation of law and in the ordinary course of business which is not more than 60 days overdue and does not arise by reason of an event of default (howsoever defined) existing under the underlying arrangement that the lien relates to (unless being contested or litigated in good faith);
- (d) security arising under a retention of title arrangement or conditional sale agreement, licence or arrangements having a similar effect in respect of goods supplied in the ordinary course of day-to-day trading and on the supplier's standard or usual terms (or on terms more favourable to the Target Company);
- (e) arrangement or transaction which is a "security interest" of the kind referred to in section 12(3) of the PPSA where the arrangement or transaction does not secure payment or performance of an obligation;

- (f) a right of set-off included in a contract entered in the ordinary course of day-to-day trading that does not secure financial indebtedness;
- (g) the "other goods" security interest registered against Target Company in favour of, among others, [REDACTED] described in PPSR registration number [REDACTED]; and
- (h) any other security or encumbrance subsisting with the prior written consent of the Buyer.

**Permitted Warranty Claim** has the meaning given in clause 13.7(a)(i).

**Powers of Attorney** means the powers of attorney granted by each of the Sellers, other than the Vitrinite Sellers, in favour of any two directors of the Target Company in respect of the signing of the Transaction Agreements and performance of the Transactions, in accordance with the Offer Letter.

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

**PPS Register** means the Personal Property Securities Register established under the PPSA.

**PPS Security Interest** means a security interest that is subject to the PPSA.

**Pre-Completion Return** has the same meaning as it does in clause 18.1(a).

**Purchase Price** means the Enterprise Value.

**Related Body Corporate** has the meaning given to that term in the Corporations Act.

**Relevant Assessment** means an Assessment in respect of which the Sellers are liable to indemnify the Buyer or the Target Company under this document.

**Relevant Proportion** means, in relation to each Seller, the relevant proportion of each Seller's Sale Shares as it bears to the aggregate number of Sale Shares, as set out opposite each Seller's name in column 5 of the table in Schedule 1.

**Relevant Shares** has the meaning given in clause 22.6(f).

**Representative** of a party means an Affiliate, employee, agent, officer, director, partner or joint venturer of that party or of that Affiliate.

**RFI Materials** means:

- (a) all written responses by the Vitrinite Sellers to requests for information from the Buyer or the Buyer's legal adviser referred to in clause 21.3, provided to the Buyer prior to the date of this document, to the extent such written responses are contained in Folders [REDACTED] or [REDACTED] of the Data Room; and
- (b) any documentation provided in the responses to requests for information from the Buyer, to the extent a copy of such documentation is contained in Folders [REDACTED] or [REDACTED] of the Data Room.

**Sale** means the sale of the Sale Shares as contemplated by this document.

**Sale Shares** means the entire issued share capital of the Target Company as set out in Schedule 1.

**Seller Affiliate** means:

- (a) the Seller;
- (b) each Seller Group Member;
- (c) (if the Seller is a body corporate) a person who is a director of, a secretary of, or a substantial holder in, the Seller; or
- (d) (if the Seller is a natural person) the spouse of the Seller, a relative (as defined in the Corporations Act) of the Seller or of the Seller's spouse, or a body corporate in which the Seller, a spouse of the Seller and any such relative own or hold in the aggregate more than 20% of the voting shares (as defined in the Corporations Act).

**Seller Group Member** means, in respect of a Seller, the Seller, their Affiliates and each of their Related Bodies Corporate.

**Seller Title and Capacity Warranties** means the warranties set out in paragraphs 1 and 2 of Schedule 3.

**Seller Warranty** means a warranty made by the Sellers under clause 12, being each warranty set out in Schedule 3.

**Sellers** means each of the shareholders of the Target Company, further details of which are set out in Schedule 1.

**Sellers' Completion Statement** means the notification to be delivered in accordance with clause 6.2(a) in the form set out at Attachment A.

**Sellers' Representative** means Ryan Welker of C/- Vitrinite Pty Ltd, Level 6, Suite 2, 12 Creek Street, Brisbane, Queensland 4000.

**Senior Manager** means each of:

- (a) Lazaros Nikeas;
- (b) Ryan Welker;
- (c) Nick Williams;
- (d) Matt Burgess;
- (e) Shane Pike;
- (f) Shane Sullivan;
- (g) Carlos Duran;
- (h) Alyce Nielsen; and
- (i) Tom O'Malley.

**Share Consideration** means, in relation to each of the Sellers, the issue of such number of Consideration Shares to that Seller as set out next to its name in Column 4 of Schedule 1.

**TAA** means the *Taxation Administration Act 1953* (Cth).

**Target Company** or **Target** means Ten Sixty Four Limited ACN 614 771 407, further details of which are set out in Schedule 2.

**Target Company Material Adverse Change** means a matter, event, circumstance or any breach of a Seller Warranty that occurs, is announced or becomes known to the Buyer after the date of this document where that matter, event, circumstance or breach of Seller Warranty has, has had or is reasonably likely to have, either individually or when aggregated with any other such matters, events or circumstances:

- (a) a material adverse effect on the assets, liabilities, business, financial or trading position, performance or profitability of the Business (taken as a whole); and
- (b) without limiting paragraph (a) of this definition, the effect of a diminution, on an annualised basis, in the net assets of the Target Company of at least 10%.

**Target Net Current Assets Amount** means [REDACTED].

**Tax** means a tax, levy, duty, charge, penalty, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.

**Tax Act** means the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* (Cth), jointly, as applicable.

**Tax Claim** means a Claim against a member of the Buyer Group or the Target Company under an Assessment which, if admitted by the relevant member of the Buyer Group or the Target Company, would give rise or could reasonably be expected to give rise to a Claim against the Seller by the Buyer under this document (for example, for breach of a Tax Warranty or under the Tax Indemnity).

**Tax Indemnity** means the indemnity given in clause 11.1.

**Tax Law** means any law relating to either Tax or Duty as the context requires.

**Tax Relief** means any relief, allowance, exemption, exclusion, set-off, deduction, loss, rebate, refund, right to repayment or credit granted or available in respect of a Tax or Duty under any law.

**Tax Return** means any return relating to Tax or Duty including any document which must be lodged with a Government Agency administering a Tax or Duty or which a taxpayer must prepare and retain under a Tax Law (such as an activity statement, amended return, schedule or election and any attachment).

**Tax Warranties** mean the Seller Warranties given in clause 21 of Schedule 3.

**Tenements** means the mining tenements listed in Schedule 10, and any tenement or licence that is a successor, renewal, modification, extension or substitute for the whole or part of any such tenement or licence.

**Third Party Claim** means any Claim brought by a person or entity (other than the Sellers, the Target Company or the Buyer), which may give rise, or otherwise relates, to a Claim by the Buyer against the Sellers, but does not include a Tax Claim.

**Third Party Consents** means all third party consents, approvals and waivers required under Material Contracts in connection with this document or the transactions contemplated hereby (including Completion) and includes, without limitation, change of control consents in respect of the CoC Agreements and consents or waivers that are necessary because Completion without them would amount to an event of default under a Material Contract or would give rise to a termination right, or an entitlement to any form of payment or to damages under a Material Contract.

**Transaction** means the transactions contemplated by this document and the other Transaction Agreements.

**Transaction Agreement** means this document, the Option Cancellation Deeds and the Powers of Attorney.

**Trial Balances** means each of:

- (a) the trial balances of 1064 for October 2021 provided to the Buyer on 11 November 2021; and
- (b) the trial balances of 1064 for November 2021 provided to the Buyer on 10 December 2021,

and includes all supporting ledgers to the Trial Balances provided to the Buyer.

**Unresolved Disputed Matters** has the meaning given in clause 10.3(b).

**Unsecured Redeemable Convertible Note Subscription Deed** means the document entitled "Unsecured redeemable convertible note subscription deed" between the Target Company and a Seller.

**Variation Notice** means a notice issued by the Commissioner of Taxation under section 14-235 of Schedule 1 to the *Taxation Administration Act 1953* (Cth), which is provided to the Buyer at least 2 Business Days before Completion.

**Vitrinite Seller** means each of Vitrinite Holdings Pty Ltd, Vitrinite Holdings LLC and Vitrinite Pty Ltd.

**Vitrinite Services Agreement** means the Services Agreement dated February 2021 between Vitrinite Pty Ltd and Ten Sixty Four Pty Ltd, as amended by variation letter dated 9 June 2021.

**Warranted Information** means:

- (a) the Disclosure Materials; and
- (b) the [REDACTED] Reviewed Data Room Materials.

**Withholding Amount** means, in relation to a Seller, the amount (if any) that the Buyer is liable to pay the Commissioner of Taxation under section 14-200 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) in respect of a number of Sale Shares acquired from that Seller.

## 1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect the interpretation of this document. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;



- (iii) a party to this document or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party;
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
  - (c) A word which suggests one gender includes the other genders.
  - (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
  - (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
  - (f) The expression **this document** includes the agreement, arrangement, understanding or transaction recorded in this document.
  - (g) The expressions **controller, subsidiary, holding company, related body corporate, relative** and **substantial holder** have the same meanings as in the Corporations Act.
  - (h) A reference to **dollars** or **\$** is to an amount in Australian currency.
  - (i) A reference to **time** is to local time in Perth, Western Australia, unless a different time (or time zone) is specified.
  - (j) In clauses, paragraphs or other parts of this document concerning tax consolidation, words have the same meaning as they do in or for Part 3 90 of the Tax Act.
  - (k) Words defined in the GST Law have the same meaning in clauses, paragraphs or other parts of this document concerning GST.
  - (l) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.
  - (m) References to GST extend to any notional liability of any person for GST and to any amount which is treated as GST under GST Law, and references to an input tax credit extend to any notional input tax credit to which any person is entitled.

### 1.3 **The rule about contra proferentem**

This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.

### 1.4 **Non-Business Days**

If the day on or by which a person must do something under this document is not a Business Day, the person must do it on or by the next Business Day.

## 1.5 **Method of payment**

All payments required to be made under this document must be tendered:

- (a) by way of direct transfer of Immediately Available Funds to the bank account nominated in writing by the recipient; and
- (b) by no later than 2.00 pm on the due date for payment.

## 1.6 **Sellers' Representative**

- (a) The Sellers agree that when this document provides that any power may be exercised by, any decision may be made by, any action may be performed by, any notice may or must be given by or to, or any consent may be given by a Seller or the Sellers:
  - (i) then that power may be exercised by, that decision may be made by, that action may be performed by, that notice may be given by or to and that consent may be given by the Sellers' Representative for and on behalf of that Seller or all the Sellers (as applicable); and
  - (ii) the Buyer may rely on the exercise, decision, action, notice or consent of the Sellers' Representative in relation to any such matters as having been given on behalf of that Seller or all the Sellers (as applicable).
- (b) The Sellers:
  - (i) agree to be bound by all acts and omissions of the Sellers' Representative in exercising its rights and performing its obligations under this document; and
  - (ii) indemnify the Sellers' Representative against all Loss arising as a result of or in connection with the exercise in good faith of any power under this document by the Sellers' Representative on behalf of any one or more Sellers and the Sellers hereby waive any rights they have or may have to make or bring a Claim against the Sellers' Representative in relation to the proper exercise of any power for and on behalf of any of the Sellers.

## 1.7 **Multiple parties**

- (a) Subject to clauses 1.7(b) and 1.7(c), if a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party:
  - (i) an obligation or liability of those persons is several;
  - (ii) a right of those persons is held by each of them severally; and
  - (iii) any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking about that party is given by those persons severally about each of them separately.
- (b) In respect of (i) Vitrinite Holdings Pty Ltd and Vitrinite Pty Ltd as between each other, and (ii) Vitrinite Holdings LLC and Vitrinite Pty Ltd as between each other:
  - (i) an obligation or liability of those persons is joint and several, and if the Buyer is able to make a Claim against any one, or all, of the persons, the Buyer may make that Claim against each person jointly and severally; and
  - (ii) a right of those persons is held by each of them jointly and severally.

- (c) In respect of the Covenantors as between each other:
- (i) an obligation or liability of those persons is joint and several, and if the Buyer is able to make a Claim against any one, or all, of the persons, the Buyer may make that Claim against each person jointly and severally; and
  - (ii) a right of those persons is held by each of them jointly and severally.

## 2. CONDITIONS PRECEDENT

### 2.1 Conditions

The obligations of the parties with respect to Completion are subject to the satisfaction or waiver (where permitted by and otherwise in accordance with clause 2.2) of the following Conditions:

	<b>Condition</b>	<b>Party entitled to benefit</b>	<b>Party responsible</b>
(a)	<p><b>Target Company Material Adverse Change</b></p> <p>There having been no Target Company Material Adverse Change between the date of this document and Completion.</p>	Buyer	Vitrinite Sellers
(b)	<p><b>Material Breach of Agreement</b></p> <p>There having been no breach of, or non-fulfilment of any obligation under, any Transaction Agreement in any material respect by any Seller, Seller Affiliate or the Target Company.</p>	Buyer	Sellers
(c)	<p><b>Warranty Breach</b></p> <p>There having been no breach of Seller Warranty in any material respect.</p>	Buyer	Sellers
(d)	<p><b>Third party consents or waivers</b></p> <p>All Third Party Consents having been obtained on terms acceptable to the Buyer.</p>	Buyer	Vitrinite Sellers
(e)	<p><b>Existing Option cancellation</b></p> <p>The Existing Options having been cancelled for nil consideration in accordance with the Option Cancellation Deeds.</p>	Buyer	Vitrinite Sellers
(f)	<p><b>Termination of ██████████ Services Agreement</b></p> <p>The "Services Agreement" dated 1 December 2020 between the Target Company and ██████████ having been terminated and cancelled, and all obligations of the Target Company under that agreement having been released and discharged by such termination, on terms acceptable to the Buyer.</p>	Buyer	Vitrinite Sellers

	<b>Condition</b>	<b>Party entitled to benefit</b>	<b>Party responsible</b>
(g)	<p><b>Termination of [REDACTED]</b></p> <p>The Target Company having delivered to the Buyer confirmation that the [REDACTED] with the Target Company will be terminated by mutual agreement of [REDACTED] and the Target Company with effect from Completion.</p>	Buyer	Vitrinite Sellers
(h)	<p><b>Termination of deeds of access, insurance and indemnity</b></p> <p>Each person who is an "Officer" for the purposes of rule 24 of the Target Company's constitution, or who is otherwise a current or former director or officer of the Target Company and who is indemnified by the Target Company, having executed and delivered a deed poll in the form set out in Attachment G, and a copy of each such deed poll having been delivered to the Buyer.</p>	Buyer	Vitrinite Sellers

## 2.2 Waiver of conditions

- (a) If a Condition has been included for the benefit of:
- (i) one party only, then only that party may, in its sole and absolute discretion, waive the breach or non-fulfilment of the Condition (except that a party may not waive a Condition if that waiver would result in a breach of Law); or
  - (ii) more than one party, then the breach or non-fulfilment of the Condition may be waived only by the consent of both those parties.
- (b) The breach or non-fulfilment of a Condition may only be waived in writing.
- (c) If a party waives the breach or non-fulfilment of a Condition, that waiver does not preclude the party from suing the other party for any breach of this document that resulted in the breach or non-fulfilment of the Condition.

## 2.3 Obligation to satisfy conditions

- (a) Each party must:
- (i) use its reasonable endeavours (other than waiver) to ensure that each Condition for which the party is responsible is satisfied as soon as practicable after the date of this document (having regard to, where applicable, the requirements of applicable Law);
  - (ii) promptly give the other party all information reasonably requested by that party in connection with any application required to satisfy a Condition;
  - (iii) keep each other informed of any circumstances which may result in any of those Conditions not being satisfied in accordance with its terms; and
  - (iv) promptly advise the other party of the satisfaction of a Condition.

- (b) Without limiting clause 2.3(a), each party must:
  - (i) provide the other party with a copy of any draft submission, correspondence or application it proposes to submit to any Government Agency in connection with the Transaction or the businesses carried out by the Target Company (**Applicable Document**);
  - (ii) allow the other party a reasonable opportunity to comment on any such Applicable Document before submission;
  - (iii) take into account any reasonable comments from the other party; and
  - (iv) provide the other party with a copy of any Applicable Document ultimately submitted or sent to the relevant Government Agency.

#### 2.4 **Result of non-satisfaction of conditions**

- (a) If the Conditions are not satisfied or waived under clause 2.2 on or before the End Date, then the Sellers' Representative or the Buyer may at any time after that date and before satisfaction or waiver of those Conditions, terminate this document by giving written notice to the other.
- (b) If any Condition is breached or becomes incapable of satisfaction prior to the End Date, then the party for whose benefit the Condition has been included may terminate this document by giving written notice to the other.
- (c) If this document is terminated in accordance with clauses 2.4(a), 2.4(b), 6.12 or 16, then all rights and obligations under this document will immediately terminate other than:
  - (i) rights and obligations expressed in this clause 2 and clauses 1 (Interpretation), 16 (Termination), 19 (Confidentiality), 20 (Duty, costs and expenses), 21 (Notices) and 22 (General);
  - (ii) rights and obligations expressed in any other clause that are expressed to survive termination of this document;
  - (iii) rights and obligations expressed under clause 16; and
  - (iv) rights that accrue before the date on which the notice is given.

### 3. **SALE AND PRICE**

#### 3.1 **Sale of Sale Shares**

Each Seller agrees to sell, and the Buyer agrees to buy, the Sale Shares set out opposite each Seller's name in column 3 of the table in Schedule 1:

- (a) for each Seller's allocation of the Purchase Price in accordance with clause 4.1;
- (b) on the Completion Date;
- (c) free from any Encumbrance;
- (d) with all rights, including dividend rights, attached to or accruing to them on and from Completion; and
- (e) otherwise on the terms and conditions of this document.

### 3.2 **Title and risk**

- (a) Until Completion, the title to, property in and risk of the Sale Shares remain solely with each Seller.
- (b) Subject to and with effect from Completion, the title to, property in and risk of the Sale Shares (including all rights which were attached to or had accrued on the Sale Shares at the date of Completion) pass to the Buyer.

### 3.3 **No separate (additional) application form for the Share Consideration**

This document serves as an application by each Seller for the allotment and issue of the Share Consideration on Completion. The parties acknowledge that it will not be necessary for the Sellers to provide any separate (additional) application for the Share Consideration at Completion.

### 3.4 **Consent to Transaction and waiver of pre-emptive rights**

- (a) Each Seller consents to the Transaction and each matter incidental to the Transaction and the transactions contemplated by this document, for all purposes, including under the constitution of the Target Company.
- (b) Each Seller waives and releases all restrictions on transfer (including pre-emptive rights, tag along rights, first rights of refusal and minimum notice periods) that might exist in respect of the Sale Shares or might otherwise restrict or prevent the completion of the Transaction (or any matter incidental to the Transaction and the transactions contemplated by this document), whether under the constitution of the Target Company or otherwise.

## 4. **PURCHASE PRICE**

### 4.1 **Purchase Price**

- (a) The total price payable for the Sale Shares is the Purchase Price.
- (b) On the Completion Date, the Purchase Price must be paid by the Buyer issuing to each relevant Seller its allocated Share Consideration.
- (c) The aggregate number of Consideration Shares to be issued to the Sellers at Completion will be 20,000,000.

### 4.2 **Set-off and withholdings**

The Buyer may set-off, deduct or withhold from payment of any part of the Purchase Price any amount owing by a Seller to the Buyer.

## 5. **CONDUCT BEFORE COMPLETION**

### 5.1 **Conduct of Business**

Subject to clauses 5.2 and 5.3, between the date of this document and the earlier of the Completion Date and termination of this document, the Vitrinite Sellers must ensure that:

- (a) the Business is carried on in all material respects in the ordinary and usual course of business in accordance with the Exploration Program and otherwise consistent with past practice before the date of this document, and no significant changes are made to the nature or scale of any activity comprised in the Business;

- (b) the Assets are operated and maintained in accordance with good and prudent exploration, mining, and other industry standards and practices;
- (c) the Target Company promptly notifies the Buyer of any action or Claim which may occur, be threatened, brought, asserted or commenced in respect of or involving the Business or the assets, for an amount exceeding \$50,000;
- (d) the Target Company manages its working capital in the ordinary course and in all material respects in the same manner as it was managed during the 12 months prior to the date of this document;
- (e) the Target Company uses its best efforts to preserve the goodwill of its business and preserve intact its current business relationships;
- (f) the Tenements are maintained in good standing (including by lodging any applications for exemption from minimum expenditure requirements within the time required by the Mining Act) and any Tenements or Authorisations that are due to expire before Completion are renewed (or an application for renewal is lodged within the time required by the Mining Act), at the Sellers' cost;
- (g) the Target Company complies with the conditions of each Tenement, including the approved work program for each Tenement;
- (h) any direction validly given by any Government Agency in relation to the Assets or the Business is materially complied with;
- (i) the Buyer will be given copies of any material notices sent or received from any Government Agency or third parties received in respect of the Assets or the Business;
- (j) the Buyer will be given notice of any known material Claim, legal proceeding, arbitration or referral for dispute resolution by expert or otherwise in respect of the Target Company, the Assets or the Business;
- (k) all existing insurance policies in respect of the Target Company and the Assets are maintained;
- (l) the Powers of Attorney are not revoked, varied or terminated;
- (m) the Option Cancellation Deeds are not varied or terminated;
- (n) the Target Company does not:
  - (i) enter into, terminate or vary any Material Contract or commitment;
  - (ii) dispose of, agree to dispose of, grant an option over or grants any interest in or declare itself trustee of any of the Tenements, or any assets with a value of more than \$50,000;
  - (iii) vary, surrender, fail to renew or permit to lapse any Authorisation that is required to conduct the Business in the ordinary and usual course;
  - (iv) dispose of, create or permit to exist any Encumbrance (other than a Permitted Encumbrance) over any asset of the Target Company;
  - (v) declare or pay a dividend;
  - (vi) acquire any asset for a consideration of more than \$50,000;

- (vii) hire any new employee for the Business whose total remuneration package is \$50,000 or more;
- (viii) cancel (or enters into any arrangement to cancel) any indebtedness for money owed to it, or waive any Claim or right, for any amount exceeding \$50,000 (individually or collectively in respect of all cancellations from the date of this document);
- (ix) commence any litigation, mediation or arbitration or any other form of dispute resolution in respect of the Business, the costs of which are likely to exceed \$50,000;
- (x) incur any capital expenditure exceeding \$50,000;
- (xi) incur any indebtedness (including any funding provided by a Government Agency) (or extend the tenor of any existing financial facility or funding agreement), grant any loans, or give any guarantee or indemnity in respect of the obligations of any person;
- (xii) terminate any insurance cover existing as at the date of this document for the Target Company or fail to pay any premiums due thereon when due or fail to promptly notify the Buyer if any renewal proposal is not accepted by the relevant insurer;
- (xiii) increase or accelerate the rights of any of its officers or Employees to benefits (including remuneration), except:
  - (A) in the ordinary course of business including arising from or in connection with its annual appraisal process, provided that the Sellers' Representative must consult in good faith with the Buyer prior to finalising the annual appraisal process outcomes, including any remuneration increases; or
  - (B) as expressly permitted in accordance with this document;
- (xiv) agree to, or permit any failure to, settle any debt other than in accordance with the terms that such debt becomes due and payable;
- (xv) consent to any material amendment of any material regulatory condition or obligation attaching to the Tenements or the Business more generally;
- (xvi) consent to any material regulatory condition being attached to any Authorisation;
- (xvii) voluntarily abandon, surrender or relinquish any of the Tenements, in whole or in part;
- (xviii) pay an officer or employee a termination payment;
- (xix) enter into, or agrees to enter into, any joint venture, partnership or similar arrangement;
- (xx) make any change in the accounting methods, principles or practices used by it at the date of this document;
- (xxi) make a distribution or revaluation of Assets;
- (xxii) enter into any new lease agreement, lease commitment or lease arrangement;



- (xxiii) settle any Claim, action or proceeding in respect of the Business for an amount in excess of \$50,000;
- (xxiv) alter its capital structure in any way;
- (xxv) allot or issue or agree to allot or issue any security, such as an option, a share or any security convertible into a share in the capital of the Target Company;
- (xxvi) declare or pay any dividend or makes any distribution of its assets, capital or profits;
- (xxvii) reduce share capital in any way or buy back or agree to buy back any share;
- (xxviii) give any financial assistance for an acquisition of its own shares or shares in its holding company;
- (xxix) alter or agree to alter its constitution or pass any other members' resolution;
- (xxx) enter into any transaction or arrangement other than on arm's length terms;
- (xxxi) enter into or vary any contract with, or make any payment or repayment or incur any liability to or for the benefit of, any Seller or Seller Affiliate, other than:
  - (A) an amount up to \$13,000 per month in respect of services provided in accordance with the terms of the Vitrinite Services Agreement; and
  - (B) such reasonable, documented costs incurred by one of more of the Vitrinite Sellers for goods or services provided to the Target Company, provided that:
    - (aa) any such goods or services are provided on an arm's length basis and on customary terms;
    - (bb) no individual expense may exceed \$2,000 without the prior written consent of the Buyer; and/or
    - (cc) the costs are included in a budget for the Target Company that has been prepared by one or more of the Vitrinite Sellers and that budget has been approved in writing by the Buyer;
- (xxxii) transfer any asset to, or assume, indemnify or incur any liability for the benefit of, any Seller or Seller Affiliate;
- (xxxiii) waive or release in favour of any Seller or Seller Affiliate any sum or obligation due by any such person to the Target Company;
- (xxxiv) incur any liability, or assume, indemnify or incur any liability for the benefit of any person, in respect of fees or costs associated with the Transactions other than reasonable fees or costs incurred by the Target Company in connection with the Transactions (excluding any legal fees or costs in connection with the Transactions, which, for the avoidance of doubt, are to be borne by and incurred by the Vitrinite Sellers without any recourse to or liability of the Target Company or the Buyer); or
- (xxxv) authorise or agree (conditionally or otherwise) to do any of the things which it is prevented from doing under this clause 5.1.

## 5.2 **Permitted acts**

Nothing in clause 5.1 restricts the Sellers or the Target Company from doing anything:

- (a) expressly required by this document; or
- (b) consented to by the Buyer in writing.

## 5.3 **No disposal of Sale Shares**

Until Completion, the Sellers must not:

- (a) dispose of, agree to dispose of, grant an option over, or grant any interest in, any Sale Share; or
- (b) create or permit to exist any Encumbrance over any Sale Share, including creating or permitting to exist any Permitted Encumbrances.

## 5.4 **Not make a Seller Warranty inaccurate**

Except at the written request of the Buyer or as expressly required by this document:

- (a) the Sellers must not do anything which would make any Seller Title and Capacity Warranty untrue as at Completion; and
- (b) the Vitrinite Sellers and the Covenantors must not do anything which would make any Group Warranty untrue as at Completion.

## 5.5 **Recovery by Buyer for certain actions**

Without limiting the Buyer's rights under this document (including to make a Claim in respect of a breach of a Seller Warranty), the Covenantors covenant to pay on demand to the Buyer an amount equal to any payment, repayment, asset transfer or any other value transfer made to, or liability, indemnity or obligation incurred to or for the benefit of, or waiver or release of any sum or obligation due by, any Seller or Seller Affiliate in contravention of clause 5.1.

## 5.6 **Access for Buyer**

Until Completion, the Sellers must ensure that the Target Company permits the Buyer and its officers, employees and agents authorised in writing for the purpose of this clause 5.5 to:

- (a) have reasonable access to the premises from which the Business is conducted during normal business hours to observe the conduct of the Business; or
- (b) have reasonable access to any record of the Business or relating to the property or affairs of the Target Company, as the Buyer may reasonably request.

## 5.7 **Risk and insurance**

- (a) Without limiting any other provision of this document, if any Assets are damaged, lost or destroyed before Completion and any loss, damage or destruction (including any associated liability to pay damages or compensation to any person) of the Target

Company is insured under any contract of insurance, the Sellers must procure that the Target Company:

- (i) makes a Claim under the relevant contract(s) of insurance in respect of such loss, damage and destruction and use all reasonable endeavours to obtain payment of such Claim as soon as possible;
- (ii) if the relevant insurance proceeds are paid to the Target Company prior to Completion, restores such loss or damage (including any associated liability to pay damages or compensation to any person) prior to Completion to the extent that they are reasonably able to do so using the relevant insurance proceeds (net of the costs of recovery); and
- (iii) if:
  - (A) the relevant insurance proceeds are paid to a Seller; and
  - (B) Completion occurs prior to full restoration of any lost or damaged Assets,  
  
the relevant Seller must, promptly after receipt of any of those insurance proceeds (whether received before or after Completion) pay to the Target Company any balance of all of those insurance proceeds (after using such proceeds to restore the relevant loss or damage in accordance with clause 5.7(a)(ii), if applicable, and net the costs of recovery (including liability to pay damages or compensation).
- (b) Despite any other provision of this document, the Sellers are not required to procure that the Target Company repair, or to carry out works in respect of, any damage, loss or breakdown affecting the Assets that arises from reasonable wear and tear occurring after the date of this document.

#### 5.8 **Third Party Consents**

- (a) Without limiting clause 2, the Sellers must notify, or apply to, the relevant counterparties for the relevant consent or waiver for the Third Party Consents as soon as practicable after the date of this document, and must use their respective reasonable endeavours to secure the Third Party Consents on or prior to Completion.
- (b) The Sellers must ensure that, if any consents or waivers for the Third Party Consents are obtained prior to Completion under this clause 5.8, no such Third Party Consent is withdrawn, cancelled or revoked at any time prior to Completion.

#### 5.9 **Termination of the Unsecured Redeemable Convertible Note Subscription Deeds**

Each Seller who is a party to an Unsecured Redeemable Convertible Note Subscription Deed (**Applicable Seller**) acknowledges and agrees that:

- (a) the Notes (as defined in the Unsecured Redeemable Convertible Note Subscription Deed) held by it have been redeemed or converted in accordance with the terms of its Unsecured Redeemable Convertible Note Subscription Deed;
- (b) subject to and conditional upon Completion occurring:
  - (i) the Applicable Seller has no further rights or entitlements, and the Target Company has no further obligations to the Applicable Seller, under the terms of the Unsecured Redeemable Note Subscription Deed; and

- (ii) the Unsecured Redeemable Convertible Note Subscription Deed is terminated, including in respect of any right or entitlement in favour of the Applicable Seller to acquire or receive any further shares in the Target Company (including by way of any anti-dilution rights).

## 6. **COMPLETION**

### 6.1 **Date and place for Completion**

Completion must take place electronically at 9:00am (Perth time) on the Completion Date (or such other virtual means or method, time and date as the Sellers' Representative and the Buyer may agree in writing).

### 6.2 **Completion Statements**

- (a) At least five Business Days before the Completion Date, the Vitrinite Sellers must give the Buyer the Sellers' Completion Statement setting out:
  - (i) the Estimated Net Current Assets Amount and details of any amounts payable under clause 6.3. Provided that the Buyer has not, based on its assessment made in good faith, notified the Sellers that there is an error with the Estimated Net Current Assets Amount within 48 hours of receipt of the Sellers' Completion Statement, in which case the Sellers must make such amendments to the Estimated Net Current Assets Amount to correct such errors, the parties will deem the Estimated Net Current Assets Amount to be final and conclusive for all purposes;
  - (ii) in respect of all payments to be made by the Buyer under this document, details of all relevant payees and their respective shareholding accounts (for purposes of payment of the Share Consideration) and an instruction and direction to make payments to such payees as specified in the Sellers' Completion Statement; and
  - (iii) details of any payments calculated under clause 6.3 and to be paid by the Covenantors at Completion under clause 6.6.
- (b) At least five Business Days before the Completion Date the Buyer must give the Vitrinite Sellers the Buyer's Completion Statement setting out:
  - (i) the names of:
    - (A) the Continuing Officers;
    - (B) the New Officers; and
    - (C) the authorised signatories of each bank account of the Target Company; and
  - (ii) the address of any proposed new registered office of the Target Company, in each case effective on and from Completion.

### 6.3 **Shortfall in Estimated Net Current Assets Amount**

If the Estimated Net Current Assets Amount as set out in the Sellers' Completion Statement:

- (a) is less than the Target Net Current Assets Amount, the Covenantors must pay to the Buyer an amount equal to the difference between the Estimated Net Current Assets

Amount and the Target Net Current Assets Amount (to be expressed as a positive number) in accordance with clause 6.6; and

- (b) is equal to or greater than the Target Net Current Assets Amount, no amount will be payable by the Buyer.

#### 6.4 **Sellers' obligations at Completion**

At Completion, each Seller must for itself only:

- (a) give the Buyer absolute ownership of all of the Sale Shares and title to all the Sale Shares free from any Encumbrance;
- (b) deliver or cause to be delivered to the Buyer:
  - (i) duly executed transfers of the Sale Shares in favour of the Buyer in registrable form;
  - (ii) the existing share certificates (or certificates of indemnity for lost or destroyed certificates in agreed form) in respect of all of the Sale Shares;
  - (iii) a new share certificate for the Sale Shares in favour of the Buyer;
  - (iv) any other document which the Buyer reasonably requires to obtain good title to the Sale Shares and get the Sale Shares registered in the name of the Buyer;
- (c) deliver to the Buyer releases and discharges (in each case satisfactory to the Buyer) in respect of all Encumbrances over any of the Sale Shares:
  - (i) that are duly executed by the relevant holders of those Encumbrances;
  - (ii) in relation to any PPS Security Interests:
    - (A) where a Seller or any of their Affiliates is the secured party, with evidence that all registrations in respect of the PPS Security Interest have been or will be removed from the PPS Register, and any other relevant statutory register on or before Completion; and
    - (B) in any other case, with an undertaking to remove (or, if applicable, amend) all registrations in respect of the PPS Security Interest from the PPS Register, and any other relevant statutory register within 10 Business Days after Completion; and
  - (iii) in relation to any registered property Encumbrance, all applicable registrable discharge and release forms (including any title documents) necessary to update the relevant statutory register;
  - (iv) including a deed signed by the person named in the PPS Register as the Secured Party (as defined in section 10 of the PPSA) releasing the PPS Security Interest with effect from Completion; and
  - (v) including all necessary information and documentation to enable the Buyer (or its financier, if applicable) to remove the PPS Security Interest from the PPS Register; and
- (d) pay or ensure payment of all money owing by that Seller or by any Seller Affiliate (excluding the Target Company) to the Target Company.

## 6.5 **Vitrinite Sellers' obligations at Completion**

At Completion, the Vitrinite Sellers must:

- (a) give the Buyer operational control of the Target Company and the Business;
- (b) ensure that the undertaking and each asset of the Target Company is free from any Encumbrance (other than a Permitted Encumbrance);
- (c) deliver or cause to be delivered to the Buyer:
  - (i) the Business Records;
  - (ii) a duly completed authority to alter the signatories of each bank account of the Target Company in the way notified by the Buyer before Completion; and
  - (iii) the executed resignations of each director, secretary and public officer (as applicable) of the Target Company (other than the Continuing Officers), in a form in which the person resigning acknowledges that he or she has no Claim of any kind against the Target Company (including any Claim for salary, fees, loss of office or any loan) and a confirmation that the resigning director or secretary does not require the Target Company to obtain directors' and officers' liability run-off insurance for a period greater than 2 years effective from Completion;
  - (iv) the original or a copy certified by the Sellers' Representative of the member register of the Target Company, updated to reflect the Buyer as the legal owner of the Sale Shares;
  - (v) the original of the minute books and register of meeting or resolution of members and directors of the Target Company;
  - (vi) a copy of the constitution of the Target Company certified by the Sellers' Representative;
  - (vii) a duly completed authority to alter the signatories of each bank account of the Target Company in the way notified by the Buyer before Completion;
  - (viii) a copy of each Third Party Consent;
  - (ix) a copy of each of the duly executed Option Cancellation Deeds;
  - (x) evidence of the repayment of any and all indebtedness in accordance with clause 8; or
  - (xi) each document that must be signed by a Seller or the Target Company for the Buyer to apply for the reissue of any Authorisation from a Government Agency to carry on any aspect of the Business which requires reissue upon a transfer of the Sale Shares or upon the occurrence of some step to be taken under this document;
- (d) deliver to the Buyer releases and discharges (in each case satisfactory to the Buyer) in respect of all Encumbrances over the assets of the Target Company (other than a Permitted Encumbrance):
  - (i) that are duly executed by the relevant holders of those Encumbrances;

- (ii) in relation to any PPS Security Interests:
    - (A) where a Seller or any of their Affiliates is the secured party, with evidence that all registrations in respect of the PPS Security Interest have been or will be removed from the PPS Register, and any other relevant statutory register on or before Completion; and
    - (B) in any other case, with an undertaking to remove (or, if applicable, amend) all registrations in respect of the PPS Security Interest from the PPS Register, and any other relevant statutory register within 10 Business Days after Completion; and
  - (iii) in relation to any registered property Encumbrance, all applicable registrable discharge and release forms (including any title documents) necessary to update the relevant statutory register;
  - (iv) including a deed signed by the person named in the PPS Register as the Secured Party (as defined in section 10 of the PPSA) releasing the PPS Security Interest with effect from Completion; and
  - (v) including all necessary information and documentation to enable the Buyer (or its financier, if applicable) to remove the PPS Security Interest from the PPS Register;
- (e) cause circulating resolutions of the directors of the Target Company to be passed approving, subject in each case to Completion occurring:
- (i) the registration of the transfer of the relevant Sale Shares to the Buyer;
  - (ii) the cancellation of the existing share certificates for the relevant Sale Shares;
  - (iii) the issue of a new share certificate for the relevant Sale Shares in favour of the Buyer;
  - (iv) the appointment, with effect on and from Completion, of the New Officers who have so consented to act;
  - (v) the signatories of the bank account maintained by the Target Company are changed to those notified by the Buyer under clause 6.2(b)(i);
  - (vi) the resignation of the existing directors, alternate directors, secretary and public officer of the Target Company (other than the Continuing Officers) from their respective offices with effect from Completion; and
  - (vii) the change of address of the registered office of the Target Company to the address notified under clause 6.2(b)(ii),
- and provide a copy of such resolutions, and reasonable evidence that they were duly passed, to the Buyer; and
- (f) give to the Buyer every other document and thing this document requires the Sellers to give to the Buyer on Completion or which is reasonably required by the Buyer to vest full ownership, title, possession and benefit of the Sale Shares, the Business and the Assets in the Buyer.

## 6.6 **Covenantors' obligations at Completion**

At Completion, each Covenantor in its Covenantor Relevant Proportion must pay to the Buyer any amount payable under clause 6.3(a) (if applicable).

## 6.7 **Buyer's obligations at Completion**

At Completion, the Buyer must, subject to the due performance by the Sellers and the Covenantors of their obligations under clauses 6.4 and 6.6:

- (a) issue the Consideration Shares to the Sellers in accordance with clauses 4.1(b); and
- (b) procure that the name of each Seller is entered into the register of members of the Buyer in respect of their respective Consideration Shares.

## 6.8 **Company's obligations following Completion**

As soon as practicable following Completion, the Buyer must:

- (a) apply to ASX and use its best endeavours to obtain official quotation of the Consideration Shares by ASX;
- (b) issue, in relation to the Consideration Shares:
  - (i) a Cleansing Statement; or
  - (ii) a prospectus or other disclosure document complying with Chapter 6D of the Corporations Act; and
- (c) deliver (or procure the delivery) to the Sellers a holding statement showing the Sellers as the holder of the Consideration Shares.

## 6.9 **Deemed delivery**

Delivery of the Business Records and other assets under clauses 6.5(c)(i) and 6.5(c)(v) which are physically located at the offices of Vitrinite Pty Ltd at Level 6, Suite 2, 12 Creek Street, Brisbane, Queensland 4000 on the Completion Date will, subject to satisfaction of all other Completion requirements, be deemed to have occurred on the Completion Date and are not required to be delivered physically to the Buyer at the Completion venue, unless the Buyer reasonably requires otherwise.

## 6.10 **Powers of Attorney**

The parties acknowledge and agree that the Sellers (other than the Vitrinite Sellers) have granted the Powers of Attorney in favour of any two directors of the Target Company, including to undertake all necessary actions required on the part of such Sellers under this document and (if applicable) the other Transaction Agreements, including in respect of their obligations at or in connection with Completion.

## 6.11 **Interdependence**

- (a) The obligations of the Buyer, the Sellers and the Covenantors under this clause 6 are interdependent.
- (b) Unless otherwise stated, all actions required to be performed by a party at Completion are taken to have occurred simultaneously on the Completion Date.
- (c) Completion occurs only once the Buyer, the Sellers and the Covenantors have each satisfied their respective obligations under this clause 6.



## 6.12 **Notice to complete**

If Completion does not occur in accordance with this clause 6 because of the failure of any party (**Defaulting Party**) to satisfy any of its obligations under this clause 6 then:

- (a) the Buyer (where the Defaulting Party is any or all of the Sellers or the Covenantors);  
or
- (b) the Sellers (where the Defaulting Party is the Buyer),

(in either case the **Non-Defaulting Party**) may give the Defaulting Party a notice requiring the Defaulting Party to satisfy those obligations within a period of 5 Business Days after the date of the notice and specifying that time is of the essence in relation to that notice.

## 6.13 **Non-compliance**

If the Defaulting Party fails to comply with a notice given under clause 6.12, the Non-Defaulting Party may (and without prejudice to any other remedies or rights which it may have against the Defaulting Party in respect of such non-performance under this document or at law):

- (a) defer Completion (in which case, the provisions of this clause 6 will apply to Completion as so deferred);
- (b) seek specific performance of this document, in which case:
  - (i) if specific performance is obtained, the Non-Defaulting Party may also seek damages for breach of this document; and
  - (ii) if specific performance is not obtained, the Non-Defaulting Party may then terminate this document in which case the Non-Defaulting Party may seek damages for breach of this document
- (c) proceed to Completion so far as practicable; or
- (d) terminate this document, in which case clause 2.4(c) will apply and the Non-Defaulting Party may seek damages for breach of this document.

## 7. **ESCROW RESTRICTIONS**

### 7.1 **Shareholder restrictions**

- (a) Subject to clause 7.2 and clause 22.6(f)(i), the Escrow Parties must not Dispose of any of the Escrow Shares during the Escrow Period.
- (b) The Escrow Parties agree that the Escrow Shares will be held on the Buyer's issuer sponsored sub-register (as that term is defined in the Listing Rules), and agrees to the application of a Holding Lock to the Escrow Shares (if required by the Buyer), during the Escrow Period.
- (c) For the avoidance of doubt, the Escrow Parties acknowledge that the Escrow Shares will be subject to the escrow restrictions set out in clause 7 notwithstanding the Buyer giving the ASX the Cleansing Statement described in clause 6.8(b).

## 7.2 Release

- (a) Despite clause 7.1:
  - (i) the Escrow Shares may be Disposed of or cancelled without the consent of the Buyer pursuant to a scheme of arrangement under Part 5.1 of the Corporations Act;
  - (ii) the Escrow Shares may be Disposed of without the consent of the Buyer by way of acceptance of a takeover offer under Chapter 6 of the Corporations Act, on the basis that the restrictions in this clause 7 will be applied to each Escrow Share that is not bought or acquired by the bidder under the takeover offer; and
  - (iii) the Escrow Shares may be Disposed of without the consent of the Buyer pursuant to an order of a Government Agency compelling any Escrow Shares to be Disposed of or an Encumbrance to be granted over them.
- (b) Notwithstanding any condition to the contrary in this document, an Escrow Party:
  - (i) may Dispose of any of the Escrow Shares to the extent the Disposal is required by applicable law (including an order of a court of competent jurisdiction);
  - (ii) may Dispose of any of the Escrow Shares to the extent the Disposal is in connection with an equal access share buyback or capital return or capital reduction made in accordance with the Corporations Act;
  - (iii) may Dispose of any of the Escrow Shares to the extent the Disposal constitutes a disposal of, but not the creation of an Encumbrance in, some or all of the Escrow Shares to a related body corporate of the Escrow Party (a **Transferee**), where the Transferee also enters into an escrow arrangement with the Buyer in respect of those Escrow Shares on substantially the same terms as this clause 7 for the remainder of the Escrow Period; and
  - (iv) may Dispose of any of the Escrow Shares with the prior written consent of the Buyer (which consent may be withheld by the Buyer in its absolute discretion).

## 7.3 Removal of Holding Lock

The Buyer will do all things necessary or desirable to ensure that any Holding Lock that is imposed is released (including notifying ASX in accordance with Listing Rule 3.10A):

- (a) to the extent necessary to permit Disposals of any Escrow Shares pursuant to the terms of this document; and
- (b) in full at the conclusion of the Escrow Period.

## 7.4 Obligation to notify Buyer

If any Escrow Party becomes aware:

- (a) that a Disposal of any Escrow Shares has occurred, or is likely to occur, during the Escrow Period in breach of this document; or
- (b) of any other matter which is likely to give rise to a Disposal of any Escrow Shares during the Escrow Period in breach of this document,

the Escrow Party must notify the Buyer as soon as reasonably practicable after becoming aware of the Disposal or those matters giving rise the Disposal, and provide full details.

## 7.5 **Permitted dealings**

Nothing in this document restricts any Escrow Party from:

- (a) Disposing of the Escrow Shares, except as expressly provided for in this clause 7; or
- (b) exercising rights attaching to, or afforded to a holder of the Escrow Shares, including by:
  - (i) exercising any voting rights attaching to the Escrow Shares;
  - (ii) receiving or being entitled to any dividend, return of capital or other distribution attaching to the Escrow Shares; and
  - (iii) receiving or participating in any rights or bonus issue in connection with the Escrow Shares.

## 8. **ELIMINATION OF INDEBTEDNESS**

Each Seller must procure that before Completion all indebtedness owed by that Seller or any Seller Affiliate in respect of that Seller to the Target Company together with all interest accrued up to the Effective Time is repaid in full or otherwise discharged and extinguished in full.

## 9. **POST COMPLETION**

### 9.1 **Obligations of the Sellers until registration**

- (a) After Completion and until the Sale Shares are registered in the name of the Buyer, the Sellers must convene and attend general meetings of the Company, vote at those meetings and take any other action as registered holder of the Sale Shares, that the Buyer requests by notice.
- (b) Subject to Completion, each Seller irrevocably appoints the Buyer as its attorney from the Completion Date until the Buyer (or its nominee) becomes the registered holder of the Sale Shares with full power and authority to exercise all rights attaching to the Sale Shares for and on behalf of the Sellers and in the name of the Sellers including power and authority to:
  - (i) convene or cause to be convened any meeting of the members of the Company;
  - (ii) propose any resolution of the Company;
  - (iii) exercise the right to vote attaching to the Sale Shares;
  - (iv) appoint any person as proxy or attorney of the Seller in relation to the Sale Shares; and
  - (v) receive any dividend or other distribution declared or paid in respect of the Sale Shares.
- (c) The Buyer must ensure that registration of the transfer of the Sale Shares takes place as soon as possible after Completion (if not at Completion).

### 9.2 **PPSR**

To the extent any registrations on the PPSR continue for any Encumbrances (other than any Permitted Encumbrances) affecting the Sale Shares, or any other Asset or undertaking of

the Target Company after Completion, each Seller for themselves only will use their reasonable endeavours to have the register updated to remove or amend those registrations (as appropriate) as soon as possible after Completion.

### 9.3 **Guarantees indemnity**

- (a) After Completion, the Vitrinite Sellers must use reasonable endeavours to obtain the release of the Target Company from any guarantee or indemnity relating to an obligation of a person other than the Target Company.
- (b) Subject to Completion, the Covenantors must indemnify the Buyer and the Target Company against and pay on demand the amount of any Loss suffered by the Buyer or the Target Company in connection with any guarantee or indemnity given prior to Completion which relates to an obligation of a person other than the Target Company.

### 9.4 **Transitional Services**

- (a) The Vitrinite Sellers must procure that each applicable Seller Affiliate provides the Target Company and the Buyer (as required) with:
  - (i) such of the services provided under the Vitrinite Services Agreement as the Buyer determines necessary, on the terms of the Vitrinite Services Agreement as at the date of this document (including, for the avoidance of doubt, leases and/or licences provided to 1064 as at the date of this document); and
  - (ii) such other transitional services as are reasonably requested by the Buyer from time to time, on commercially reasonable terms (including as to price and payment) agreed between the applicable Seller Affiliate and the Buyer (acting reasonably),

for a term starting on the Completion Date and ending on the date that is six months after the Completion Date.

- (b) The Vitrinite Sellers acknowledge and agree that, notwithstanding any other provision in the Vitrinite Services Agreement, on and from the Completion Date, the Target Company may (without notice or any other obligation or liability) determine not to use some or all of the services provided under the Vitrinite Services Agreement as at the date of this document and, accordingly, the Target Company will be under no obligation to use or pay for such services.

### 9.5 **Insurance**

- (a) The Buyer acknowledges and agrees that from Completion the Buyer will be responsible for arranging any and all insurance that is necessary or desirable in relation to the Target Company for losses and liabilities arising from post-Completion acts, omissions or events.
- (b) Prior to Completion, the Vitrinite Sellers must arrange for the termination of all deeds of indemnity between the Target Company and its current or past directors and officers, other than the Continuing Officers, unless otherwise agreed by the Buyer and, the Covenantors will indemnify the Target Company for any legal liability of the Target Company to indemnify its directors and officers as a result of any pre-Completion events (except to the extent that the Target Company is insured for that liability under a policy of insurance).
- (c) The Vitrinite Sellers will allow the Target Company access on and from Completion to any Vitrinite Seller group insurances that provide cover to the Target Company for losses and liabilities based on pre Completion acts, omissions or events and will

provide reasonable assistance to the Target Company to make and progress claims under those insurances. The Vitrinite Seller(s) will account to the Target Company for the proceeds of any insurance claim paid by the insurers of the Vitrinite Seller group insurances to the Vitrinite Seller(s) to the extent the payment relates to losses or liabilities of the Target Company.

#### 9.6 **Standstill on tenement applications**

- (a) The Vitrinite Sellers and the Covenantors must not (directly or indirectly) make any application, or solicit or otherwise encourage any other person to make any application, for any mining tenement in relation to any area of land that is (or could reasonably be seen as) complementary to the Tenements or otherwise under the contemplation of the Target Company. To avoid doubt, this clause applies in respect of [REDACTED].
- (b) Clause 9.6(a) will cease to apply from:
  - (i) if Completion occurs, 12 months after the Completion Date; and
  - (ii) if this document is terminated before Completion occurs, the date of termination of this document.
- (c) Each Vitrinite Seller and each Covenantor warrants that, at the date of this agreement, it has not made any application of the kind referred to in clause 9.6(a).

### 10. **COMPLETION ACCOUNTS**

#### 10.1 **Preparation of Completion Accounts**

- (a) The Buyer must as soon as reasonably possible after the Completion Date (and in any event, within 30 Business Days after that date) prepare a draft of the Completion Accounts and deliver it to the Vitrinite Sellers together with relevant supporting information and working papers.
- (b) The draft Completion Accounts must be prepared in the format and using those line items set out in Schedule 5 and in accordance with the principles, policies and procedures specified in Schedule 6 to show the value of the Completion Net Current Assets Amount.

#### 10.2 **Review of draft Completion Accounts**

- (a) The Vitrinite Sellers, must within 20 Business Days after receipt of the draft Completion Accounts, complete their review of the drafts and notify the Buyer in writing whether they agree or disagree with either or both of the draft Completion Accounts.
- (b) If the Vitrinite Sellers disagree with the draft Completion Accounts (or any item in the draft Completion Accounts), the Sellers must notify the Buyer in writing of the items in respect of which they disagree during the 20 Business Day period referred to in clause 10.2(a), including the reasons (in sufficient detail) for the disagreement and the Sellers' submissions as to the correct amount for each such item and the reasons for that revised amount (**Disputed Matters**).
- (c) If the Vitrinite Sellers notify the Buyer that they agree with the draft Completion Accounts or fail to notify the Buyer in accordance with clauses 10.2(a) and 10.2(b), then the draft Completion Accounts will be the final Completion Accounts and will be conclusive, final and binding on the parties.

### 10.3 **Disagreement**

- (a) If the Vitrinite Sellers notify the Buyer that they disagree with the draft Completion Accounts in accordance with clauses 10.2(a) and 10.2(b), then the Buyer and the Vitrinite Sellers must make a genuine effort to negotiate an agreement with each other in relation to the Disputed Matters.
- (b) If the Buyer and the Vitrinite Sellers cannot agree the Disputed Matters within 10 Business Days after delivery of the notice under clause 10.2(b) (or such longer period as the Sellers and the Buyer agree) (such matters to be referred to as the **Unresolved Disputed Matters**) then the Unresolved Disputed Matters must be referred for resolution to an Independent Accountant. The Sellers' Representative (on behalf of the Vitrinite Sellers) and the Buyer must sign whatever reasonable terms of engagement the Independent Accountant requires in relation to their appointment.
- (c) The Independent Accountant will act as an expert, not as an arbitrator, in determining the Unresolved Disputed Matters and the Independent Accountant's decision is final, conclusive and binding.
- (d) The Independent Accountant must make any determination by applying the Accounting Principles, but subject to the requirements of procedural fairness.
- (e) The Independent Accountant must be instructed to decide the Unresolved Disputed Matters and finish their determination and provide it to the Buyer and the Sellers' Representative no later than 10 Business Days after the date they are appointed pursuant to clause 10.3(b).
- (f) Each relevant party must bear its own costs and expenses in complying with this clause 10.3. The costs and expenses of the Independent Accountant (if appointed) must be shared equally and paid by the Buyer (as to 50%) and the Vitrinite Sellers (as to 50%).

### 10.4 **True up for Completion Net Current Assets Amount**

- (a) Following determination of the Completion Accounts in accordance with clauses 10.2(c) or 10.3, if the Completion Net Current Assets Amount:
  - (i) is less than the Target Net Current Assets Amount:
    - (A) if no amount has been paid to the Buyer pursuant to clause 6.6, the Covenantors must pay to the Buyer an amount equal to the Target Net Current Assets Amount minus the Completion Net Current Assets Amount; and
    - (B) if an amount has been paid to the Buyer pursuant to clause 6.6:
      - (aa) if the Relevant Amount (as defined in clause 10.4(d)) is positive, the Covenantors must pay to the Buyer an amount equal to Relevant Amount; and
      - (bb) if the Relevant Amount (as defined in clause 10.4(d)) is negative, the Buyer must pay to the Covenantors an amount equal to the Relevant Amount (to be expressed as a positive number); and

- (ii) is greater than or equal to the Target Net Current Assets Amount:
  - (A) if no amount has been paid to the Buyer pursuant to clause 6.6, no amount will be payable by the Buyer to the Covenantors under this clause 10.4; and
  - (B) if an amount has been paid to the Buyer pursuant to clause 6.6, the Buyer must pay to the Covenantors an amount equal to the amount paid by the Covenantors to the Buyer pursuant to clause 6.6.
- (b) A party required to make a payment under clause 10.4(a) must make the payment to the relevant party (or parties) in Immediately Available Funds within 5 Business Days after the finalisation of the Completion Accounts or determination by the Independent Accountant (as applicable).
- (c) Any payment to be made by the Buyer under clause 10.4(a) is to be paid to the Covenantors in the Covenantor Relevant Proportions.
- (d) For the purposes of clause 10.4(a)(i), the **Relevant Amount** is to be calculated in accordance with the following formula.

$$RA = T - C - E$$

Where:

RA = the Relevant Amount  
 T = the Target Net Current Assets Amount  
 C = the Completion Net Current Assets Amount  
 E = the amount paid to the Buyer pursuant to clause 6.6

## 10.5 **GST**

- (a) If GST is or will be payable on a supply made under or in connection with this document, to the extent that the consideration otherwise provided for that supply under this document is not stated to include an amount in respect of GST on the supply:
  - (i) the consideration otherwise provided for that supply under this document is increased by the amount of that GST; and
  - (ii) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided, within seven days of receiving a written demand from the supplier.
- (b) If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier within 14 days of becoming aware of the adjustment event:
  - (i) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving seven days written notice; or
  - (ii) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply to the extent that the supplier is entitled to a refund or credit from the Commissioner; and
  - (iii) must issue an adjustment note or tax invoice reflecting the adjustment event in relation to the supply to the recipient within 28 days of the adjustment

event except where the recipient is required to issue an adjustment note or tax invoice in relation to the supply.

- (c) The right of the supplier to recover any amount in respect of GST under this document on a supply is subject to the issuing of the relevant tax invoice or adjustment note to the recipient except where the recipient is required to issue the tax invoice or adjustment note.
- (d) If the GST Law changes after the date of this document to change the amount of GST on a supply, any consideration that expressly includes GST must be adjusted to reflect the change in the GST Law.
- (e) If a party provides a payment for or any satisfaction of a Claim or a right to Claim under or in connection with this document (for example, for misrepresentation or for a breach of any Seller Warranty or warranty of the Buyer or for indemnity or for reimbursement of any expense) that gives rise to a liability for GST, the provider must pay, and indemnify the claimant on demand against, the amount of that GST.
- (f) If a party has a Claim under or in connection with this document for a cost on which that party must pay an amount for GST, the claim is for the cost plus the amount for GST (except any amount for GST for which that party is entitled to an input tax credit).
- (g) If a party has a Claim under or in connection with this document whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).

## 11. **INDEMNITIES**

### 11.1 **Tax Indemnity**

Each Covenantor gives the indemnity set out in clause 1.1 of Schedule 4.

### 11.2 **Employment indemnity**

The Covenantors indemnify the Buyer and each Buyer Group Member (including the Target Company, from Completion) against, and must pay the Buyer an amount equal to, any Loss suffered or incurred by the Buyer or a Buyer Group Member (including the Target Company, from Completion) arising from or in connection with any claim (including a Third Party Claim) that relates to an allegation that the Target Company has not, in the period prior to Completion, complied with any employment contract (whether written or otherwise), industrial instrument or legislation, in relation to any current or former employee or person who asserts that they were or are an employee.

## 12. **SELLER WARRANTIES**

### 12.1 **Giving of Seller Warranties**

Subject to the qualifications and limitations in clause 13:

- (a) each Seller warrants to the Buyer, in respect of itself and the Sale Shares held by it only, that each Seller Title and Capacity Warranty is true and accurate:
  - (i) in respect of each Seller Title and Capacity Warranty that is expressed to be given on a particular date, on that date; and



- (ii) in respect of each other Seller Title and Capacity Warranty, as at the date of this document and immediately before Completion;
- (b) each Covenantor warrants to the Buyer that each Group Warranty is true and accurate:
  - (i) in respect of each Group Warranty that is expressed to be given on a particular date, on that date; and
  - (ii) in respect of each other Group Warranty, as at the date of this document and immediately before Completion;
- (c) each Seller and each Covenantor acknowledges that the Buyer has entered into this document in reliance on the Seller Warranties;
- (d) each Seller resident in Canada or the United States has completed and provided the applicable investor certificate attached as Attachment E; and
- (e) each Seller (or in the case of the Group Warranties, each Covenantor) indemnifies the Buyer, in its Relevant Proportion (or in the case of the Group Warranties, each Covenantor in its Covenantor Relevant Proportion), against, and must pay the Buyer on demand the amount of:
  - (i) any Loss suffered or incurred by a Buyer Group Member which arises from or in connection with any breach of any Seller Warranty given by that Seller or Covenantor or of any other provision of this document;
  - (ii) any Loss incurred by a Buyer Group Member because the Sale Shares held by that Seller were worth less than they would have been worth had there been no breach of that kind;
  - (iii) any Tax which may be incurred by the Buyer (or by the head company of a consolidated group of which the Buyer is a member) arising from the performance by the Seller or Covenantor of its obligations under this indemnity; and
  - (iv) reasonable expenses of consultants, and legal expenses on a full indemnity basis, incurred by the a Buyer Group Member in connection with any Claim under this indemnity.

## 12.2 **Independent warranties**

Each Seller Warranty must be construed independently and is not limited by reference to another Seller Warranty.

## 12.3 **No merger**

The Seller Warranties are continuing warranties and do not merge on Completion but remain in full force.

## 12.4 **Interpreting Seller Warranties**

- (a) Where a Seller Warranty is expressed as being qualified by the knowledge or awareness of the Sellers, the knowledge or awareness of the Sellers will include all facts, matters and circumstances which are within the awareness of any Relevant Person, as well as the knowledge and awareness that any of the Relevant Person would have had, had such person made all reasonable enquiries in the circumstances (including making enquiries of their direct reports).

- (b) Any reference to a contravention of, or to a breach of, any of the Seller Warranties includes any of the Warranties not being true.
- (c) In this clause 12.4, a reference to a **Relevant Person** includes:
  - (i) in the case of a Seller that is an individual, the individual;
  - (ii) in the case of a Seller that is a body corporate, each director of that body corporate;
  - (iii) in the case of a Seller that is a trust, the trustee of the trust; and
  - (iv) in the case of a Covenantor, a Senior Manager and Michael Cavanagh.

#### 12.5 **No reliance other than on Seller Warranties**

- (a) The Buyer acknowledges that, except for the Seller Warranties and the terms of this document and the other Transaction Agreements:
  - (i) none of the Sellers or Covenantors have made any express or implied representation or warranty; and
  - (ii) no statements, representations, warranties or promises have induced or influenced the Buyer to enter into this document or agree to any or all of its terms, been relied on in any way as being accurate, been warranted as being true or been taken into account as being important to their decision to enter into this document or agree to any of its terms.
- (b) To the fullest extent permitted by law, every condition, guarantee, warranty, term, provision, representation or undertaking (whether express, implied, written, oral, collateral, statutory or otherwise) except the Seller Warranties and the terms of this document, is excluded.
- (c) The Buyer agrees that except in the case of any fraudulent conduct or deliberate non-disclosure by the Sellers or Covenantors, to the extent permitted by law, the Buyer will not make, and releases any right it may have to make, against the Sellers and Covenantors any Claim based on Part 7.10 (including section 1041H) of the Corporations Act, Part 2 Division 2 (including sections 12DA and 12DB) of the *Australian Securities and Investments Commission Act 2001* (Cth), the Australian Consumer Law (including sections 4, 18 and 29 of the *Competition and Consumer Act 2010* (Cth)) or on any corresponding provision of any State or Territory legislation, or on a similar provision under any other law, for any act or omission concerning the Business or for any statement or representation about any of those things which is not expressly contained in this document.

#### 12.6 **No claims by Sellers for contribution**

If the Buyer makes a Claim under or in connection with this document (such as a Claim based on a Seller Warranty, or a Claim under the Tax Indemnity), the Sellers and Covenantors:

- (a) must not make, and each Seller must use their best endeavours to procure that each Seller Affiliate does not make, a Claim for contribution or for indemnity from any member of the Buyer Group (including the Target Company) in connection with the facts, circumstances or events giving rise to that Claim, or from any officer, employee, agent or adviser of the Buyer or of a member of the Buyer Group (including the Target Company) except a Claim based solely on the terms of this document;

- (b) releases each such person from any such Claim;
- (c) must indemnify each such person against any such Claim;
- (d) must indemnify each such person against any Claim by any other person for contribution to or for indemnity from a Claim made by the Buyer under or in connection with this document (such as a Claim based on a Seller Warranty or on a misrepresentation); and
- (e) acknowledges that the Buyer enters this clause 12.6 for itself, and as trustee for each such person, each of whom may rely on this clause 12.6.

#### 12.7 **Tax gross-up**

If the Sellers or Covenantors are liable to pay an amount in respect of a Claim under this document which would result in an increase in the Tax payable by any member of the Buyer Group or the Target Company or a reduction in any Tax loss, Tax credit (other than franking credits) or Tax offset of any member of the Buyer Group or the Target Company, then the payment must be grossed-up by the amount necessary to ensure that the net amount retained by the Buyer Group or the Target Company after deduction of or payment of that additional Tax or the reduction in any Tax loss, Tax credit or Tax offset equals the amount the Buyer Group or the Target Company would have retained had that additional Tax not been payable or that Tax loss, Tax credit or Tax offset had not been reduced.

### 13. **LIMITATIONS OF CLAIMS**

#### 13.1 **Matters disclosed**

The Group Warranties (other than the Group Fundamental Warranties) are given subject to and are qualified by, and the liability of each Covenantor in respect of any breach of any Group Warranty (other than a Group Fundamental Warranty) will be reduced or extinguished (as the case may be) to the extent that the breach arises in connection with any information of matters:

- (a) which have been Fairly Disclosed in the Disclosure Materials;
- (b) that a Buyer Group Management Representative had actual knowledge of before the date of this document;
- (c) that would have been Fairly Disclosed to the Buyer had the Buyer conducted searches of the public records maintained by:
  - (i) Australian Securities and Investments Commission on Monday, 20 December 2021;
  - (ii) the Queensland Government with respect to resource authorities (being the register maintained pursuant to section 197 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (Qld)) on Monday, 20 December 2021;
  - (iii) IP Australia on Monday, 20 December 2021; and
  - (iv) the registries of:
    - (A) the High Court on Friday, 17 December 2021; and
    - (B) the Federal Court of Australia on Wednesday, 15 December 2021; and
    - (C) the Supreme Court of Queensland on Wednesday, 15 December 2021.

### 13.2 **Limitations**

No Group Warranty (other than a Group Fundamental Warranty) is breached by reason of, and the Covenantors are not liable to the Buyer or any other person for breach of any Group Warranty (other than a Group Fundamental Warranty) in respect of any fact, a matter or circumstance:

- (a) which arises from any change after the date of this document in any law or in its interpretation or in any administrative practice or ruling of a Government Agency (except where the change was announced at the date of this document); or
- (b) to the extent that it is caused by any act, omission, transaction or arrangement:
  - (i) of or by or on behalf of the Buyer (except where such act, omission, transaction or arrangement is reasonably required to comply with any law or the administrative practice of a Government Agency); or
  - (ii) of or by or on behalf of the Sellers, or any other person, at the written request of or with the written consent of the Buyer.
- (c) to the extent that an accrual, allowance, provision or reserve in respect of a fact, matter or circumstance is provided for in the Completion Accounts (but only to the extent of such accrual, allowance, provision or reserve);
- (d) that would not have arisen but for a change in ownership of or the ultimate beneficial ownership of the Target Company after Completion;
- (e) that gives rise to a Claim based on a contingent liability, unless and until the relevant Liability becomes an actual loss; and
- (f) that gives rise to a Claim as a result of, or is increased as a result of (but only to the extent of such increase), a failure by a Buyer to take reasonable steps to mitigate their Loss, damage or liability.

### 13.3 **No liability if Loss is otherwise compensated for**

The Buyer may only recover once for the same Loss in respect of a Seller Warranty, and the Sellers and Covenantors are not liable to the Buyer or any other person for Loss to the extent:

- (a) that the same Loss has been recovered in another Claim or the subject of the Claim is made good or is compensated for without cost to the Buyer;
- (b) that the Buyer or any other member of the Buyer Group actually recovers an amount from a person other than the Sellers, any Seller Affiliate or the Covenantors (for example, issuing a demand, making an insurance claim, suing for tort or claiming under an indemnity).

### 13.4 **Repayments to the Sellers**

- (a) If the Sellers or Covenantors pay either the Buyer or Target Company an amount in respect of a Claim for a breach of a Seller Warranty or otherwise under or in connection with this document and the Buyer or the Target Company later receives from some other third party any payment in respect of the matter giving rise to that Claim, the Buyer must promptly repay to the Sellers the lesser of:
  - (i) the amount paid by the Sellers for the relevant Claim; and

- (ii) the payment received from the third party, less all reasonable costs incurred in obtaining the amount (including all applicable Taxes or Duties).
- (b) Nothing in clause 13.4(a) requires a Buyer Group Member or the Target Company to make any payment to the Sellers or Covenantors, or do anything or omit to do anything to the extent that the payment, act or omission would give rise to a breach of an obligation of any of them to account to an insurer for such amount or would entitle an insurer to deny or reduce its liability for a Loss or Claim or to wholly or partially cancel or vary an insurance policy.

### 13.5 **Consequential Loss**

- (a) Subject to paragraph (b) below, to the extent permitted by law, no party to this document is liable (whether in negligence or otherwise) to any other party for any Loss or Claim to the extent that it is for indirect or consequential loss (including loss of profit of any nature whatsoever, loss of expected savings, loss of opportunity, loss or reduction of goodwill (other than the goodwill of the Business) and damage to reputation) in connection with any right or remedy conferred on a party by law or any liability to a party as a result of, or in connection with this document.
- (b) The Sellers and Covenantors acknowledge and agree that:
  - (i) loss of profits of the Business leading to a diminution in value of the Sale Shares;
  - (ii) diminution in value of the assets of the Target Company (including goodwill); and
  - (iii) diminution in the value of the Business,are direct Losses (and not indirect or consequential losses) within the contemplation of the parties and losses in respect of which the Buyer is entitled to recover.

### 13.6 **Notice and time limits on Claims**

The Buyer must not make any Claim for breach of a Seller Warranty (other than a Seller Title and Capacity Warranty or a Group Fundamental Warranty) unless:

- (a) the Buyer gives to the Sellers' Representative notice of the Claim setting out reasonable details of the Claim, in respect of:
  - (i) any Claim for breach of the Seller Warranties (other than the Tax Warranties), within 24 months after the Completion Date; or
  - (ii) any Tax Warranty, within seven years after Completion, except where fraud or evasion is alleged, or a transfer pricing adjustment is made, by the relevant Government Agency in respect of the Taxes the subject of the Claim, in which case the period shall be unlimited; and
- (b) legal proceedings for the Claim have been properly issued and validly served on the Seller or Covenantors (as applicable) within 12 months from the giving of that notice.

### 13.7 **Thresholds for Claims**

- (a) The Sellers and Covenantors are not liable for any Claim for a breach of a Seller Warranty (other than a Seller Title and Capacity Warranty, Group Fundamental Warranty or Tax Claim), unless and until:
  - (i) the amount of that Claim exceeds \$16,000 (each such Claim, a **Permitted Warranty Claim**); and
  - (ii) the aggregate amount of all such Permitted Warranty Claims exceeds \$160,000,in which case the Seller or Covenantors (as applicable) will be liable for the whole amount of the Claim, and not just the excess.
- (b) For the purposes of paragraph (a) above, Claims of the same or similar nature arising out of the same or similar facts, matters and circumstances will be treated as one Claim.

### 13.8 **Maximum liability**

- (a) The maximum aggregate liability of the Sellers and Covenantors for all Claims in respect of a breach of Seller Warranty (other than a Seller Title and Capacity Warranty, Group Fundamental Warranty or Tax Claim) made or brought by the Buyer, is limited to an amount equal to 75% of the Purchase Price.
- (b) Except as set out in clause 1.7(b) or 1.7(c), the liability of the Sellers and Covenantors in respect of all Claims under or in connection with this document:
  - (i) is several and not joint or joint and several; and
  - (ii) will not exceed that Seller's Relevant Proportion or the Covenantor Relevant Proportion of a Covenantor (as applicable) of the amount of any Claim.

### 13.9 **Independent limitations**

Each qualification and limitation in this clause 13 is to be construed independently of the others and is not limited by any other qualification or limitation.

### 13.10 **No action against Officers or employees**

The Buyer must ensure that the Target Company does not make any Claim against any of the former Officers or employees of the Target Company in respect of any act or omission by those Officers or employees before Completion in connection with this document or the Sale, except to the extent that those Claims arise out of the fraud of those Officers or employees or is made in their capacity as a Seller or Seller Affiliate. The Buyer acknowledges that this clause is for the benefit of those former Officers or employees and is held on trust for them by the Sellers.

### 13.11 **Fraud**

None of the limitations of liability in this document (including those set out in this clause 13) apply in relation to any Claim to the extent that such Claim arises or is increased due to an act or omission of any Seller or any Seller Affiliate that constitutes fraud, dishonesty or wilful misconduct or that was or is done or not done in bad faith.

## 14. **THIRD PARTY CLAIMS**

### 14.1 **Notification**

The Buyer must promptly notify the Sellers' Representative giving full details as soon as the Buyer becomes aware of a Third Party Claim after Completion.

### 14.2 **Sellers may take over Claim**

If the Sellers' Representative gives the Buyer an acknowledgment that an indemnity given in this document will apply in respect of each Loss arising out of a Third Party Claim:

- (a) the Sellers' Representative may take over, conduct, negotiate, defend or settle the Third Party Claim at its own expense; and
- (b) in which case, the Buyer must provide reasonable assistance in respect of the Third Party Claim as the Sellers' Representative reasonably requests.

### 14.3 **Sellers to pursue Claim and liaise with the Buyer**

The Sellers' Representative must diligently pursue any Third Party Claim it takes over under clause 14.2 and must:

- (a) keep the Buyer fully informed of the progress of the Third Party Claim;
- (b) liaise with the Buyer in relation to the defence of the Third Party Claim;
- (c) allow the Buyer to:
  - (i) have reasonable access to notices, correspondence and other documents relating to the Third Party Claim;
  - (ii) attend meetings with legal or other professional advisers, settlement discussions and dispute resolution hearings concerning the Third Party Claim; and
  - (iii) participate (at its own cost) in the conduct of the Third Party Claim, provided that the Buyer does not seek to instruct or direct the conduct of the Third Party Claim; and
- (d) obtain the prior consent of the Buyer before offering or accepting any settlement of the Third Party Claim.

### 14.4 **Specific performance**

Despite anything to the contrary in this clause 14, the Buyer will have the right to control, and the Sellers' Representative is not entitled to take over, any Third Party Claim that seeks only a non-monetary undertaking or specific performance by or on behalf of the Business or any member of the Buyer Group (including the Target Company). To avoid doubt, any Loss arising as a result of such undertaking or performance will be recoverable by the Buyer from the Sellers or Covenantors, subject to the terms of this document.

### 14.5 **Buyer to keep Seller's Representative informed**

Unless and until the Sellers' Representative takes over a Third Party Claim notified to it, the Buyer must, and must procure that each other member of the Buyer Group (including the Target Company):

- (a) diligently pursues the Third Party Claim;

- (b) promptly informs the Sellers' Representative about the actions taken by it in relation to the Third Party Claim by regular reports that include a summary of any material discussion with the opposite party to the Third Party Claim; and
- (c) gives the Sellers' Representative at least five Business Days' notice of any proposal by it to admit liability or compromise, settle or agree the Third Party Claim.

#### 14.6 **Buyer legal representation**

Despite anything to the contrary in this clause 14, the Buyer or a member of the Buyer Group may engage its own legal or other representation, and all reasonable expenses so incurred will be treated as Loss suffered or incurred by the Buyer in respect of that Third Party Claim.

### 15. **BUYER WARRANTIES**

#### 15.1 **Buyer Warranties**

The Buyer represents and warrants to the Sellers that each of the following statements is true and accurate and not misleading on the date of this document and will be true and accurate and not misleading as at the Completion Date:

- (a) it is duly incorporated and validly exists under the law of its place of incorporation;
- (b) it has full legal capacity and power to own its property and to carry on its business;
- (c) the execution and delivery of this document has been properly authorised by all necessary corporate action of the Buyer;
- (d) it has full corporate power and lawful authority to execute and deliver this document and to consummate and perform or cause to be performed its obligations under this document;
- (e) this document constitutes a legal, valid and binding obligation of the Buyer enforceable in accordance with its terms;
- (f) the execution, delivery and performance by the Buyer of this document does not or will not (with or without the lapse of time, the giving of notice or both) contravene, conflict with or result in a breach of or default under:
  - (i) any provision of the constitution of the Buyer;
  - (ii) any material term or provision of any security arrangement (including any Encumbrance) , undertaking, agreement or deed to which it is bound; or
  - (iii) any writ, order or injunction, judgement, or law to which it is a party or is subject or by which it is bound;
- (g) no Insolvency Event has occurred in relation to the Buyer;
- (h) at Completion:
  - (i) each Seller will acquire full legal and beneficial title to its relevant number of Consideration Shares free from any Encumbrance; and



- (ii) such Consideration Shares will be validly allotted and issued and will be fully paid and there will be no moneys owing in respect of them; and
- (i) the Buyer enters into and performs this document on its own account and not as trustee for or nominee of any other person;
- (j) the Buyer's purpose for issuing the Consideration Shares does not include, and will not include, any or all of the Sellers selling or transferring them, or granting, issuing or transferring interests in, or options over, them; and
- (k) as at the date of this document, there is no 'excluded information' (as that term is defined in section 708A(7) of the Corporations Act) in relation to the Buyer Group that any Buyer Group Management Representative or director of the Buyer is aware of, after having made reasonable enquiries in the circumstances, except for the subject matter of the Transaction Documents.

## 15.2 **Reliance**

The Buyer acknowledges that the Sellers have entered into this document in reliance on the Buyer Warranties.

## 15.3 **Independent Buyer Warranties**

Each Buyer Warranty must be construed independently and is not limited by reference to another Buyer Warranty.

## 15.4 **Survival**

The Buyer Warranties survive Completion of this document.

## 16. **TERMINATION**

### 16.1 **Termination by the Buyer or the Seller**

- (a) The Buyer or the Seller may terminate this document at any time before Completion if the other party commits a material breach of this document (including a warranty) and:
  - (i) it has given written notice to the other party setting out the relevant circumstances and stating an intention to terminate this document; and
  - (ii) the relevant circumstances are not remedied to the non-defaulting party's reasonable satisfaction and have continued to exist for 10 Business Days from the time such notice is given (or such shorter period ending on the Completion Date).
- (b) Termination under clause 16.1(a) will be deemed to take effect at the expiry of the relevant period referred to in clause 16.1(a)(ii).

### 16.2 **Effect of termination**

Clause 2.4(c) will apply if this document is terminated in accordance with this clause 16.

## 17. **RELEASE BY SELLERS**

To the fullest extent permitted by law and notwithstanding anything else in this document or any other Transaction Agreement, on and from Completion, each Seller:

- (a) must not make, and must use their best endeavours to procure that each Seller Affiliate does not make, any Claim in relation to or arising out of the Business, this document or any other Transaction Agreement against the Target Company or any director, officer, employee agent or adviser of any member of the Buyer Group (including the Target Company);
- (b) releases, and must procure that each Seller Affiliate releases, each such person from any such Claim;
- (c) must indemnify each such person against any such Claim; and
- (d) acknowledges that the Buyer enters and takes the benefit of this clause 17 for itself, and as trustee for each such person, each of whom may rely on this clause 17.

## 18. **CONDUCT AFTER COMPLETION**

### 18.1 **Tax Returns**

- (a) The Vitrinite Sellers shall prepare, or cause to be prepared, at the Vitrinite Sellers' cost, any Tax Return that is required to be filed by or with respect to the Target Company for any Tax period that ends on or before the Completion Date (a **Pre-Completion Tax Return**).
- (b) The Vitrinite Sellers shall timely file, or cause to be timely filed, any Pre-Completion Tax Return that is required to be filed on or before the Completion Date.
- (c) The Vitrinite Sellers shall deliver, or cause to be delivered, to the Buyer:
  - (i) all Pre-Completion Tax Returns that are required to be filed after the Completion Date at least fifteen (15) Business Days prior to the due date for filing thereof; and
  - (ii) the Buyer shall, provided it does not consider a Pre-Completion Tax Return to be unreasonable, timely file, or cause to be timely filed, such Pre-Completion Tax Returns without amendment.
- (d) Notwithstanding anything to the contrary in this clause 18.1, the Buyer shall be under no obligation to procure the filing of any Pre-Completion Tax Return which it reasonably determines to be false or misleading but shall be under no obligation to make any enquiry as to the completeness or accuracy of any Pre-Completion Tax Return and shall be entitled to rely entirely on the Sellers and its agents.

### 18.2 **Post-Completion notices**

Each party will immediately give to the other party all payments, notices, correspondence, information or enquiries in relation to the Target Company which it receives after Completion and which belong to the other party.

### 18.3 **Other Tax-related matters**

The parties agree to adhere to the provisions set out in Schedule 4.

## 19. **CONFIDENTIALITY**

### 19.1 **Confidentiality obligation and exceptions**

A party may not disclose the provisions of this document or the Transaction Agreements, or the terms of the Transactions, to any person except and subject to clause 19.2:

- (a) as a media announcement in the form agreed between the Buyer and the Sellers in accordance with clause 19.3;
- (b) with the written consent of the other parties;
- (c) to its Officers, employees, professional advisers, consultants, financiers and Related Bodies Corporate to whom (and to the extent to which) it is necessary to disclose the information in order to properly perform their obligations under this document;
- (d) where the information has come into the public domain through no fault of that party;
- (e) as is necessary to obtain any consent or approval contemplated by this document;
- (f) in the case of the Buyer:
  - (i) on a strictly confidential basis to a bona fide potential buyer of the Sale Shares or of a part of the Buyer's business which includes the Target Company;
  - (ii) to any other Buyer Group Member;
  - (iii) on a strictly confidential basis to any potential or actual financier associated with an actual or proposed financing involving any Buyer Group Member; or
  - (iv) as is necessary or otherwise appropriate to facilitate any debt financing or debt refinancing of any Buyer Group Member, including in, and in connection with, roadshows, analyst briefings, disclosure documents and management presentations; or
- (g) as required by an applicable law, legal process, any order or rule of any Government Agency, the rules of a recognised stock exchange or in a prospectus or other document with statutory content requirements prepared for a transaction involving a party, after first consulting with the other party to the extent practicable having regard to those obligations about the form and content of the disclosure,

and must use its best endeavours to ensure all permitted disclosures are kept confidential.

### 19.2 **No disclosure under the PPSA**

Unless specifically permitted under clause 19.1 or otherwise agreed between the Buyer and the Sellers, the Buyer and the Sellers agree not to disclose, or authorise the disclosure of, information of the kind referred to in section 275 of the PPSA, in respect of a PPS Security Interest created under or in connection with this document, to an interested person (as defined in section 275(9) of the PPSA) or any other person requested by such interested person.

### 19.3 **Media announcement**

- (a) No party may, before or after Completion, make or send a public announcement, communication or circular concerning the Transactions unless it has first obtained the written consent of the other parties (or, in the case of a proposed announcement,

communication or circular by the Buyer, the written consent of the Sellers' Representative only) which consent is not to be unreasonably withheld or delayed.

- (b) Paragraph (a) of this clause 19.3 does not apply to a public announcement, communication or circular required by law or the requirements of a regulatory body (including the ASX and any other relevant stock exchange).
- (c) A party wishing to make a public announcement, communication or circular under this clause 19.3 must, to the extent reasonably practicable, provide the other party with a reasonable opportunity to review and comment on the content of the announcement, communication or circular. To avoid doubt, in the case of a proposed announcement, communication or circular by the Buyer, this will be satisfied by the Buyer, to the extent reasonably practicable, giving the Sellers' Representative a reasonable opportunity to review and comment on the content of the announcement, communication or circular.

## 20. **DUTY, COSTS AND EXPENSES**

### 20.1 **Duty**

All Duty which may be payable on or in connection with this document and any instrument executed under or in connection with or any transaction contemplated or evidenced by the document is payable by the Buyer.

### 20.2 **Costs and expenses**

Subject to clauses 20.1, each party must pay its own costs and expenses of negotiating, preparing, signing, delivering and registering this document and any other document or document entered into or signed under this document.

### 20.3 **Costs of performance**

A party must bear the costs and expenses of performing its obligations under this document, unless otherwise provided in this document.

## 21. **NOTICES**

### 21.1 **How to give a notice**

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
  - (ii) sent in electronic form (such as email) with a copy of the electronic notice being sent by mail as soon as possible afterwards.

## 21.2 **When a notice is given**

A notice, consent or other communication that complies with this clause 21 is regarded as given and received:

- (a) if it is delivered:
  - (i) by 5.00 pm (local time in the place of receipt) on a Business Day – on that day; or
  - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day; and
- (b) if it is sent by mail:
  - (i) within Australia – three Business Days after posting; or
  - (ii) to or from a place outside Australia – seven Business Days after posting; and
- (a) if it is sent in electronic form:
  - (i) when the sender receives a valid, digitally signed acknowledgment of receipt from the addressee; or
  - (ii) 4 hours after the time sent (as recorded on the device from which it was sent) unless the sender receives an automated message that it has not been delivered.

## 21.3 **Address for notices**

A person's mail and email address and fax number are those set out below, or as the person notifies the sender:

### **Sellers' Representative**

Address: C/- Vitrinite Pty Ltd, L Level 6, Suite 2, 12 Creek Street, Brisbane, Queensland 4000

Email: [REDACTED]

Attention: [REDACTED]

### **Sellers**

Using the contact details set out alongside the relevant Seller's name in Schedule 1

### **Buyer**

Address: Suite A, Level 1, 1 Preston Street, Como, WA, 6152

Email: [REDACTED]

Attention: [REDACTED]

### **Buyer's legal adviser**

Email: [REDACTED]

[REDACTED]

### **Covenantors**

Address: C/- Vitrinite Pty Ltd, L Level 6, Suite 2, 12 Creek Street, Brisbane, Queensland 4000

Email: [REDACTED]

Attention: [REDACTED]

## 22. GENERAL

### 22.1 Governing law

This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of the State of Western Australia.

### 22.2 Choice of jurisdiction

Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Western Australia.

### 22.3 Trustees

- (a) A party (**Trustee**) to this document that is expressed to be entering into this document as trustee of a trust (**Trust**) enters into this document solely in its capacity as trustee of the Trust.
- (b) A liability arising under or in connection with this document can be enforced against the Trustee only to the extent to which it can be satisfied out of the property of the Trust out of which the Trustee is actually indemnified for the liability.
- (c) Except as expressly provided by this clause 22.3, this limitation of liability applies despite any other provision of this document and extends to all liabilities and obligations of the Trustee in any way in connection with any representation, warranty, conduct, omission, agreement or transaction related to this document.
- (d) The other parties to this document may not take any action to seek recourse to any assets held by the Trustee in any capacity other than as trustee of the Trust.
- (e) The Trustee is not obligated to enter into any commitment or obligation under this document unless its liability is limited in the same manner as in this clause 22.3.
- (f) The provisions of this clause 22.3 do not apply to any obligation or liability of the Trustee to the extent that it is not satisfied because under the terms of the deed pursuant to which the Trust is constituted or by operation of law there is a reduction in the extent of the Trustee's indemnification out of the assets of the Trust as a result of the Trustee's fraud, negligence or breach of trust.
- (g) No act or omission of the Trustee (including any related failure to satisfy its obligations under this document) will be considered fraud, negligence or breach of trust of the Trustee for the purposes of clause 22.3(f) to the extent to which the act or omission was caused or contributed to by any failure by any other person to fulfil its obligations relating to the Trustee or by any other act or omission of any such other person.

### 22.4 Invalidity

Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

### 22.5 Survival of indemnities

- (a) Each indemnity contained in this document is an additional, separate and independent obligation and no one indemnity limits the generality of another indemnity.

- (b) Each indemnity contained in this document survives Completion under this document.

## 22.6 Foreign resident capital gains tax withholding

- (a) In this clause 22.6:
  - (i) **Declaring Seller** means each Resident Seller and each Non-Resident Seller;
  - (ii) **Other Seller** means the Seller identified in item number 2 of column 7 of the table in Schedule 1;
  - (iii) **Non-Resident Seller** means each Seller identified in item numbers 4, 6, 7, 11, 13, 14, 19, 23, 28, 36, 37 and 38 of column 7 of the table in Schedule 1; and
  - (iv) **Resident Seller** means each Seller in Schedule 1 that is not a Non-Resident Seller nor the Other Seller.
- (b) Each Resident Seller warrants and declares, for the purposes of section 14-225(1) of Schedule 1 to the TAA, that for a period beginning at the time of entry into this document and ending on Completion, the Resident Seller is and will be an Australian resident within the meaning of section 995-1 of the Tax Act.
- (c) Each Non-Resident Seller warrants and declares, for the purposes of section 14-225(2) of Schedule 1 to the TAA, that for a period beginning at the time of entry into this document and ending on Completion, the Sale Shares it holds are not indirect Australian real property interests (within the meaning of the Tax Act).
- (d) If Completion occurs later than 6 months from the date of this document, then each Declaring Seller must give the Buyer a copy of a relevant CGT Declaration at least five Business Days before Completion.
- (e) The Buyer acknowledges and agrees that, provided that:
  - (i) if Completion occurs later than six months from the date of this document, it has been provided with a copy of a CGT Declaration by each Declaring Seller at least five Business Days before Completion;
  - (ii) it does not, acting reasonably, know that any declaration and warranty made under clause 22.6(b), clause 22.6(c) and (if applicable) any CGT Declaration provided by a Declaring Seller, is false; and
  - (iii) a Variation Notice is provided by each Other Seller at least 2 Business Days before Completion which varies the Withholding Amount to nil,it will not withhold any amounts from the Purchase Price payable to any Declaring Seller under Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth).
- (f) If it is reasonably likely that the Buyer is or will be required to pay a Withholding Amount to the Commissioner under Subdivision 14-D of Schedule 1 to the TAA in respect of a Seller:
  - (i) the relevant Seller irrevocably:
    - (A) agrees to Dispose of such proportion of the relevant Seller's Consideration Shares for which the consideration received is sufficient to fund, or reimburse the Buyer for, the Withholding Amount and any

associated interest, penalties and reasonably incurred costs and expenses (**Relevant Shares**), and to pay or procure the payment of the proceeds from such Disposals to a bank account nominated in writing by the Buyer;

- (B) appoints the Buyer as its agent and attorney in respect of the Disposal of the Relevant Shares; and
- (ii) the Buyer agrees to remit to the relevant Seller any proceeds received from the Disposal of Relevant Shares in excess of the Withholding Amount and any associated interest, penalties and reasonably incurred costs and expenses.
- (g) The parties acknowledge and agree that for the purposes of clause 22.6(f), it is reasonably likely that the Buyer will be required to pay a Withholding Amount to the Commissioner in respect of the Other Seller.
- (h) Notwithstanding any other provision of this document the Sellers acknowledge and agree that the Buyer will not gross up any payment made to the Sellers for any amounts that are required to be paid to the Commissioner under Subdivision 14-D of Schedule 1 to the TAA, and the Other Sellers indemnify the Buyer for an amount equal to any loss suffered by the Buyer in respect of the requirements under Subdivision 14-D of Schedule 1 to the TAA, such amounts to be payable to the Buyer by those Other Sellers on demand, where each Other Seller is liable to a Withholding Amount in respect of that Other Seller together with associated reasonably incurred costs and expenses.
- (i) To avoid doubt, and without limitation, if, by 12.00 noon on the day that is five business days after the Completion Date (or such later date determined by the Buyer in writing in its absolute discretion) the Buyer has not received from the sale of Relevant Shares sufficient proceeds to fund the applicable Withholding Amount (and any associated interest, penalties and reasonably incurred costs and expenses), that Seller must, on demand under clause 22.6(h), pay to the Buyer:
  - (i) the Withholding Amount (and any associated interest, penalties and reasonably incurred costs and expenses) less the amount of any proceeds received by the Buyer in respect of the Disposal of those Relevant Shares at such time; and
  - (ii) any other loss suffered by the Buyer in respect of the requirements under Subdivision 14-D of Schedule 1 to the TAA.
- (j) Any rights arising on the Buyer under this clause 22.6 are conferred by the Sellers in consideration for the Buyer fulfilling its obligations under Subdivision 14-D of the TAA, including the payment of a Withholding Amount in respect of the Other Seller.

## 22.7 **Entire agreement**

Other than the Confidentiality Agreement, the Transaction Agreements supersede all previous agreements, understandings, negotiations, representations and warranties about its subject matter and contains the entire agreement between the parties about its subject matter.

## 22.8 **Survival and merger**

- (a) No term of this document merges on Completion.
- (b) Clauses 19, 20, 21 and 22 survive termination or expiry of this document together with any other term which by its nature is intended to do so.



## 22.9 **Amendment**

This document can only be amended or replaced by another document executed by the parties.

## 22.10 **Waiver**

- (a) No waiver of a right or remedy under this document is effective unless it is in writing and signed by the party granting it. It is only effective in the specific instance and for the specific purpose for which it is granted.
- (b) A single or partial exercise of a right or remedy under this document does not prevent a further exercise of that or of any other right or remedy.
- (c) Failure to exercise or delay in exercising a right or remedy under this document does not operate as a waiver or prevent further exercise of that or of any other right or remedy.

## 22.11 **Cumulative rights**

Except as expressly provided in this document, the rights of a party under this document are in addition to and do not exclude or limit any other rights or remedies provided by law.

## 22.12 **Counterparts**

This document may be executed in any number of counterparts and signatures on behalf of a party may be on different counterparts.

## 22.13 **Relationship of parties**

Except as expressly provided in this document:

- (a) nothing in this document is intended to constitute a fiduciary relationship, employment relationship or an agency, partnership or trust; and
- (b) no party has authority to bind any other party.

## 22.14 **Further assurances**

Except as expressly provided in this document, each party must, at its own expense, do all things reasonably necessary to give full effect to this document and the matters contemplated by it.

## 22.15 **Assignment and novation**

- (a) Subject to paragraph (b), a party must not assign or novate this document or otherwise deal with the benefit of it or a right under it, or purport to do so, without the prior written consent of each other party of which consent is not to be unreasonably withheld.
- (b) The Buyer may grant to its financiers from time to time, security over the Buyer's rights under this document in favour of:
  - (i) any secured lender or other person (each, a **Finance Party**) providing financial accommodation on secured terms to the Buyer (or any of its Affiliates); or
  - (ii) any person or persons acting as security trustee or agent for the Finance Parties in respect of any such financial accommodation, and the Buyer or the

Finance Parties or such security trustee or agent may also, in the event of enforcement of such security, assign the benefit of the Buyer's rights under this document to any purchaser or assignee from a Finance Party or such security trustee or agent (or any receiver appointed by any of them) who acquires the Sale Shares, the shares of the Target Company or the shares of the Buyer or all or any part of the Business.

**SCHEDULE 1**

**Sellers**

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
<b>Seller</b>	<b>Contact</b>	<b>Number of Sale Shares</b>	<b>No. of Consideration Shares</b>	<b>Relevant Proportion</b>	<b>Escrow Period</b>	<b>Item numbers for CGT withholding declaration</b>	<b>Relevant exception</b>
Vitrinite Holdings Pty Ltd ACN 614 033 180	[REDACTED]	49,288,000 ordinary shares Beneficially owned and fully paid	7,248,235	36.24%	24 months	1.	Sophisticated
Vitrinite Holdings LLC	[REDACTED]	43,723,824 ordinary shares Beneficially owned and fully paid	6,429,974	32.15%	24 months	2.	Accredited
Vitrinite Pty Ltd ACN 167 744 578	[REDACTED]	16,452,512 ordinary shares Beneficially owned and fully paid	2,419,487	12.10%	-	3.	Sophisticated
New Canaan Capital Advisors LLC	[REDACTED]	5,814,520 ordinary shares Beneficially owned and fully paid	855,076	4.28%	24 months	4.	Accredited
DDH Graham Limited ACN 010 639 219 as trustee for the Lugarno Fund ABN 97 145 780 707	[REDACTED]	5,004,800 ordinary shares Non-beneficially owned and fully paid	736,000	3.68%	6 months	5.	Sophisticated

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
<b>Seller</b>	<b>Contact</b>	<b>Number of Sale Shares</b>	<b>No. of Consideration Shares</b>	<b>Relevant Proportion</b>	<b>Escrow Period</b>	<b>Item numbers for CGT withholding declaration</b>	<b>Relevant exception</b>
PWD Capital LLC	[REDACTED]	2,502,400 ordinary shares	368,000	1.84%	6 months	6.	Accredited
	[REDACTED]	Beneficially owned and fully paid					
Fidelity Canada Clearing ULC ITF	[REDACTED]	1,999,200 ordinary shares	294,000	1.47%	6 months	7.	Accredited
	[REDACTED]	Beneficially owned and fully paid					
William Ian Lambert	[REDACTED]	1,006,400 ordinary shares	148,000	0.74%	6 months	8.	Not applicable
	[REDACTED]	Beneficially owned and fully paid					
K.Vedelago & Associates Pty Ltd ACN 066 108 736 as trustee for the Kevin Vedelago Super Fund ABN 98 097 877 128	[REDACTED]	1,006,400 ordinary shares	148,000	0.74%	6 months	9.	Sophisticated
	[REDACTED]	Non-beneficially owned and fully paid					
RB & PB Holdings Pty Ltd ACN 649 787 397 as trustee for the RB & PB Holdings Trust	[REDACTED]	1,006,400 ordinary shares	148,000	0.74%	6 months	10.	Sophisticated
	[REDACTED]	Non-beneficially owned and fully paid					

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
<b>Seller</b>	<b>Contact</b>	<b>Number of Sale Shares</b>	<b>No. of Consideration Shares</b>	<b>Relevant Proportion</b>	<b>Escrow Period</b>	<b>Item numbers for CGT withholding declaration</b>	<b>Relevant exception</b>
Frances Phillips	[REDACTED]	813,008 ordinary shares Beneficially owned and fully paid	119,560	0.60%	24 months	11.	Accredited
Jake Nielsen as trustee for the Arthur Anne Family Trust ABN 49 268 825 469	[REDACTED]	544,000 ordinary shares Beneficially owned and fully paid	80,000	0.40%	-	12.	Not Applicable
Konstandinos Ghoussias	[REDACTED]	503,200 ordinary shares Beneficially owned and fully paid	74,000	0.37%	6 months	13.	Accredited
Christopher J. Irwin	[REDACTED]	503,200 ordinary shares Beneficially owned and fully paid	74,000	0.37%	-	14.	Accredited
Stephen Wilmot as trustee for the Wilmot Family Trust	[REDACTED]	503,200 ordinary shares Non-beneficially owned and fully paid	74,000	0.37%	-	15.	Sophisticated

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
<b>Seller</b>	<b>Contact</b>	<b>Number of Sale Shares</b>	<b>No. of Consideration Shares</b>	<b>Relevant Proportion</b>	<b>Escrow Period</b>	<b>Item numbers for CGT withholding declaration</b>	<b>Relevant exception</b>
David J Greenwood & Lynette J Greenwood as trustees for the Greenwood Super Fund ABN 38 455 794 016	[REDACTED]	503,200 ordinary shares Non-beneficially owned and fully paid	74,000	0.37%	-	16.	Sophisticated
Harris Bro Superannuation Pty Ltd ACN 094 363 210	[REDACTED]	503,200 ordinary shares Non-beneficially owned and fully paid	74,000	0.37%	-	17.	Not applicable
Margaret Therese McGee	[REDACTED]	500,000 ordinary shares Beneficially owned and fully paid	73,529	0.37%	-	18.	Not applicable
Ronald Phillips	[REDACTED]	437,736 ordinary shares Beneficially owned and fully paid	64,373	0.32%	24 months	19.	Accredited
Salaqua Investments Pty Ltd ACN 619 872 409 as trustee for the Salaqua Assets Trust ABN 55 238 442 909	[REDACTED]	300,000 ordinary shares Non-beneficially owned and fully paid	44,118	0.22%	-	20.	Not applicable

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
<b>Seller</b>	<b>Contact</b>	<b>Number of Sale Shares</b>	<b>No. of Consideration Shares</b>	<b>Relevant Proportion</b>	<b>Escrow Period</b>	<b>Item numbers for CGT withholding declaration</b>	<b>Relevant exception</b>
STARLAW Pty Ltd ACN 010 520 788	[REDACTED]	299,200 ordinary shares Beneficially owned and fully paid	44,000	0.22%	-	21.	Sophisticated
Blue Wolf Pty Ltd ACN 633 380 337 as trustee for the Blue Wolf Trust ABN 25 549 772 749	[REDACTED]	299,200 ordinary shares Non-beneficially owned and fully paid	44,000	0.22%	-	22.	Not applicable
Edward Sugar	[REDACTED]	299,200 ordinary shares Beneficially owned and fully paid	44,000	0.22%	-	23.	Accredited
B&M Wall Superfund Pty Ltd ACN 630 660 605 as trustee for the B&M Wall Superfund ABN 25 153 375 101	[REDACTED]	244,800 ordinary shares Non-beneficially owned and fully paid	36,000	0.18%	-	24.	Not applicable
Seven Mile Beach Road Pty Ltd ACN 619 586 122 as trustee for the AM & AG Family Trust ABN 69 741 506 643	[REDACTED]	244,800 ordinary shares Non-beneficially owned and fully paid	36,000	0.18%	-	25.	Not applicable

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
<b>Seller</b>	<b>Contact</b>	<b>Number of Sale Shares</b>	<b>No. of Consideration Shares</b>	<b>Relevant Proportion</b>	<b>Escrow Period</b>	<b>Item numbers for CGT withholding declaration</b>	<b>Relevant exception</b>
Middleton Shores Pty Ltd ACN 098 790 419 as trustee for the McKinnon Family Trust ABN 97 780 195 657	[REDACTED]	244,800 ordinary shares Non-beneficially owned and fully paid	36,000	0.18%	-	26.	Professional
Carter Lagana	[REDACTED]	244,800 ordinary shares Beneficially owned and fully paid	36,000	0.18%	-	27.	Not applicable
Joel Sutherland	[REDACTED]	244,800 ordinary shares Beneficially owned and fully paid	36,000	0.18%	-	28.	Accredited
Murphy Family Group Pty Ltd ACN 636 000 336 as trustee for the Murphy Family Trust	[REDACTED]	204,000 ordinary shares Non-beneficially owned and fully paid	30,000	0.15%	-	29.	Not applicable
Reuben Kyle Mergard	[REDACTED]	149,600 ordinary shares Beneficially owned and fully paid	22,000	0.11%	-	30.	Not applicable



Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
<b>Seller</b>	<b>Contact</b>	<b>Number of Sale Shares</b>	<b>No. of Consideration Shares</b>	<b>Relevant Proportion</b>	<b>Escrow Period</b>	<b>Item numbers for CGT withholding declaration</b>	<b>Relevant exception</b>
DSRB Holdings Pty Limited ACN 626 503 080 as trustee for DSR Holdings ABN 75 379 209 378	[REDACTED]	149,600 ordinary shares Non-beneficially owned and fully paid	22,000	0.11%	-	31.	Not applicable
Patrick John Leahy	[REDACTED]	95,200 ordinary shares Beneficially owned and fully paid	14,000	0.07%	-	32.	Not applicable
Claudette Callan	[REDACTED]	95,200 ordinary shares Beneficially owned and fully paid	14,000	0.07%	-	33.	Not applicable
4ever Exploring Pty Ltd ACN 648 430 308	[REDACTED]	95,200 ordinary shares Beneficially owned and fully paid	14,000	0.07%	-	34.	Not applicable
Jonathan Nathan Leahy and Tamlyn Kerry Leahy	[REDACTED]	54,400 ordinary shares Beneficially owned and fully paid	8,000	0.04%	-	35.	Not applicable
Craig Rothman	[REDACTED]	50,000 ordinary shares Beneficially owned and fully paid	7,353	0.04%	-	36.	Accredited

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
<b>Seller</b>	<b>Contact</b>	<b>Number of Sale Shares</b>	<b>No. of Consideration Shares</b>	<b>Relevant Proportion</b>	<b>Escrow Period</b>	<b>Item numbers for CGT withholding declaration</b>	<b>Relevant exception</b>
James Sim	██████████ ██████████████████ ██████ ██████████████████	50,000 ordinary shares Beneficially owned and fully paid	7,353	0.04%	-	37.	Accredited
Trevor Tompkins	██████████ ██████████████████ ██████ ██████████████████	20,000 ordinary shares Beneficially owned and fully paid	2,941	0.01%	-	38.	Accredited
<b>TOTAL</b>		<b>136,000,000 ordinary shares</b>	<b>20,000,000</b>	<b>100%</b>			

## SCHEDULE 2

### Information about the Target Company

Name of company	ACN	Registered office	Place of registration	Securities on issue	Shareholders
<b>Ten Sixty Four Limited</b>	614 771 407	Level 6, Suite 2, 12 Creek Street, Brisbane, Queensland, 4000	Queensland	See Schedule 7	See Schedule 1

## SCHEDULE 3

### Seller Warranties

#### 1. The Sellers' authority

- (a) Each Seller that is a body corporate is duly incorporated and validly exists under the laws of the place of its incorporation.
- (b) Each Seller has full legal capacity and power, has taken all corporate action that is necessary to authorise, and has all necessary consents, to enter into and perform its obligations under this document and the Transaction Agreements.
- (c) This document and the Transaction Agreements (if applicable) constitute a legal, valid and binding obligation of each Seller, enforceable against each Seller in accordance with their terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration.
- (d) The execution and the performance of this document and the Transaction Agreements (if applicable) by each Seller did not and will not violate or breach any provision of:
  - (i) any agreement, instrument or security or Encumbrance to which it is a party or by which it is bound or to which its Sale Shares are subject to;
  - (ii) any provision of its constitution, memorandum or articles of association or other constituent document; or
  - (iii) a Law, regulation, order, writ, injunction or decree of any court or agency which it is subject.
- (e) No Seller:
  - (i) is a "foreign government investor" (as that term is defined in the *Foreign Acquisitions and Takeovers Regulation 2015 (Cth)*); nor
  - (ii) will contravene the *Foreign Acquisitions and Takeovers Act 1975 (Cth)* or any regulation made thereunder by entering into this document or by undertaking any of the Transactions (including, without limitation, acquiring any Consideration Shares).
- (f) Each Seller:
  - (i) with the word 'Professional' opposite its name in column 8 of Schedule 1 satisfies the requirements for a 'professional investor' within the meaning under section 708(11) of the Corporations Act;
  - (ii) with the word 'Sophisticated' opposite its name in column 8 of Schedule 1 satisfies the requirements for a sophisticated investor under section 708(8) of the Corporations Act;
  - (iii) with the word 'Accredited' opposite its name in column 8 of Schedule 1 satisfies the requirements for an 'Accredited Investor' within the meaning under Rule 501(a) of Regulation D of the 1933 US Securities Act by virtue of the application of one or more of the categories of exemption contained within the 1933 US Securities Act;

- (iv) with the words "Not applicable" opposite its name in column 8 of Schedule 1 has given a validly completed 'Instruction Form' (as contained in Schedule 1 of the Offer Letter) to the Target Company under which that Seller acknowledges that they were interested in the proposal solicited by the Vitrinite Sellers with respect to the transaction contemplated by this document,

and no Seller is acquiring the Consideration Shares with the purpose of selling or transferring them, or granting, issuing or transferring interests in, or options over, them.

- (g) As at the date of this document:
  - (i) no meeting has been convened, resolution proposed, petition presented or order made for the winding up of any Seller that is a body corporate;
  - (ii) no receiver, receiver and manager, provisional liquidator, liquidator or other officer of the Court has been appointed in relation to all or any material assets of any Seller;
  - (iii) no Insolvency Event has occurred in relation to any Seller;
  - (iv) each Seller that is a natural person is not bankrupt, of unsound mind or incapable of managing its own affairs; and
  - (v) so far as each Seller is aware, there are no facts, matters or circumstances which could reasonably be expected to give rise to an Insolvency Event, bankruptcy or unsoundness of mind in respect of any Seller.
- (h) Where a Seller has entered into this document in its capacity as trustee of a trust:
  - (i) it has been validly appointed as trustee of the trust and it is the only trustee of the trust and it is not aware of any action to remove it as trustee of the trust;
  - (ii) it has power under the trust deed of the trust to enter into and observe its obligations under this document and it has entered into this document in its capacity as trustee of the trust; and
  - (iii) it has the authorisations necessary to enter into this document and perform its obligations under this document.

## **2. The Sale Shares**

- (a) Each Seller:
  - (i) is the legal owner and beneficial owner (except as set out in Schedule 1) of the Sale Shares set out opposite its name in column 3 of Schedule 1;
  - (ii) has full right, title and interest in the Sale Shares free from any Encumbrance; and
  - (iii) has complete power and right to transfer those Sale Shares, and those Sale Shares will be so transferred, to the Buyer free from all Encumbrances at Completion.
- (b) There is no option, right to acquire or comparable agreement on, over or affecting the Sale Shares and there is no agreement or commitment to give or create any.

- (c) As at the Completion Date, no Seller is bound by a restriction on the transfer of the Sale Shares to the Buyer.
- (d) There are no options, agreements or other arrangements in force (whether exercisable now or in the future and whether contingent or otherwise) which:
  - (i) provide for the present or future purchase or, transfer, issue or allotment of; or
  - (ii) give to any person the right (absolute or conditional) to call for the purchase, or transfer, issue or allotment of,
 any of the Sale Shares.
- (e) No person has made a Claim to be entitled to an Encumbrance affecting any Sale Share.
- (f) No Seller has Disposed of any Sale Share, or of any other interest in any Sale Share.
- (g) All documents needed to establish title of each Seller to the Sale Shares are in the possession of or under the control of the Sellers, and have been duly stamped.

### **3. Capital structure**

- (a) As at the date of this document, the capital structure of the Target Company set out in Schedule 7 contains a true, complete and accurate description of all the issued shares, options and other securities in the capital of the Target Company.
- (b) As at Completion, the capital structure of the Target Company will comprise 136,000,000 fully paid ordinary shares.
- (c) The Sale Shares comprise the whole of the issued share capital of the Target Company and are held by the Sellers.
- (d) The Sale Shares:
  - (i) are fully paid;
  - (ii) are validly allotted and issued;
  - (iii) were not allotted or issued or transferred in breach of any:
    - (A) pre-emptive or similar rights of any person; or
    - (B) contract which is binding on the Target Company or any Asset.
- (e) As at the Completion Date, there is no agreement, arrangement or understanding of any nature (including shareholder agreement, voting trust or proxy) relating to the control, ownership, operation, management or funding of the Target Company or the Sale Shares.
- (f) The Target Company is not under any obligation, whether or not subject to any condition, to:
  - (i) issue, allot, create, sell, transfer or otherwise dispose of any shares or other securities (including in accordance with the terms of an Unsecured Redeemable Convertible Note Subscription Deed between the Target Company and a Seller);

- (ii) enter into any agreement in respect of the rights to vote which are conferred in respect of any Sale Shares or other Securities;
  - (iii) grant any warrant, option or right of first refusal or offer in respect of any Sale Shares or other securities; or
  - (iv) acquire any shares or other securities of any type in any body corporate (wherever incorporated).
- (g) There is no application pending or threatened to rectify the register of members of the Target Company.

**4. The Target Company's incorporation and existence and other fundamental Covenantor warranties**

- (a) The Target Company is duly incorporated and validly exists under the law of its place of incorporation.
- (b) The Target Company has full legal capacity and power to own its property and to carry on its business in each jurisdiction in which it carries on business.
- (c) No Insolvency Event has occurred in relation to the Target Company.
- (d) So far as each Seller is aware, there are no facts, matters or circumstances which could reasonably be expected to give rise to an Insolvency Event in respect of the Target Company.
- (e) The Business and affairs of the Target Company have at all times been and continue to be conducted in accordance with the Target Company's constitution, trust deeds and other constitutional documents (as applicable).
- (f) The constitution included in the Data Room with document ID [REDACTED] is an accurate and complete copy of the Target Company's constitution, and there are no other agreements, arrangements or understandings that modify that constitution in any way.
- (g) The Target Company does not have any subsidiary and does not have any interest in any shares or other securities in any other entity.
- (h) The Target Company has not, and has not agreed to become:
  - (i) a member of involved with of any joint venture, consortium, partnership or unincorporated association (other than a recognised trade association); or
  - (ii) a party to any contract for participating with others in any business sharing commissions or other income.
- (i) The details set out in Schedule 1 are true and accurate.
- (j) Each registered shareholder specified in Schedule 1 in respect of the Target Company:
  - (i) is the sole legal and beneficial owner of all of its shares in the Target Company; and
  - (ii) has the right to exercise all voting and other rights over such shares in the Target Company.

- (k) No person has the right (whether exercisable now or in the future and whether contingent or not) to call for the allotment, conversion, issue, registration, sale or transfer, of any share or loan capital or any other security giving rise to a right over the capital of the Target Company under any option, agreement or other arrangement (including conversion rights and rights of pre-emption, or any "anti-dilution rights" in accordance with the terms of an Unsecured Redeemable Convertible Note Subscription Deed between the Target Company and a Seller).
- (l) The Target Company has not:
  - (i) redeemed or repaid any share capital contrary to its constitution or the terms of issue of any shares;
  - (ii) reduced its share capital or passed any resolution for the reduction of its share capital;
  - (iii) agreed or offered, whether or not subject to any condition, to do any of the matters referred to in paragraph (i) or (ii) of this warranty;
  - (iv) breached any Law by giving financial assistance with respect to the acquisition of any shares; or
  - (v) offered or agreed, whether or not subject to any condition, to buy-back any shares.
- (m) Each resolution of directors, unit holders or members, as applicable, of the Target Company has been validly and properly passed in accordance with all applicable Laws.
- (n) The Target Company has not granted a financial benefit to a "related party" (as that expression is defined in section 228 of the Corporations Act but with all references to "public company" to be substituted by "Target Company"), any shareholder of the Target Company, Seller or any other Seller Affiliate.
- (o) The details of the current Officers, auditors and public officers of the Target Company are as shown in Schedule 7.
- (p) Schedule 2 sets out accurate and complete details of the Target Company.
- (q) Each Covenantor has full legal capacity and power, has taken all corporate action that is necessary to authorise, and has all necessary consents, to enter into and perform its obligations under this document and the Transaction Agreements.
- (r) This document and the Transaction Agreements (if applicable) constitute a legal, valid and binding obligation of each Covenantor, enforceable against each Covenantor in accordance with their terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration.
- (s) The execution and the performance of this document and the Transaction Agreements (if applicable) by each Covenantor did not and will not violate or breach any provision of:
  - (i) any agreement, instrument or security or Encumbrance to which it is a party or by which it is bound; or
  - (ii) a Law, regulation, order, writ, injunction or decree of any court or agency to which it is subject.



- (t) As at the date of this document:
  - (i) no receiver, receiver and manager, provisional liquidator, liquidator or other officer of the Court has been appointed in relation to all or any material assets of any Covenantor;
  - (ii) no Insolvency Event has occurred in relation to any Covenantor;
  - (iii) each Covenantor is not bankrupt, of unsound mind or incapable of managing its own affairs; and
  - (iv) so far as each Seller is aware, there are no facts, matters or circumstances that could reasonably be expected to give rise to an Insolvency Event, bankruptcy or unsoundness of mind in respect of any Covenantor.
- (u) The only "Officers" for the purposes of rule 24 of the Target Company's constitution are Welker, Burgess, Williams, Nikeas and Shane Pike, and the only persons who are current or former directors or officers of the Target Company and who are indemnified by the Target Company are Welker, Burgess, Williams, Nikeas and Shane Pike.

## **5. Financial position**

- (a) The Accounts:
  - (i) comply with applicable statutory requirements and were prepared in accordance with the Accounting Standards; and
  - (ii) give a true and fair view of the financial position and the assets and liabilities of the Target Company as at the Accounts Date;
  - (iii) are not misleading or deceptive in any material respect (whether by omission or otherwise);
  - (iv) are not affected by any unusual, abnormal, extraordinary, exceptional or non-recurring items, other than those specifically disclosed in those financial statements; and
  - (v) include all liabilities (whether actual or contingent) of the Target Company as at the date of such Accounts.
- (b) Since the Accounts Date:
  - (i) the Target Company has not done anything, or failed to do anything, that would (if done, or failed to be done, after the date of this document) would contravene clause 5.1
  - (ii) no dividend or distribution of capital or income has been declared, made, paid or determined to be payable in respect of any share capital or units of the Target Company;
  - (iii) the Target Company has not issued any shares, securities, units or loan capital convertible into shares or units or bought back any shares or reduced or otherwise altered or agreed to alter its share capital;
  - (iv) the Target Company has carried on its Business in the ordinary, regular and normal course in a manner generally consistent with the manner in which the Business was carried out during the 12 month period ending on the Accounts Date and in accordance with applicable Law and all contractual obligation.

- (c) The Trial Balances:
  - (i) fairly represent and show a materially accurate view of:
  - (ii) the financial position and state of affairs of the Target Company as at the date to which they have been prepared; and
    - (A) the financial performance of the Target Company for the period in respect of which they have been prepared;
  - (iii) have been prepared in good faith and with reasonable care and diligence, but the Buyer acknowledges that they are not audited or prepared on a statutory basis.
- (c) The Target Company has not granted or agreed to grant and is not a party to any guarantee, letter of comfort, indemnity or Encumbrance (other than Permitted Encumbrances ) in respect of:
  - (i) an obligation or liability of the Target Company to a third party which is outstanding; or
  - (ii) an obligation or liability of any person (including in respect of a Seller Affiliate) other than the Target Company which is outstanding.
- (d) No bank or other financial institution has given any guarantee, letter of comfort, indemnity or other commitment of financial support to any third party in respect of an obligation or liability of the Target Company which is outstanding.
- (e) At Completion, the Target Company will not have any amounts owing in respect of Debt.
- (f) The Target Company has complied with and satisfied all of its obligations under all funding agreements (including those under which a Government Agency has or has agreed to provide funding to the Target Company), and the Target Company is not under any obligation to repay any amounts advanced under such agreements nor are there any facts, matters or circumstances that may give rise to such a repayment obligation.
- (g) No amounts are owing from or on behalf of the Target Company to any Seller or any Seller Affiliate (other than as permitted by clause 5.1(n)(xxxi)).

**6. Information**

- (a) The factual information relating to the Target Company, the Assets and the Business in the Warranted Information and in this document (including the Schedules) are true and accurate in all respects, and each of those Schedules is accurate and complete insofar as presenting a full and fair description and a complete and accurate list of all items of its corresponding subject matter.
- (b) The Disclosure Materials were compiled in good faith for the purpose of fairly disclosing information about the Sale Shares, the Target Company, the Assets and the Business to a potential buyer for value.
- (c) [REDACTED]

- (d) All information which was included in the Disclosure Materials is true, complete and accurate in all respects and is not misleading or deceptive, in any way.
- (e) All information that was provided to ██████████ in connection with the preparation of the Due Diligence Report was true, complete and accurate in all respects and was not misleading or deceptive, in any way.
- (f) All copies of documents provided by the Sellers to the Buyer in relation to the Business, the Target Company, the Sale Shares and the Assets contained in the Disclosure Materials, are true, complete and accurate copies of the originals of those documents.
- (g) The Data Room and the Disclosure Materials (in aggregate) include all information about the subject matter of this agreement (including the Sale Shares, the Target Company, the Assets and the Business) that is material for a buyer of the Sale Shares to know before deciding whether or not to enter into an agreement such as this, and on what terms (including, without limitation, details of material liabilities), and no Seller is aware of any information not disclosed in the Data Room or the Disclosure Materials that might affect the willingness of the Buyer to purchase the Sale Shares.

## **7. Assets**

- (a) The Target Company has legal and beneficial ownership of, and the rights to use and possession or control of all assets necessary to enable it to continue to carry on its business in substantially the same manner carried on at the date of this document.
- (b) On Completion no Encumbrances exist over any of the Assets other than a Permitted Encumbrance.
- (c) So far as each Seller is aware, there are no facts or circumstances that could result in the creation of an Encumbrance (other than a Permitted Encumbrance) over any of the Assets.
- (d) All of the Assets are used solely by the Target Company and not the subject of any arrangement which gives any person other than the Target Company the right to utilise any asset, the right to require the transfer of any asset or any right in respect of any asset (including any option).
- (e) The Assets are not the subject of any lease, hire purchase agreement, contract for purchase on deferred terms or any similar contract or commitment (other than a Permitted Encumbrance).
- (f) Each of the Assets that has a written down book value of greater than \$50,000:
  - (i) is in good repair and working condition and fit for purpose, consistent with its age and fair wear and tear;
  - (ii) has been properly maintained; and
  - (iii) is currently insured.
- (g) All documents needed to establish title to an Asset are in the possession of or under the control of the Target Company and if required have been duly stamped.
- (h) The Target Company has not Disposed of any Asset or has entered into, or agreed to enter into, any arrangement for the Disposal of any Asset, other than as required by this document for the Transaction.

- (i) No Asset or any part thereof is contaminated by any substance or affected or degraded by the presence of any substance (including any dangerous goods), asbestos or any waste or hazard to the Environment), and no such substance has migrated or emanated from any part of any Asset.

## **8. Tenements**

- (a) The Tenements are in good standing, except in relation to compliance with required expenditure for any Tenement for any year in relation to which the Target Company has made an application for exemption from the expenditure requirements, but such exemption has not been granted.
- (b) The holders of each Tenement are not in material breach of the terms and conditions of the relevant Tenement.
- (c) All material fees and charges in respect of the Tenements which have fallen due for payments have been paid.
- (d) No notice has been received under any applicable Law cancelling, forfeiting or suspending or threatening to cancel, forfeit or suspend the Tenements nor any material licence, consent, permissions, authority or permit currently held in relation to the Tenements.
- (e) The Target Company has not taken any action with any Government Agency to surrender any Tenement and no holder of a Tenement has taken such action, nor has any Seller or Seller Affiliate.
- (f) In respect of any Tenements and Authorisations which are due to be renewed before the Completion Date, as at the Completion Date, the Target Company will have applied for the same to be renewed and there is no reasonable basis for believing that any applications for renewal for any Tenement or Authorisation will not be granted.

## **9. Authorisations**

- (a) The Target Company has obtained all Authorisations which are necessary to conduct the Business in the locations and in the manner in which it is conducted at the date of this document, and all such Authorisations are valid and in good standing.
- (b) The Target Company has not received any notice in writing alleging that any of them are in breach of the terms of any Authorisation.
- (c) The Target Company has not received any notice indicating that, and so far as the Sellers are aware there is no fact or matter which is likely to prejudice or cause, any Authorisation will be revoked, suspended, modified or will not be renewed.

## **10. Real property**

- (a) None of the Sellers, Seller Affiliates or the Target Company hold any freehold property or have entered into any lease agreements, with the exception of the Core Shed Lease included in the Data Room with document ID [REDACTED] and [REDACTED], or licences in relation to freehold property in connection with the Business.
- (b) All material assets and infrastructure required to undertake the Business are located within the footprint of the existing Business.
- (c) All access arrangements, make good and equivalent arrangements with underlying land owners required for the existing Business to operate in the ordinary course are in place.

- (d) None of the Sellers, Seller Affiliates or the Target Company have, in connection with the Business, entered into any access agreements with any third party.

**11. Native Title and Aboriginal cultural heritage**

- (a) All relevant processes under Native Title/Heritage Laws were complied with in relation to the grant (including any extension, renewal, re-grant or re-making) of each Tenement, and each Tenement was, is and remains valid for the purposes of the Native Title Act.
- (b) None of the Sellers, Seller Affiliates or the Target Company have:
  - (i) committed any material default, breach or non-compliance with any of their relevant obligations under any agreement relating to Aboriginal cultural heritage and/or native title, including under the Existing Agreements; or
  - (ii) received any notice of default or breach from any counterparty in relation to any alleged non-compliance with any of their relevant obligations under any agreement relating to Aboriginal cultural heritage and/or native title, including under the Existing Agreements.
- (c) None of the Sellers, Seller Affiliates or the Target Company have entered into any agreement, arrangement or understanding relating to Aboriginal cultural heritage and/or native title in respect of the Tenements other than the Existing Agreements.
- (d) None of the Sellers, Seller Affiliates or the Target Company are on notice of any Aboriginal sites or objects, or any other matters or issues relating to Aboriginal cultural heritage and/or native title rights and interests (apart from the Existing Agreements), that will or are likely to materially impact any Asset or the current or planned development of the Business.
- (e) The Sellers, Seller Affiliates and the Target Company:
  - (i) have complied with all Native Title/Heritage Laws, to the extent they apply or have applied to the Business, to any Asset or to any employee or contractor in respect of the Business;
  - (ii) without limiting sub-paragraph (i), have complied with the "Native Title Protection Conditions" in respect of each Tenement which is subject to Native Title Protection Conditions, except where one of the Existing Agreements applies or prevails over the Native Title Protection Conditions;
  - (iii) have not received any notice from any Government Agency which asserts that it has not complied or is not complying with a Native Title/Heritage Law, to the extent it applies or has applied to the Business, to any Asset or to any employee or contractor in respect of the Business; and
  - (iv) have not made or given any undertaking to a Government Agency (including any court or tribunal) under a Native Title/Heritage Law, to the extent it applies or has applied to the Business, to any Asset or to any employee or contractor in respect of the Business.
- (f) In this Schedule:
  - (i) **Existing Agreements** means:
    - (A) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

- (B) [REDACTED];
- (C) [REDACTED];
- (D) [REDACTED];
- (E) [REDACTED]; and
- (F) [REDACTED].

(ii) **Native Title/Heritage Law** means:

- (A) any legislation, other Law or standard set by a Government Agency which regulates or has as its purpose, objective or effect the regulation, protection, conservation or enhancement of Aboriginal cultural heritage and/or native title rights and interests (and, to avoid doubt, includes the Native Title Act and the *Aboriginal Cultural Heritage Act 2003* (Qld)); and
- (B) all Authorisations issued under any legislation, other Law or standard described in sub-paragraph (A) above.

**12. Conduct of the Business**

- (a) There are no actual or contingent liabilities of the Target Company, or unascertained Claims against the Target Company (including contractual commitments) which could adversely affect the value of the Business.
- (b) There is no outstanding notice or order prohibiting or restricting the conduct of the Business in any way and, so far as the Sellers are aware, there is no proposal to issue such a notice.
- (c) The Target Company does not require the consent of a third party to carry on its Business or any material part of it.
- (d) Since the date that is 12 months before the date of this document, there has been no significant change in the basis or terms on which any material customer or supplier of the Business has been prepared to trade with the Target Company.
- (e) All material Business Records of the Business have been maintained by or on behalf of the Target Company, are in the possession of or under the control of the Target

Company, are up to date and accurate in all material respects and are in accordance with all applicable Laws.

- (f) Each document or filing which is required by Law to be delivered or made to any Government Agency by the Target Company or Seller has been duly delivered or made.

### **13. Material Contracts**

- (a) Schedule 9 contains a list of all Material Contracts in force as at the date of this document, and true and complete copies of all such contracts are contained in the Data Room as set out in Schedule 9.
- (b) Each Material Contract is a legal, valid and binding obligation, enforceable in accordance with its terms. No Material Contract is voidable or liable to rescission for any reason.
- (c) No Material Contract:
  - (i) has been entered into other than in the ordinary course of business;
  - (ii) cannot be performed in accordance with its terms and on time, or can so be performed but only with undue or unusual expenditure of time, money or effort;
  - (iii) restricts the freedom of any member of the Target Company to engage in any activity or business in any area or otherwise contains a non-compete undertaking or exclusivity restriction;
  - (iv) contains most-favoured nation, price matching or similar price and supply provisions; or
  - (v) is an agreement or arrangement otherwise than by way of bargain at arm's length.
- (d) There has been no material diminution in the value of any Material Contract, other than in accordance with the terms of such Material Contract.
- (e) To the best of the Sellers' knowledge, no counterparty to a Material Contract has indicated that they will or may:
  - (i) not continue with a project the subject of a Material Contract;
  - (ii) not continue with a Material Contract;
  - (iii) terminate a Material Contract;
  - (iv) reduce the scope of works or will no longer require the scope of works in connection with the Material Contract; or
  - (v) require amendments to the terms of a Material Contract that are less favourable to the applicable member of the Target Company than the current terms of the Material Contract.
- (f) No Material Contract entitles the counterparty, or a third party, as a result of change of ownership or change of control of the Target Company, to:
  - (i) unilaterally terminate the Material Contract; or

- (ii) require the adoption of terms which are less favourable to the relevant Target Company than the current terms of the Material Contract.
- (g) No Material Contract or the performance of any such contract contravenes any Law or regulatory requirement.
- (h) There is no contract, agreement, arrangement or understanding which must be assigned or novated to the Target Company if they are to be able to carry on the Business, with the same financial result as carried on prior to Completion.
- (i) Neither the Target Company, nor, to the best of the Sellers' knowledge, any counterparty, is in material breach or in default under, or but for the requirements of notice or lapse of time or both would be in breach of or in default under, any Material Contract.
- (j) No joint venture partnerships, alliances or similar agreements, current or proposed, have been entered into or proposed to be entered into by the Target Company or otherwise in respect of the Business.
- (k) No event has occurred which may be a ground for termination of any Material Contract.
- (l) The Target Company has not received any notice, advice or correspondence from a counterparty to a Material Contract:
  - (i) with respect to the non-renewal or non-extension of the term of that Material Contract; or
  - (ii) confirming or suggesting that that Material Contract will or may be renewed or extended only on materially amended terms.
- (m) The Disclosure Materials contain complete and accurate copies of all agreements, and full particulars of all arrangements or understandings, between the Target Company (on the one hand), and any Seller or Seller Affiliate (on the other hand), **(Related Party Arrangements)**.
- (n) Except in respect of the agreements numbered [REDACTED], in Schedule 9, from Completion, the Target Company will not be subject to, and will be unconditionally and irrevocably released and discharged from, any and all Related Party Arrangements.
- (o) All Related Party Arrangements are on arm's length terms which would be reasonable in the circumstances if the parties concerned were in fact dealing at arm's length.
- (p) There is no actual or contingent material liability of the Target Company, or Claim against the Target Company (whether actual, pending or reasonably likely), in relation to a warranty (express or implied), a breach or default, or a defects liability period in connection with any Material Contract or any works performed or services provided under any Material Contract, and the Sellers are not aware of any facts, matters or circumstances that may give rise to such a liability or such a Claim.
- (q) There are no deeds of cross guarantee, including no ASIC deeds of cross guarantee, entered into by any Target Company.

#### **14. Insurance**

- (a) Having regard to the usual practice in the industry in which its Business is operated and to the jurisdictions in which the Business is operated, the Target Company has



(or are covered by) adequate insurance for each risk relating to the Business normally insured against at all material times.

- (b) Each insurance policy taken out by or in respect of the Target Company:
  - (i) is current;
  - (ii) is a legal, valid and binding obligation enforceable in accordance with its terms; and
  - (iii) with the exception of statutory insurances, is with an insurance company with a financial rating from Standard & Poors of AA or better.
- (c) Nothing has been done or omitted so as to:
  - (i) make void or voidable any policy insuring any asset of the Target Company or insuring against any liability in connection with the Business; or
  - (ii) permit an insurer to cancel the policy, or to refuse or reduce a claim.
- (d) The Target Company has not been notified by any insurer that it must (or should) carry out any maintenance, repair or work on any of its assets.
- (e) No claim is outstanding or pending under any insurance policy which relates to the Target Company or the Business. There is no fact, matter or circumstance which could give rise to such a claim under any insurance policy.

## **15. Environment**

- (a) The Target Company has not received any notice:
  - (i) from any Government Agency which asserts that it is in material non-compliance with an Environmental Law;
  - (ii) from any Government Agency which asserts that it is not complying with any Authorisation required under any Environmental Law for the operation of the Business as currently carried on;
  - (iii) of any request or demand that has been made to Decontaminate in relation to the Assets or to contribute to the cost of doing so;
  - (iv) of any complaints made by any person alleging that there are or have been hazardous, nuisance related or offensive conditions or conduct in relation to the environment affecting the Assets.
- (b) No past or present act, omission, fact, event, condition or circumstance relating to the environment gives rise or is likely to give rise to:
  - (i) a liability of the Buyer or the Target Company under an Environmental Law, including to perform works or to spend money, or a practical necessity to do so; or
  - (ii) a legal obligation (including under an Environmental Law) to cease or alter:
    - (A) any activity of the Target Company; or
    - (B) any activity in the Business.

- (c) There is no condition of any of any of the other Assets which would entitle any Government Agency or any person to require the Target Company or any other owner or occupier of the Assets to Decontaminate in or around the Assets or to contribute to the costs of doing so.
- (d) The Target Company has complied with any Environmental Law and Authorisation concerning the environment, to the extent it has applied to the Business, to any Asset or to any employee or contractor in respect of the Business.
- (e) The Target Company has not made any undertaking to a Government Agency (including any court or tribunal) under an Environmental Law in respect of the Business.
- (f) Any dangerous goods used in the Business are used and stored in accordance with all applicable Laws.
- (g) The Target Company has not ever Contaminated any land, waters or property and as far as the Sellers are aware no Asset is affected by Contamination.

## **16. Employees**

- (a) The Employees as at the date of this document are all the employees necessary for the ongoing operation of the Business in the manner the Business is being conducted as at the Completion Date.
- (b) Each Employee is employed exclusively by the Target Company.
- (c) There is no person who is not currently employed by the Target Company but who has a right to be employed by the Target Company.
- (d) At the date of this document, no Senior Manager:
  - (i) has given or been given notice of termination of their employment with the Target Company;
  - (ii) will be entitled to terminate their employment as a result of the execution and performance of this document;
  - (iii) has been placed on garden leave or any equivalent arrangement; and
  - (iv) so far as the Sellers are aware, no Senior Manager intends to terminate their employment with the Target Company.
- (e) The employment of each Employee can be lawfully terminated:
  - (i) on 3 months' notice (or pay in lieu) or less; and
  - (ii) without payment of any additional benefits, severance pay, redundancy pay or other compensation (excluding amounts required by statute).
- (f) The ■■■ Data Room contains complete and accurate details of each Employee's commencement date, employment status and total annual remuneration (as at 3 September 2021), and there have been no material amendments to any such Employee's employment status or total annual remuneration as at the date of this document.
- (g) The Target Company accrues annual leave, personal leave and long service leave in accordance with the *Fair Work Act 2009* (Cth), any applicable industrial instruments and otherwise as required by law.

- (h) The Target Company has paid all amounts which are presently due and payable in respect of the Employees, directors and officers of the Target Company or in respect of the Business.
- (i) The Target Company has complied in all material respects with its obligations under individual contracts of employment with its Employees and all industrial awards, industrial agreements and legislation which apply to the Employees.
- (j) The Target Company is not liable to pay any allowance, annuity, benefit, lump sum, pension, premium or other payment in respect of the death, disability, retirement, resignation or dismissal of any persons.
- (k) No Employee is entitled to any retention payment, bonus or other payment or the vesting of any other benefit which is triggered by the execution or completion of this document.
- (l) Each Employee holds every licence or qualification which they are required to hold to perform their normal duties.
- (m) The Target Company has not engaged any person as an independent contractor who is an employee at common law or may be deemed to be an employee under legislation. The Target Company has complied with all laws in relation to any person currently or formerly engaged by the Target Company including laws relating to Tax, superannuation and workers compensation.
- (n) The Target Company has not received in the 24 months preceding the date of this document any notice, prosecution or fine in respect of any breach or alleged breach of workplace health and safety laws or standards.
- (o) There is no current or threatened investigation, notice or prosecution of the Target Company or in respect of the Business under workplace health and safety laws, and no incident has occurred that may give rise to any workplace health and safety investigations, notices or prosecutions in the 24 months preceding the date of this document.
- (p) There is no current or threatened investigation, notice or prosecution of the Target Company relating to its compliance with labour laws (including compliance with any industrial instruments).
- (q) The Target Company does not employ any Employee as a casual employee who is a permanent employee at common law or may be deemed to be a permanent employee under legislation.
- (r) No Employee is under an obligation of confidentiality or post-employment restraint to a previous employer which may restrict that Employee from fully performing their obligations to the Target Company or which may cause anything done by the Target Company to infringe the rights of that previous employer.
- (s) There is no current, pending or threatened industrial dispute involving the Target Company, the Business or an Employee.
- (t) The Target Company has not been involved in an industrial dispute during the period of 24 months prior to the date of this document.
- (u) No industrial awards or agreements apply to the Employees in their capacity as Employees, other than as disclosed in the Disclosure Letter.
- (v) The Target Company is not currently engaged in bargaining for an enterprise agreement (or other industrial agreement) with any Employees or has received a

demand from any Employee to negotiate an enterprise agreement (or other industrial instrument).

- (w) No Officer of the Target Company has a Claim of any nature against the Target Company for salary, fees, compensation or loss of office.
- (x) No Employee is receiving or due to receive workers' compensation payments in connection with their employment with the Target Company.
- (y) The Target Company has not ordered to pay any damages, compensation or award to any Employee during the period of 24 months prior to the date of this document.
- (z) No Claims have been made by or in respect of an Employee against the Target Company during the period of 24 months prior to the date of this document.
- (aa) During the period of 24 months prior to the date of this document, there has been no disciplinary action or grievance procedure taken against, or involving, any Employee involving a matter or behaviour which was a breach of any law or has, or could reasonably be expected to have, a material adverse effect on the operations of the Business.
- (bb) No Employee requires a visa to lawfully work in Australia or is subject to a work-related visa condition. The Target Company has complied in all material respects with applicable immigration laws.
- (cc) With respect to any superannuation or pension funds to which the Target Company contributes or is obliged to contribute:
  - (i) no superannuation or pension fund requires the Target Company to provide a defined benefit;
  - (ii) the Target Company has paid at least the prescribed minimum level of superannuation support for each employee so as to not incur a shortfall amount under the *Superannuation Guarantee (Administration) Act 1992* (Cth);
  - (iii) there are no outstanding and unpaid contributions which are overdue on the part of the Target Company; and
  - (iv) there are no unfunded liabilities.

## **17. Intellectual Property Rights**

- (a) The Target Company owns or has a lawful right to use all material Intellectual Property Rights required to operate the business of the Target Company as conducted as at the date of this document (**Material IPR**).
- (b) The Target Company has not licensed, assigned or otherwise disposed of any right, title or interest in the Material IPR (other than in the ordinary course of the Business) and, so far as each Sellers are aware, the Target Company is not obliged to grant a licence, assignment or other right in respect of any Material IPR to any.
- (c) The use of Intellectual Property Rights by the Target Company does not infringe the Intellectual Property Rights of any third party and does not constitute a breach of any obligation of confidence owed to any third party.
- (d) So far as the Sellers are aware:

- (i) no third party is infringing or making unauthorised use of any of the Material IPR; and
- (ii) none of the Material IPR is the subject of any material dispute, challenge, litigation or opposition proceedings and none of the Sellers, Seller Affiliates or the Target Company have received any written notice of the threat of any such claim.

## **18. Information Technology**

The software, hardware (including peripherals and storage media), networks and communication links, and data stored on or processed by the foregoing used by or on behalf of the Target Company:

- (a) are owned by or licensed, leased or supplied under an enforceable written agreement with the Target Company;
- (b) perform their intended function;
- (c) comprise all of the assets, systems, hardware and software required to operate the information technology function of the Target Company fully and efficiently; and
- (d) are sufficient for the operation of the Target Company and have operated to a level acceptable for the efficient operation of the Target Company.

## **19. Litigation**

- (a) The Target Company is not engaged in any prosecution, litigation or arbitration proceedings, and, so far as the Sellers are aware, no such proceedings are pending or threatened in writing by or against the Target Company nor are the Sellers aware of facts, matters or circumstances that may give rise to such proceedings.
- (b) There are no unfulfilled or unsatisfied judgments, awards, claims or demands against the Target Company or any of the Assets.
- (c) The Target Company has not given any undertaking to, and is not bound by any order of, a Government Agency (including a court or tribunal).
- (d) The Target Company has not, in the period of three years prior to the date of this document, been, or is currently, a party to any Claim (except in relation to the recovery of trade debts in individual amounts in the ordinary course of business) or the subject of any Claim, ruling, judgement, order or decree by any Government Agency or any other person.

## **20. Compliance with laws**

- (a) The Business has been conducted in all material respects in accordance with applicable laws, regulations and Authorisations.
- (b) Neither the Target Company nor any director or secretary of the Target Company has ever committed or been charged with or convicted of any criminal offence (except a road traffic offence involving a fine of less than \$1,500 or any foreign equivalent amount).
- (c) None of the Sellers, Seller Affiliates or the Target Company have authorised, offered, promised or given any financial or other advantage (including any payment, loan, gift or transfer of anything of value), directly or indirectly, to or for the use or benefit of any Government Agency official (or to another person at the request or with the

assent or acquiescence of such official) or any other natural or legal person, in connection with the Business, for the purpose of securing any improper advantage.

## **21. Tax**

### **21.1 Tax and Duty**

All Tax or Duty due and payable under any Tax Law in respect of the Target Company has been paid or is specifically, accurately and appropriately provided for in the Completion Accounts. The Target Company has no liability in respect of unpaid or unassessed Tax or Duty.

### **21.2 Withholding tax**

The Target Company has up to and including Completion, complied with all of its obligations under any Tax Laws to withhold amounts at source and remit such amounts to the relevant Government Agency, including but not limited to withholding tax and other amounts withheld under the Pay As You Go (**PAYG**) withholding provisions.

### **21.3 Registration**

In each case that the Target Company is, or has been, required to be registered in respect of any Tax or Duty under any Tax Law, the Target Company has been duly registered in respect of such Tax or Duty within the time frame allowed for registration, and has maintained such registration at all relevant times required by the Tax Law.

### **21.4 Records**

The Target Company has up to and including Completion, kept and maintained proper and adequate records to enable it to comply in all material respects with its obligations to:

- (a) prepare and submit any information, notices, computations, Tax Returns and payments required in respect of any Tax Law;
- (b) prepare any accounts necessary for compliance with any Tax Law (including any franking accounts); and
- (c) retain necessary records as required by any Tax Law.

### **21.5 Returns**

The Target Company has lodged by the due date all Tax Returns and other documents relating to Tax or Duty required to be lodged with any Government Agency and:

- (a) all information contained in those documents was complete and accurate in all material respects and not false, misleading or deceptive; and
- (b) no dispute exists in relation to any of those documents and as far as the Sellers are aware no circumstances exist which might give rise to a dispute of this type.

## **21.6 Copies accurate**

All copies of notices, Tax Returns or other information submitted by the Target Company about Tax and Duty which have been supplied by the Sellers or their advisers to the Buyer in the Disclosure Material are true and complete copies of the originals.

## **21.7 No Tax audit, disputes etc**

No Seller is aware of any current, pending or threatened Tax or Duty audit, requisition, investigation or dispute, and there has been no such audit, requisition, investigation or dispute arising in the past 5 years in respect of the Target Company.

## **21.8 Rulings etc**

The Target Company has never taken any act, or failed to take any act, which may adversely affect any ruling or determination from a Government Agency in respect of Tax.

## **21.9 Commercial debt forgiveness**

The Target Company has not ever entered into, or otherwise been impacted by a transaction, which triggered the commercial debt forgiveness provisions contained in Division 245 of the Tax Act (or its predecessor).

## **21.10 GST warranties**

- (a) The Target Company is registered for GST and is not a member of a GST Group;
- (b) The Target Company has complied in all material respects with its obligations imposed under the GST Law;
- (c) The Target Company has not claimed any input tax credit (or similar relief) to which it is not entitled under the GST Law;
- (d) The Target Company is not in default of any obligation to make or lodge any payment, filing or notification in respect of GST. and
- (e) All invoicing and other systems of the Target Company are GST compliant and have at all times operated correctly to capture appropriate GST information as required by the GST Law.

## **21.11 GST recoveries**

The Target Company is not a party to any document, instrument, contract, agreement, deed or transaction in respect of which it is or will become liable to pay GST in circumstances where the Target Company has no express entitlement to increase the consideration payable under the document, instrument, contract, agreement, deed or transaction or otherwise seek reimbursement so that the Target Company retains the amount it would have retained but for the imposition of GST.

## **21.12 Duty**

- (a) All documents and transactions entered into by the Target Company, or for which the Target Company has agreed to bear the corresponding Duty (including stamp, landholder, transaction and similar duty), or where the Target Company is statutorily liable to pay such Duty, which are required to be stamped by a Government Agency, have been duly stamped and the relevant Duty paid.
- (b) The Target Company has not been a party to, or a member of a corporate group that has made, an application for corporate reconstruction relief from Duty (or similar

exemption/concession) in relation to a transaction that has occurred in the last 3 years.

- (c) All documents and instruments required to evidence title of the Target Company to an asset have, to the extent required by law, been duly stamped and the relevant Duty paid.

#### **21.13 Membership of Tax groups**

- (a) The Target Company has not ever been part of a consolidated group or multiple entry consolidated group for the purposes of Part 3-90 of the Tax Act, whether as head company, provisional head company or subsidiary member.
- (b) The Target Company has never been part of a GST group for the purposes of the GST Law and has never been a representative member of a GST group.
- (c) The Target Company has not ever been a member of any other group for Tax or Duty purposes which includes any entity other than the Target Company.

#### **21.14 Permanent establishments and Tax residency**

The Target Company does not have, and has never had, a permanent establishment or other taxable presence in any jurisdiction outside its jurisdiction of incorporation, and the Target Company is not, and has never been, resident for Tax or Duty purposes in a jurisdiction other than its jurisdiction of incorporation.

#### **21.15 Public Officer**

For the Target Company that is or has been a resident of Australia for Tax or Duty purposes, the office of public officer (as required under the Tax Law) has always been validly occupied.

#### **21.16 Share capital tainting**

The Target Company does not have, and has never had, a tainted share capital account within the meaning of the Tax Law and the Target Company has never taken any action that might cause its share capital account to become a tainted share capital account.

#### **21.17 Jobkeeper**

The Target Company has never received a 'Coronavirus Economic Response Payment' as that term is defined in the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020* (Cth), as amended from time to time, including any 'jobkeeper payment' as defined in section 4 *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* (Cth).

#### **21.18 Anti-avoidance**

The Target Company has never entered into or been a party to any transaction which will cause any anti-avoidance provisions of any Tax Law to apply or which will allow a Government Agency, acting reasonably, to apply any such anti-avoidance provisions.

#### **21.19 Anti-avoidance**

The Target Company has never entered into any transaction that would attract the operation of any transfer pricing provision in any Tax Law.



## **21.20 Franking**

- (a) The Target Company will not have a franking deficit immediately before or after Completion.
- (b) No act or omission of the Target Company at or before Completion will cause the Target Company to be liable for any franking tax (within the meaning of section 214-40 of the Tax Act).
- (c) Any distributions made by the Target Company have been franked to the required level such that the Target Company has not breached the benchmark rule in Division 203 of the Tax Act.
- (d) The Target Company has not paid, and will as at Completion not have paid, any amount other than a duly declared dividend, which would or may constitute a dividend under any Tax law.
- (e) For each duly declared dividend paid by the Target Company, the Target Company has issued a valid distribution statement within the time allowed by the Tax Law.
- (f) The Target Company is not and never has been an exempting entity or a former exempting entity (each within the meaning of the Tax Act).

## SCHEDULE 4

### Tax Indemnity and Assessments

#### 1. Tax Indemnity

##### 1.1 Tax Indemnity

Subject to Completion, the Covenantors must pay to the Buyer on demand an amount equal to the amount needed to indemnify each of the Buyer and the Target Company against any amount of Tax or Duty payable by the Target Company under any Assessment to the extent that the Tax or Duty arises from or relates to:

- (a) any period or part period, up to and including Completion;
- (b) any matter, transaction, act, omission or event occurring, or which is taken to have occurred, on or before Completion; or
- (c) any Tax Relief which is included in the Completion Accounts, and to which the Target Company would be entitled at Completion, that is lost, not available or denied to the Target Company except in the event that such loss, non-availability or denial of a Tax Relief arises as result of the transaction contemplated under this document,

other than for any amount of Tax or Duty for which provision has been made in the Completion Accounts.

##### 1.2 Payment of overprovisions or refunds

The Buyer must pay to the Covenantors, or procure the Target Company to pay to the Covenantors, an amount equal to:

- (a) if the Covenantors have made a payment to the Buyer under clause 6.3 or 10.4, any overprovision for Tax in the Sellers' Completion Statement; and
- (b) any Tax refund, offset or credit received by the Buyer or the Target Company to the extent that it is in respect of an amount of Tax for which the Covenantors have made a payment under the Tax Indemnity.

Any such amounts paid to the Covenantors will not constitute an adjustment to the Purchase Price.

##### 1.3 Disputing Action

- (a) In this clause, **Disputing Action** means any action to have a matter withdrawn, reduced or postponed or any action to avoid, dispute, object to, resist, mitigate, settle, compromise, defend or appeal against the matter.
- (b) Within 10 Business Days of receiving notice from the Buyer of a Relevant Assessment (which the Buyer must provide to the Covenantors within 20 Business Days of the relevant Buyer Group Member receiving the Relevant Assessment), the Covenantors may by notice require the Buyer to take Disputing Action at the Covenantors' expense in connection with the Relevant Assessment.
- (c) If the Covenantors require the Buyer to take Disputing Action in connection with a Relevant Assessment the Buyer must, and must procure that each member of the Buyer Group provides all reasonable assistance in respect of the Disputing Action as the Covenantors reasonably request and does each of the following:
  - (i) takes such Disputing Action as is requested by the Covenantors;

- (ii) at the request of the Covenantors, gives to the Covenantors and to its professional adviser information and access to personnel, premises, plant, goods, documents and records as is necessary to take such Disputing Action; and
  - (iii) authorises legal or other professional advisers nominated by the Covenantors to act in respect of the Disputing Action on behalf of the Buyer or the Target Company, but in accordance with the instructions of the Covenantors.
- (d) The Covenantors indemnify the Buyer and the Target Company against and pay on demand the amount of:
- (i) all costs and expenses (including internal costs of management time) incurred by the Buyer Group in connection with any Disputing Action taken under this clause 1.3 of Schedule 4; and
  - (ii) any Loss suffered or incurred by the Buyer Group in connection with any Disputing Action taken under this clause 1.3 of Schedule 4.
- (e) Despite anything to the contrary in this clause 1 of Schedule 4, any member of the Buyer Group may engage its own legal or other representation, and the Covenantors must pay any expenses incurred by the member of the Buyer Group or Target Company (including any legal and accounting expenses and internal costs) in relation to a Relevant Assessment, or matter that may lead to the making or issue of a Relevant Assessment, but only to the extent that those expenses are reasonable and incurred before the Covenantors took Disputing Action in connection with the Relevant Assessment or any matter that may lead to the making or issue of a Relevant Assessment.

#### **1.4 Buyer to keep Covenantors informed**

Unless and until the Covenantors notify the Buyer to take Disputing Action in connection with a Relevant Assessment, the Buyer must, and must procure that each other member of the Buyer Group and (after Completion) the Target Company:

- (a) does not make any admission of liability, agreement, settlement or compromise in relation to the Relevant Assessment, without the prior written consent of the Covenantors (such consent not to be unreasonably withheld or delayed);
- (b) fully informs the Covenantors about all material actions taken by it in relation to the Relevant Assessment; and
- (c) gives the Covenantors at least 10 Business Days' notice of any proposal by it to admit liability or compromise, settle or agree the Relevant Assessment.

#### **1.5 Tax and Duty audits**

To the extent that any Tax or Duty audit of the Target Company after Completion relates to any period before Completion:

- (a) the Buyer and the Covenantors must each co-operate and give each other all reasonable assistance they can provide concerning the audit; and
- (b) the Covenantors must indemnify the Buyer and each Buyer Group Member against, and pay on demand the amount of, all Expenses of the Buyer or of any Buyer Group Member in connection with the audit (including any legal and accounting expenses and internal costs).

## SCHEDULE 5

### Form of Completion Accounts

#### COMPLETION ACCOUNTS

<b>CURRENT ASSETS</b>	<b>\$</b>
Cash at bank	[•]
Accounts Receivable	[•]
GST Receivable	[•]
<b>Total Current Assets</b>	<b>[•]</b>
<hr/>	
<b>LESS CURRENT LIABILITIES</b>	
Debt*	[•]
Accounts Payable	[•]
PAYG Payable	[•]
Superannuation Payable	[•]
Wages Payable	[•]
Employee Entitlements	[•]
Tax Liabilities	[•]
Provisions for Rehabilitation*	[•]
Other Liabilities	[•]
<b>Total Current Liabilities</b>	<b>[•]</b>
<b>TOTAL NET CURRENT ASSETS</b>	<b>[•]</b>

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For the purposes of this Schedule 5, and notwithstanding anything to the contrary in this document, items marked with an asterisk may include or constitute non-current liabilities for the purposes of the Accounting Standards.

## **SCHEDULE 6**

### **Accounting Principles**

1. Accounting Principles

1.1 Principles and Policies

The Completion Accounts must be prepared in accordance with, in order of precedence:

- (a) in a manner consistent with the specific principles, policies and procedures set out in clause 1.2 of this Schedule 6;
- (b) where an item is not covered by (a), in a manner consistent with the principles, policies and procedures used to prepare the Accounts; and
- (c) where an item is not covered by (a) or (b), in accordance with the Accounting Standards.

1.2 Specific principles, policies and procedures

Specific principles, policies and procedures that will apply to the Completion Accounts preparation include:

- (a) the Completion Accounts will comprise (and be limited to) those line items set out in Schedule 5;
- (b) no asset or liability shall be included more than once in the Sellers' Completion Statement, and no asset or liability shall be included or excluded solely on the grounds of materiality;
- (c) the parties acknowledge the agreed intention that the Completion Accounts will be prepared on a 'business as usual' basis and no change in the valuation of assets and liabilities arising as a result of Completion (including any effect as a result of aligning any accounting policies of the Business with those of the Buyer) and will not take into account the effects of any post-Completion reorganisations or the post-Completion intentions or obligations of the Buyer;
- (d) the Completion Accounts will be prepared in Australian dollars. Assets and liabilities in the Completion Accounts denominated in a currency other than Australian dollars will be converted into Australian dollars at the mid-point Australian spot rate of exchange applicable to such other currency as quoted by Bloomberg at or about 10.00 am (Sydney time) on the Completion Date;
- (e) no funds flow arising from Completion will be included in the calculation of the Completion Accounts and specifically Debt included within the Completion Accounts will exclude any amounts paid on or prior to Completion;
- (f) unpaid third party transaction costs will be included in the Completion Accounts at an amount of 100% of the cost;
- (g) GST payable will include all amounts which represent future tax benefits receivable, as determined by the Buyer, in respect of any directly attributable transaction costs;
- (h) annual leave to be calculated in accordance with policies applied in the calculation of the Target Net Current Assets Amount, and must apply accordingly to all employees who are entitled to annual leave;

- (i) to the extent applicable, the Completion Accounts will be prepared having regard to Adjusting Events (as defined in AASB 110 as "Adjusting Events after the Reporting Date") between the Completion Date and the date when the Buyer delivers the Completion Accounts to the Sellers;
- (j) trade receivables will be accounted for at the estimated recoverable amount and an appropriate provision will be included in the Completion Accounts for specific doubtful debts and credit notes issued after the Completion Date. Debtors will be considered doubtful if there is objective evidence that the relevant counterparty is in administration, receivership or liquidation or there are reasonable grounds to believe that it will not pay its debts either as a result of inability to pay or as a result of a dispute in respect of delivered quantity or quality of product which has been unresolved for more than 60 days. No general provision will be made;
- (k) deferred tax assets and deferred tax liabilities shall be excluded from the Completion Accounts.

## **SCHEDULE 7**

### **Capital structure**

**Shares:** 136,000,000 fully paid ordinary shares

**Existing Options:** 18 million options granted under the "Ten Sixty Four Ltd – Employee Share Option Plan"

## SCHEDULE 8

### Officers, auditors and public officers of the Target Company

Name of Company	ACN	Officers  (Directors (D) / Secretaries (S))	Public officers	Auditor
Ten Sixty Four Limited	614 771 407	Matthew Burgess (D) Lazaros Nikeas (D) Nicholas Williams (D) Ryan Welker (D) Shane Pike (D) Shane Sullivan (S)	Nicholas Williams	Ernst & Young





- [Redacted] [Redacted]
- [Redacted] [Redacted]
- [Redacted] [Redacted]
- [Redacted] [Redacted]
- [Redacted] [Redacted]
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- [Redacted] [Redacted]
- [Redacted] [Redacted]
- [Redacted] [Redacted]
- [Redacted] [Redacted]
- [Redacted] [Redacted]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**SCHEDULE 10****Tenements**

<b>Type</b>	<b>Number</b>	<b>Status</b>	<b>Start</b>	<b>Sub-blocks</b>	<b>Expiry</b>	<b>Area (km<sup>2</sup>)</b>
EPM	26346 'Douglas Creek'	Granted	01.12.2016	100	30.11.2026	280
EPM	27074 'Scotties Creek'	Granted	13.05.2019	50	12.05.2024	140
EPM	27076 'Mt Wilkin'	Granted	13.05.2019	88	12.05.2024	246.4
EPM	27079 'Theresa Creek'	Granted	11.05.2020	78	10.05.2023	218.4
EPM	27083 'Drummond Range'	Granted	11.05.2020	100	10.05.2023	280
EPM	27084 'Prairie'	Granted	11.05.2020	38	10.05.2023	106.4
EPM	27090 'Langton Edge'	Granted	11.05.2020	97	10.05.2023	271.6
EPM	27100 'Spring Creek'	Granted	16.07.2019	11	15.07.2024	30.8
EPM	27103 'Bathampton'	Granted	16.07.2019	31	15.07.2024	86.8
EPM	27110 'Pumpkin Hill'	Granted	16.07.2019	49	15.07.2024	137.2
EPM	27112 'Undara Downs'	Granted	16.07.2019	83	15.07.2024	232.4
EPM	27119 'Tomahawk'	Granted	11.05.2020	86	10.05.2023	240.8
EPM	27319 'Bijingo'	Granted	21.01.2020	93	20.01.2023	260.4
EPM	27318 'Brolga'	Granted	21.01.2020	100	20.01.2023	280
EPM	27320 'Fletcher'	Granted	21.01.2020	68	20.01.2023	176.4
EPM	27321 'Yackadoo'	Granted	21.01.2020	80	20.01.2023	224
EPM	27322 ' Gemini'	Granted	10.12.2019	25	09.12.2022	70
EPM	27323 'Redrock'	Granted	21.01.2020	99	20.01.2023	277.2
EPM	27330 'Pigeon Peak'	Granted	25.02.2020	27	24.02.2023	75.6
EPM	27333 'Black Peak'	Granted	25.02.2020	32	24.02.2023	89.6
EPM	27690 'Mt McLaren'	Granted	11.10.2021	8	10.10.2024	22.4
EPM	27702 'Native Bee'	Granted	11.10.2021	60	10.10.2024	168
EPM	27706 Comstock	Granted	12.10.2021	95	11.10.2024	266

Type	Number	Status	Start	Sub-blocks	Expiry	Area (km <sup>2</sup> )
EPM	27714 'Ladlode'	Granted	11.10.2021	63	10.10.2024	176.4
EPM	27703 "Monteagle South"	Granted	11.10.2021	65	10.10.2024	182

**SCHEDULE 11**

**CoC Agreements**

Not applicable.









No.	Document Title	Data Reference	Room
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
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	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		





**EXECUTED** as a deed.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**EXECUTED by MEDUSA MINING LIMITED ACN 099 377 849:**

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

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by VITRINITE HOLDINGS PTY LTD ACN 614 033 180:**

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

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by VITRINITE HOLDINGS LLC:**

\_\_\_\_\_  
Signature of authorised officer

\_\_\_\_\_  
Signature of authorised officer

\_\_\_\_\_  
Name and position

\_\_\_\_\_  
Name and position

**EXECUTED by VITRINITE PTY LTD ACN 167 744 578:**

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

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **NICHOLAS WILLIAMS:**

\_\_\_\_\_  
Signature of Nicholas Williams

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

\_\_\_\_\_  
Name

**SIGNED** by **MATTHEW BURGESS:**

\_\_\_\_\_  
Signature of Matthew Burgess

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

\_\_\_\_\_  
Name

**SIGNED** by **LAZAROS NIKEAS:**

\_\_\_\_\_  
Signature of Lazaros Nikeas

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **NEW CANAAN CAPITAL  
ADVISORS LLC:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **DDH GRAHAM LIMITED ACN  
010 639 219 AS TRUSTEE FOR THE  
LUGARNO FUND ABN 97 145 780 707:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **PWD CAPITAL LLC:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **FIDELITY CANADA  
CLEARING ULC ITF:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **WILLIAM IAN LAMBERT:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **K.VEDELAGO &  
ASSOCIATES PTY LTD ACN 066 108  
736 AS TRUSTEE FOR THE KEVIN  
VEDELAGO SUPER FUND ABN 98 097  
877 128:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **RB & PB HOLDINGS PTY  
LTD ACN 649 787 397 AS TRUSTEE  
FOR THE RB & PB HOLDINGS TRUST:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **FRANCES PHILLIPS:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name



**SIGNED** by **RYAN WELKER** as attorney on behalf of **JAKE NIELSEN AS TRUSTEE FOR THE ARTHUR ANNE FAMILY TRUST ABN 49 268 825 469:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **KONSTANDINOS GHOUSSIAS:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **CHRISTOPHER J. IRWIN:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **STEPHEN WILMOT AS TRUSTEE FOR THE WILMOT FAMILY TRUST:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **DAVID J GREENWOOD & LYNETTE J GREENWOOD AS TRUSTEES FOR THE GREENWOOD SUPER FUND:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **HARRIS BRO SUPERANNUATION PTY LTD ACN 094 363 210:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **MARGARET THERESE MCGEE:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **RONALD PHILLIPS:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **SALAUQUA INVESTMENTS PTY LTD ACN 619 872 409 AS TRUSTEE FOR THE SALAUQUA ASSETS TRUST ABN 55 238 442 909:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **STARLAW PTY LTD ACN 010 520 788:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **BLUE WOLF PTY LTD ACN 633 380 337 AS TRUSTEE FOR THE BLUE WOLF TRUST ABN 25 549 772 749:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **EDWARD SUGAR:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **B&M WALL SUPERFUND PTY LTD ACN 630 660 605 AS TRUSTEE FOR THE B&M WALL SUPERFUND ABN 25 153 375 101:**

---

Signature of Ryan Welker

---

Signature of witness

---

Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **SEVEN MILE BEACH ROAD PTY LTD ACN 619 586 122 AS TRUSTEE FOR THE AM & AG FAMILY TRUST ABN 69 741 506 643:**

---

Signature of Ryan Welker

---

Signature of witness

---

Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **MIDDLETON SHORES PTY LTD ACN 098 790 419 AS TRUSTEE FOR THE MCKINNON FAMILY TRUST ABN 97 780 195 657:**

---

Signature of Ryan Welker

---

Signature of witness

---

Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **CARTER LAGANA:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **JOEL SUTHERLAND:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **MURPHY FAMILY GROUP  
PTY LTD ACN 636 000 336 AS TRUSTEE  
FOR THE MURPHY FAMILY TRUST:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **REUBEN KYLE MERGARD:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **DSRB HOLDINGS PTY LIMITED ACN 626 503 080 AS TRUSTEE FOR DSR HOLDINGS ABN 75 379 209 378:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **PATRICK JOHN LEAHY:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **CLAUDETTE CALLAN:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney on behalf of **4EVER EXPLORING PTY LTD ACN 648 430 308:**

\_\_\_\_\_  
Signature of Ryan Welker

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **JONOTHAN NATHAN LEAHY**  
and **TAMLYN KERRY LEAHY**:

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **CRAIG ROTHMAN**:

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **JAMES SIM**:

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

\_\_\_\_\_  
Name

**SIGNED** by **RYAN WELKER** as attorney  
on behalf of **TREVOR TOMPKINS**:

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature of Ryan Welker

\_\_\_\_\_  
Signature of Ryan Welker

\_\_\_\_\_  
Signature of Ryan Welker

\_\_\_\_\_  
Signature of Ryan Welker

**ATTACHMENT A**

**Form of Sellers' Completion Statement**

**Sellers' Completion Statement**

\_\_\_\_\_2021

To: The Buyer  
Medusa Mining Limited  
Suite A, Level 1,1 Preston Street  
Como, Western Australia 6152

**Sellers' Notification under Clause 6.2(a) of the SSA**

We refer to the share sale deed made between Medusa Mining Limited ACN 099 377 849 and the shareholders in Ten Sixty Four Limited dated \_\_\_\_\_ 2021 (**SSA**).

Capitalised terms used but not defined in this notification have the meaning given to them in the SSA.

In accordance with clause 6.2(a) of the SSA, the Sellers give the following notifications:

SSA clause	Item	Sellers' notification (and details of supporting material if required)
6.2(a)(i)	Estimated Net Current Assets Amount	
6.2(a)(iii)	Payment for shortfall between Estimated Net Current Assets Amount and Target Net Current Assets (if any)	

**SIGNED** for the Sellers by **RYAN WELKER:**

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

\_\_\_\_\_  
Name



**ATTACHMENT B**

**Form of Buyer's Completion Statement**

**Buyer's Completion Statement**

\_\_\_\_\_ 2021

To: The Sellers' Representative  
Ryan Welker  
Level 6, Suite 2, 12 Creek Street  
Brisbane QLD 4000

**Buyer's notification under Clause 6.2(b) of the SSA**

We refer to the share sale document made between Medusa Mining Limited ACN 099 377 849 and the shareholders in Ten Sixty Four Limited dated \_\_\_\_\_ 2021 (**SSA**).

Capitalised terms used but not defined in this notification have the meaning given to them in the SSA.

In accordance with clause 6.2(b) of the SSA, the Buyer gives the following notifications:

SSA clause	Item	Buyer's notification (and details of supporting material if required)
6.2(b)(i)	The names of the Continuing Officers.	
	The names of the New Officers.	
	The authorised signatures of each bank account of the Target Company	
6.2(b)(ii)	The address of any proposed new registered office of the Target Company.	

**EXECUTED by MEDUSA MINING LIMITED  
ACN 099 377 849:**

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

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**ATTACHMENT C**

**Form of Option Cancellation Deeds**

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## Option cancellation deed

---

Ten Sixty Four Limited ACN 614 771 407

[#insert Optionholder]

# Option cancellation deed

Dated

---

## Parties

**Company**                    **Ten Sixty Four Limited ACN 614 771 407**  
of Level 6, Suite 2, Blue Tower, 12 Creek Street, Brisbane, QLD 4000.

**Optionholder**            **[#insert]**  
of **[#insert]**

## Background

- A     The Company adopted an Employee Share Option Plan on 23 March 2021.
- B     The Cancelled Options were granted to the Optionholder by the Company under the terms of the Employee Share Option Plan on **[#insert]** September 2021.
- C     The Optionholder agrees that the Company will cancel the Cancelled Options, for no consideration, on the terms set out in this document.

## Agreed terms

### 1 Definitions and interpretation

---

#### 1.1 Definitions

In this document:

<b>Term</b>	<b>Definition</b>
<b>Business Day</b>	means a day that is not a Saturday, Sunday or public holiday in Brisbane, Queensland, Australia.
<b>Buyer</b>	means Medusa Mining Limited ACN 099 377 849.
<b>Cancelled Options</b>	means the <b>[#insert]</b> options granted by the Company to the Optionholder under the Employee Share Option Plan.
<b>Completion</b>	means completion of the sale and purchase of the entire issued share capital of the Company under the Share Sale Agreement.
<b>Employee Share Option Plan</b>	means the employee share option plan adopted by the Company.
<b>End Date</b>	means <b>[#28 February 2022]</b> .
<b>Related Bodies Corporate</b>	has the meaning given to it in the <i>Corporations Act 2001</i> (Cth)

<b>Term</b>	<b>Definition</b>
<b>Share Sale Agreement</b>	means a document of that name between the shareholders of the Company and the Buyer dated on or about the date of this document under which the shareholders agree to sell and the Buyer agrees to buy the entire issued share capital of the Company.

## **1.2 Interpretation**

In this document:

- (a) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;
- (b) a reference to a party to this document or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;
- (e) a reference to this document includes the agreement recorded by this document;
- (f) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (g) if any day on or by which a person must do something under this document is not a Business Day, then the person must do it on or by the next Business Day;
- (h) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity; and
- (i) a reference to 'month' means calendar month.

## **2 Acknowledgement and warranty**

- (a) The Optionholder warrants that, as at the date of this document, it is the legal and beneficial owner of the Cancelled Options and has full right, title and interest in the Cancelled Options free from any mortgage, charge, lien or other encumbrance or third party interest of any nature.
- (b) From the date of this document until the earlier of Completion or the End Date, the Optionholder must not:
  - (i) exercise or seek to exercise or otherwise deal with the Cancelled Options without the prior written consent of the Company and the Buyer; or
  - (ii) transfer or purport to transfer the Cancelled Options or any interest in the Cancelled Options, or to create any mortgage, charge, lien or other encumbrance or third party interest of any nature over the Cancelled Options.

### **3 Conditions precedent**

---

Clause 4 and clause 5 of this document are conditional on and have no effect until Completion occurs. If Completion has not occurred on or before the End Date, this document will terminate at 5.00pm on the End Date.

### **4 Cancellation of options**

---

The Optionholder and the Company agree that the Company will cancel, for no consideration, the Cancelled Options on Completion in accordance with the terms set out in this document.

### **5 Completion of cancellation options**

---

Completion of the cancellation of the Cancelled Options will take place on and simultaneously with Completion, at which time:

- (a) the Optionholder must deliver to the Company all certificates or other documents evidencing title to the Cancelled Options (if any) or (where such certificates or other documents evidencing title cannot be delivered to Company) the Optionholder must sign a statutory declaration in a form reasonably acceptable to the Company and the Buyer stating that such certificates or documents were not issued or have been lost (as relevant); and
- (b) the Company will cause the Optionholder's name to be removed from the register of optionholders of the Company in respect of the Cancelled Options.

### **6 Release and undertaking**

---

- (a) With effect on and from Completion, the Optionholder:
  - (i) releases and discharges the Company, the Buyer and their respective Related Bodies Corporate from all Claims relating to the Cancelled Options that the Optionholder may have against the Company, the Buyer or any of their respective Related Bodies Corporate, whether under the Employee Share Option Plan or otherwise, including, without limitation, any obligation for the Company, the Buyer or any of their respective Related Bodies Corporate to issue shares on the exercise or vesting of the Cancelled Options or to pay any consideration to the Optionholder; and
  - (ii) agrees not to make any Claim, or participate in any Claim, against the Company, the Buyer or any of their respective Related Bodies Corporate in respect of, or in relation to, the Cancelled Options and agrees that this document may be pleaded as a bar to any such Claim.
- (b) The Optionholder agrees to indemnify the Company and the Buyer against all liability arising directly or indirectly from, and any costs, charges or expenses incurred in connection with, any breach of this document by the Optionholder.

### **7 Agent and Attorney**

---

- (a) The Optionholder:
  - (i) irrevocably and severally appoints:

- (A) the Company; and
- (B) any two directors of the Company jointly,

as its agent and attorney with power to do or complete anything required to be done (including execution of documents) to give effect to the cancellation of the Cancelled Options;

- (ii) declares that it is bound by, and will ratify and confirm, anything done by any director of the Company under this power of attorney; and
  - (iii) declares that this power of attorney is given for valuable consideration and is irrevocable.
- (b) The Optionholder acknowledges and agrees that any agent or attorney exercising its powers granted under clause 7(a) may act in the interests of the Company and the Buyer.

## **8 General**

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### **8.1 Amendments**

This document may only be amended by written agreement between all parties and the Buyer.

### **8.2 Assignment**

A party may only assign this document or a right under this document with the written consent of the other party.

### **8.3 Counterparts**

This document may be signed in any number of counterparts. All counterparts together make one instrument.

### **8.4 Certain benefits held on trust**

The Optionholder acknowledges that:

- (a) as well as for the benefit of the Company, clauses 2 and 8.1 are for the benefit of the Buyer, and are held on trust for the Buyer by the Company; and
- (b) as well as for the benefit of the Company, clause 6 is for the benefit of the Buyer, each Related Body Corporate of the Company and each Related Body Corporate of the Buyer, and is held on trust for each of them by the Company.

### **8.5 No merger**

The rights and obligations of the parties under this document do not merge on completion of any transaction contemplated by this document.

### **8.6 Entire agreement**

This document supersedes all previous agreements about its subject matter. This document embodies the entire agreement between the parties.

### **8.7 Inconsistency**

If there is any conflict or inconsistency between the terms of this Deed and any plan (including the Employee Share Option Plan), agreement, grant or terms of issue of the Cancelled Options, the terms of this document will prevail to the extent of the conflict or inconsistency.

### **8.8 Publicity**

The Optionholder may not make press or other announcements or release information relating to this document and the transactions the subject of this document.

### **8.9 Further assurances**

Each party must do all things reasonably necessary to give effect to this document and the transactions contemplated by it.

### **8.10 No waiver**

- (a) The failure of a party to require full or partial performance of a provision of this document does not affect the right of that party to require performance subsequently.
- (b) A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- (c) A right under this document may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

### **8.11 Governing law and jurisdiction**

- (a) Queensland law governs this document.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the Queensland courts and courts competent to hear appeals from those courts.

### **8.12 Severability**

- (a) A clause or part of a clause of this document that is illegal or unenforceable may be severed from this document and the remaining clauses or parts of the clause of this document continue in force.
- (b) If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from this document in the relevant jurisdiction, but the rest of this document will not be affected.



## Execution

EXECUTED as a deed

Signed sealed and delivered by  
Ten Sixty Four Limited ACN 614 771 407 by:

^ \_\_\_\_\_  
Director

^ \_\_\_\_\_  
Director/Secretary

^ \_\_\_\_\_  
Full name of Director

^ \_\_\_\_\_  
Full name of Director/Secretary

***[#use this execution clause for a company optionholder]***

Signed sealed and delivered by  
[#insert] by:

^ \_\_\_\_\_  
Director

^ \_\_\_\_\_  
Director/Secretary

^ \_\_\_\_\_  
Full name of Director

^ \_\_\_\_\_  
Full name of Director/Secretary

***[#use this execution clause for an individual optionholder]***

Signed sealed and delivered by [#insert]:

^ \_\_\_\_\_  
Signature of [#insert]

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

^ \_\_\_\_\_  
Name of witness (print)

**ATTACHMENT D**  
**Form of Offer Letter**

# Ten Sixty Four Limited

Strictly private and confidential

---

To:

[#insert name]

[#insert address]

[#insert email (if available)]

17 January 2021

Dear Shareholder,

## Proposal to purchase all shares in the Company

- 1 Ten Sixty Four Limited (**Company**) has procured a proposal (**Proposal**) from Medusa Mining Limited (**Medusa**) under which Medusa would acquire the entire issued capital in the Company. Medusa is an Australian based gold producer listed on the Australian Securities Exchange (**ASX**) under ticker code MML, with a focus on growth in the Asia Pacific Region.
- 2 The board of directors of the Company (**Board**) have carefully consider the Proposal. One of the Company's major shareholders, Vitrinite Pty Ltd (**Vitrinite**), has retained professional advisers and negotiated the Proposal with Medusa.
- 3 Vitrinite has formed the view that the Proposal is an attractive proposal for the Company's shareholders (**1064 Shareholders**) based on a number of important considerations, including:
  - [REDACTED]
  - [REDACTED]
- (c) the Proposal would provide an attractive and immediate liquidity event for 1064 Shareholders, with access to capital markets and the ability to trade shares in Medusa on the ASX; and
- (d) exposure to investments and assets of both Medusa and the Company, including Medusa's management team which is highly experienced in mineral exploration.
- 4 The Board agrees with Vitrinite's assessment of the Proposal.
- 5 We are writing to you now to:
  - (a) notify you of the Proposal;
  - (b) give you the opportunity to consider the Proposal and, if you think fit, progress the Proposal with Medusa (including agreeing to enter into transaction documentation to effect the Proposal on your behalf); and
  - (c) confirm to you the scrip consideration you will receive if the acquisition proceeds in accordance with the Proposal (**Acquisition**).
- 6 We ask that you return the instruction form in Schedule 1 to this letter (**Instruction Form**) as soon as possible and in any event no later than Monday 3 January 2022 in accordance with the return instructions below.

- 7 Each of Vitrinite Pty Ltd, Vitrinite Holdings Pty, Vitrinite Holdings LLC and New Canaan Capital Advisors LLC (the **Major Shareholders**), who together hold approximately 84% of the Company's issued share capital, intend to proceed with the Acquisition.

## Release of security interests

- 8 Vitrinite has undertaken public security interest searches to identify any security interests that are registered over your shares in the Company. In order for the Acquisition to proceed, you will need to arrange for any such security interests to be released. Details of the relevant security interests that have been identified are set out in the Instruction Form.
- 9 In order to finalise the searches, Vitrinite and Medusa may require further information from you. Details of the information required is set out in the Acceptance Form. If security interests are identified that need to be released, you will be contacted about this.

## Details of the Proposal

- 10 If the Acquisition proceeds, Medusa (or an entity wholly-owned by Medusa) will acquire all of the ordinary share capital in the Company in exchange for the issue of new fully paid ordinary shares in Medusa to 1064 Shareholders (**New Shares**). Following completion of the Acquisition, Medusa will be the ultimate parent company of the Company, and Medusa will be owned by the existing shareholders of Medusa and the 1064 Shareholders.

Schedule 2 to this letter contains a copy of the share sale agreement in relation to the Acquisition (**Share Sale Agreement**), which has been agreed between the Major Shareholders, the Board and Medusa. If the Acquisition proceeds, you will be a 'Seller' under the Share Sale Agreement and will have the opportunity to sell all of your ordinary shares in the Company to the Buyer in accordance with its terms.

- 11 Approximately 20 million New Shares will be issued to 1064 Shareholders under the Proposal. A condition to completion of the Acquisition is that at least 85% of the New Shares are subject to voluntary escrow for a period of 24 months, and at least 9% of the New Shares are subject to a voluntary escrow period of 6 months, in each case from the date of their allotment. You are asked to nominate in the Instruction Form the number of New Shares to be issued to you that will be subject to voluntary escrow. The voluntary escrow is optional, if you do not wish to nominate part or all of your New Shares to be subject to voluntary escrow, please do not complete that part of the Instruction Form. If sufficient 1064 Shareholders do not nominate for escrow to apply the Acquisition will not proceed. The Share Purchase Agreement contains provision relating to escrow. Any New Shares you nominate for voluntary escrow cannot be disposed of during the relevant escrow period (such as on ASX), other than in certain circumstances outlined in the Share Purchase Agreement, including under a takeover offer, scheme of arrangement or share buy-back.
- 12 If you have any questions in relation to the Share Sale Agreement please direct them in the first instance to Ryan Welker.

## Consideration

- 13 The Proposal contemplates an acquisition of the entire issued share capital of 1064 from 1064 Shareholders on the same terms and at the same time. As a 1064 Shareholder you will be issued the New Shares for the sale of your shares in the Company if the Acquisition proceeds. Medusa will apply for quotation of the New Shares on the ASX and you will be able to trade your shares on market.
- 14 The number of New Shares that will be issued to you relative to other 1064 Shareholders will be proportionate to your shareholding in the Company.

## Legal matters

- 15 By returning the Instruction Form to the Company, each person executing the Instruction Form irrevocably:
- (a) agrees to proceed with the Proposal on the terms described in this letter and its Attachments;
  - (b) undertakes to use its best endeavours to complete the Acquisition on the terms of the Proposal and as described in this letter and its Attachments;
  - (c) gives its consent, approval and authorisation as may be required under any agreement, deed, undertaking or other arrangement to which it is a party for the purpose of completing the Acquisition (or any matters reasonably ancillary or incidental to the Acquisition);
  - (d) waives all pre-emption rights, tag along rights, first rights of refusal, minimum notice periods and other rights that it may have under any agreement, deed, undertaking or other arrangement to which it is a party that restrict or prevent the completion of the Acquisition (or any matters reasonably ancillary or incidental to the Acquisition);
  - (e) waives and forever releases all claims, rights and remedies that the party may hold (actual or contingent) against any other person arising under or in connection with the completion of the Acquisition (or any matters reasonably ancillary or incidental to the Acquisition) but excluding any claims, rights or remedies that a party may hold (actual or contingent) against any other party arising under or in connection with a breach of this letter, the Instruction Form or the Share Sale Agreement (once executed);
  - (f) appoints each member of the Board (**Attorney**), severally, as its attorney and agent, with the authority to:
    - (i) execute in its name and on its behalf and deliver (conditionally or unconditionally) and complete, and to perform all of its obligations under, the Share Sale Agreement and all documents ancillary to the Acquisition including, without limitation, share transfer forms (**Documents**);
    - (ii) complete any blanks in any of the Documents;
    - (iii) make any amendments or additions to any of the Documents which an Attorney considers appropriate for the purposes of entering into or completing the Acquisition (or any matters reasonably ancillary or incidental to the Acquisition);
    - (iv) execute any other documents or instruments, provide any releases or waivers and do or perform any other act or thing which an Attorney considers appropriate to do or perform in connection with any of the Documents or the Acquisition;
    - (v) give and receive any notice or communication under any Document;
    - (vi) to the extent the person holds legal title to any shares in the Company or otherwise has a beneficial interest in any shares in the Company:
      - (A) to call for, agree to short notice being provided in respect of, speak at and attend general meetings of, the Company (including any class meeting of Company shareholders) on its behalf in connection with the Acquisition;
      - (B) to sign any written resolution of 1064 Shareholders (including any written resolution of any class of Company shareholders) in connection with the Acquisition;
      - (C) to vote or grant a proxy in favour of any person to vote (or appoint an authorised representative to vote in the case of a body corporate) any

Company shares at any general meeting or class meeting of the Company held in connection with the Acquisition;

(D) take any other action in relation to any shares in the Company which is necessary or desirable for the purposes of completing the Acquisition (or any matters reasonably ancillary or incidental to the Acquisition); and

(vii) to do all things and acts necessary or incidental to the above or to facilitate the expeditious consummation of the Acquisition, in each case as an Attorney considers appropriate;

(g) undertakes that for so long as the power of attorney under paragraph 15(f) above is in effect it will not itself take any action or exercise any right in respect of a power or authority that has been granted to the Attorneys under paragraph 15(f) above;

(h) declares that, other than in the case of fraud or wilful misconduct by an Attorney, it is bound by anything an Attorney lawfully does in exercising its powers under paragraph 15(f) above;

(i) ratifies and confirms whatever an Attorney lawfully does, or causes to be done, pursuant to paragraph 15(f) above, other than in the case of fraud or wilful misconduct by the Attorney; and

(j) indemnifies each of the Attorneys against all liabilities suffered or incurred by, or awarded against, an Attorney arising out of the exercise by the Attorney of their powers under paragraph 15(f) above;

(k) acknowledges it has had the opportunity to receive legal advice in relation to this letter, the Proposal and Acquisition and the Instruction Form;

(l) acknowledges that 1064 and Vitrinite have for themselves and for all other 1064 Shareholders, undertaken a process to solicit the Proposal from Medusa, and that the Proposal is being made to 1064 on that basis and that the 1064 Shareholders are likely to be interested in the Proposal;

(m) agrees to be issued the number of New Shares set out in the Instruction Form and in accordance with the final executed Share Sale Agreement and to be bound by the constitution of Medusa; and

(n) where the person executing this form is a party to an Unsecured Redeemable Convertible Note Subscription Deed (**Deed**), acknowledges and agrees that the provisions of clause 5.9 of the Share Sale Agreement apply in respect of the Deed.

16 The New Shares will be issued under section 708 of the *Corporations Act 2011* (Cth) (**Corporations Act**) without a disclosure document. Once issued, Medusa will be required to give a notice to ASX that complies with section 708A(6) of the Corporations Act (known as a 'cleansing notice') (or, alternatively, a prospectus that complies with section 708A(11) of the Corporations Act), which will allow the New Shares to be freely traded on ASX without any on-sale restrictions. As a condition of Medusa issuing the New Shares, Medusa requires 1064 Shareholders to return a certificate to the Medusa certifying that the person qualifies for certain exemptions under the disclosure requirements of the Corporations Act or other applicable securities laws (in a form acceptable to Medusa).

17 This letter may be produced as final evidence of the grant of any consent, approval, authorisation, waiver, release, appointment, indemnity, acknowledgement or other agreement by a signatory to this letter and pleaded as a bar to any claim contending that any such consent, approval, authorisation, waiver, release, appointment, indemnity, acknowledgement or other agreement was not obtained or was not properly obtained or any other claim which is inconsistent with this letter.

18 There is no guarantee, and neither the Company nor any other person guarantees, that the Acquisition will proceed. Whether the Acquisition proceeds depends on, amongst other things,

whether the Company's shareholders agree to the terms of the Proposal and return the Instruction Form.

- 19 This letter and the Instruction Form is governed by the laws of Queensland and you irrevocably submit to the non-exclusive jurisdiction of the courts of Queensland in relation to all matters related to this letter.

### **Return instructions**

- 20 You must take the following steps:
- (a) carefully review this letter (and, if necessary, seek independent professional advice) and its attachments and execute the Instruction Form (refer below for instructions) and return it to the Company by 5.00pm (Brisbane time) on 3 January 2021; and
  - (b) have the certificate in Schedule 3 completed and returned with the Instruction Form if you are able to certify the relevant matters set out in the certificate.
- 21 Please forward the completed Instruction Form and certificate, contemplated in 20(b) above, (if applicable) to Ryan Welker at [ryan@vitrinite.com.au](mailto:ryan@vitrinite.com.au).

\*\*\*\*\*

The existence, and contents of, this letter and the Proposal are strictly confidential and this letter has been sent to you on the basis that you agree to maintain absolute confidentiality in relation to it and its contents and the Proposal. The confidentiality deed poll signed by you applies to the information in this letter, including the existence of the Proposal and Acquisition and the draft Share Sale Agreement. I thank you for respecting the confidential nature of this letter.

Yours faithfully

Ryan Welker

For and on behalf of Ten Sixty Four Limited

# Schedule 1

Instruction Form

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## Instructions for execution

You must do the following:

**FIRST**, if you are an individual receiving this Instruction Form, you must complete all relevant details below and execute one of the 'individual natural person' execution blocks and have your signature witnessed. Please **do not** have your signature witnessed by any of your relatives or any other signatory to this Instruction Form.

And

**SECOND**, if you hold your shares in the Company via:

- (a) an affiliated person, you must also complete the details in the box entitled 'Details of Company shareholder (if different from person above)' and have that person execute the other 'individual natural person' execution block or the 'individual acting as a trustee' execution block below (whichever applies) and have their signature witnessed. Again, please **do not** allow their signature to be witnessed by any relative or any other signatory to this Instruction Form: and / or
- (b) an affiliated company, you must also complete the details in the box entitled 'Details of Company shareholder (if different from person above)' and have that company execute the relevant execution block that applies to them.

### Details of individual shareholder

Full Name:.....
Address:.....
Date of birth:.....

### Details of Company shareholder

Full Name:.....
ABN/ACN/ARBN:.....
Address:.....
Trust/super fund/partnership*: .....
ABN/ACN/ARBN of trustee*: .....
* If you are signing as trustee of a trust or superannuation fund, you must provide details of the name of the relevant trust, fund or partnership, as well as the ABN, ACN or ARBN of the trustee.



## Details of your Holder Identification Number (HIN)

HIN\*.....

\* This is the unique number that is issued to you by ASX that identifies you as a CHESSE sponsored shareholder with a broker. A HIN usually starts with the letter 'X' followed by ten numbers. Your HIN is required in order for Medusa's share registry to allot shares to you.

## Agreement to proceed with Proposal

Each signatory of this form agrees to proceed with the Proposal and irrevocably gives each of the acknowledgements, consents and waivers and makes the appointment in the section entitled 'Legal matters' in the attached letter.

## Consideration

Total number of fully paid ordinary shares in Medusa Mining Limited to be issued to you.	[#insert]
--	-----------

## Voluntary escrow nomination

Total number of fully paid ordinary shares in Medusa Mining Limited to be issued to you that you nominate for voluntary escrow.	Number	Period

## Security Interests

You must provide the Company with evidence that the following registered security interests have been released in respect of your shares in the Company:

[#insert registration details]

[In order to finalise searches for security interests please provide the following information:]

You will need to provide the Company with evidence that any identified security interest are released.

This Instruction Form is binding. Once it is returned to the Company, your election may not be altered, revoked or withdrawn, unless the Acquisition is not completed by 28 February 2021 or the Company otherwise agrees.

**You should consider your position carefully before returning this Instruction Form. You should obtain your own financial product advice and legal advice from independent persons who are appropriately qualified to give such advice. None of Medusa nor any other person is required to provide you, or responsible for providing you with, any such advice.**

**Executed as a deed**

**For an individual natural person:**

**SIGNED, SEALED AND DELIVERED** )  
 )  
by \_\_\_\_\_ )  
 )  
in the presence of: )  
 )  
..... )  
Signature of witness )  
 )  
..... )  
Name of witness (block letters) )

.....  
Signature of \_\_\_\_\_

**For an individual natural person:**

**SIGNED, SEALED AND DELIVERED** )  
 )  
by \_\_\_\_\_ )  
 )  
in the presence of: )  
 )  
..... )  
Signature of witness )  
 )  
..... )  
Name of witness (block letters) )

.....  
Signature of \_\_\_\_\_

**For an individual acting as trustee:**

**SIGNED, SEALED AND DELIVERED** )  
 )  
by \_\_\_\_\_ )  
in his/her capacity as trustee )  
 )  
for: \_\_\_\_\_ )  
 )  
in the presence of: )  
 )  
..... )  
Signature of witness )  
 )  
..... )  
Name of witness (block letters) )

.....  
Signature of \_\_\_\_\_

**For a company:**

**SIGNED, SEALED AND DELIVERED** )  
)  
by: \_\_\_\_\_ )  
in accordance with section 127(1) of )  
the Corporations Act 2001 (Cwlth) by )  
authority of its directors: )  
)  
)  
..... )  
Signature of director )  
)  
)  
..... )  
Name of director (block letters) )  
)

.....  
Signature of director/company  
secretary\*

.....  
Name of director/company secretary\*  
(block letters)

\*delete whichever is not applicable

**For a company acting as trustee:**

**SIGNED, SEALED AND DELIVERED** )  
)  
by: \_\_\_\_\_ )  
in its capacity as trustee )  
)  
for: )  
)  
..... )  
in accordance with section 127(1) of the )  
Corporations Act 2001 (Cwlth) by )  
authority of its directors: )  
)  
)  
..... )  
Signature of director )  
)  
)  
..... )  
Name of director (block letters) )  
)

.....  
Signature of director/company  
secretary\*

.....  
Name of director/company secretary\*  
(block letters)

\*delete whichever is not applicable

# Schedule 2

Agreed form of Share Sale Agreement

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## Schedule 3

Investor Certificate

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### Sophisticated investor certificate

To: Medusa Mining Limited (ACN 099 377 849)  
Suite A, Level 1  
1 Preston Street  
COMO WA 6152

1 Acknowledgement

I acknowledge that:

- (a) this certificate is given to Medusa Mining Limited (ACN 099 377 849) (**Medusa**) to enable Medusa to determine whether it is able to make offers of securities to me under the *Corporations Act 2001* (Cth) (**Corporations Act**) in connection with the proposed offer of securities in Medusa; and
- (b) offers of securities made to me by Medusa will be made on the basis of this certificate.

2 Sophisticated investor

I certify that I am a 'sophisticated investor', being a person who has:  
***(Place a tick in the appropriate box)***

- net assets of at least A\$2.5 million (including net assets of any company or trust I control<sup>1</sup>);  
or
- a gross income for each of the last two financial years of at least A\$250,000 (including gross income of any company or trust I control<sup>2</sup>).

I attach an accountant's certificate which is dated within the last 6 months certifying the above.

3 Signature and details

Name .....

ACN (for companies) .....

Address .....

Signed .....  
*(In the case of a company, a director/secretary must sign)*

Dated .....

---

<sup>1</sup> As 'control' is defined in section 50AA of the Corporations Act

<sup>2</sup> As 'control' is defined in section 50AA of the Corporations Act

## Accountant's certificate - Corporations Act 2001 (Cth) s708(8)(c) and (d)

To: Medusa Mining Limited (ACN 099 377 849)  
Suite A, Level 1  
1 Preston Street  
COMO WA 6152

1 I certify that I am a 'qualified accountant' within the meaning of section 9 of the *Corporations Act 2001* (Cth) (**Corporations Act**).<sup>3</sup>

2 I certify that ..... (*Insert client's name*) is a person who has or is controlled by a person who has:

net assets of at least A\$2.5 million (including net assets of any company or trust they control<sup>4</sup>);

or

a gross income for each of the last two financial years of at least A\$250,000 (including gross income of any company or trust they control<sup>5</sup>).

**(Place a tick in the appropriate box)**

3 I have provided this certificate based on an examination of the tax returns and/or the financial records of the above client provided to me or within my control.

Name and firm of qualified accountant .....

.....

Signature of qualified accountant .....

Date .....

<sup>3</sup> A 'qualified accountant' is declared in ASIC Corporations (Qualified Accountant) Instrument 2016/786 ('**Instrument**') to be:

- (a) any member of CPA Australia ('**CPAA**') who:
- (i) is entitled to use the post-nominals 'CPA' or 'FCPA'; and
  - (ii) is subject to CPAA's continuing professional education requirements; and
  - (iii) at or about the time of the member's most recent renewal of membership, has confirmed in writing to CPAA that he or she complies with CPAA's continuing professional education requirements;
- (b) any member of The Institute of Chartered Accountants in Australia ('**CA ANZ**') who:
- (i) is entitled to use the post-nominals 'CA' or 'FCA'; and
  - (ii) is subject to CA ANZ's continuing professional education requirements; and
  - (iii) at or about the time of the member's most recent renewal of membership, has confirmed in writing to CA ANZ that he or she complies with CA ANZ's continuing professional education requirements;
- (c) any member of the Institute of Public Accountants ('**IPA**') who:
- (i) is entitled to use the post-nominals 'AIPA', 'MIPA' or 'FIPA'; and
  - (ii) is subject to the IPA's continuing professional education requirements; and
  - (iii) at or about the time of the member's most recent renewal of membership, has confirmed in writing to the IPA that he or she complies with the IPA's continuing professional education requirements;
- (d) any member of an 'eligible foreign professional' body (as defined in the Instrument) who:
- (i) has at least three years of practical experience in accounting or auditing; and
  - (ii) is providing the certificate for the purposes of paragraph 708(8)(c) or 761(7)(c) of the Corporations Act to a person who is resident in the same country (being a country other than Australia) as that member.
- (As at the date of this certificate,

See also ASIC RG 154.

<sup>4</sup> As 'control' is defined in section 50AA of the Corporations Act

<sup>5</sup> As 'control' is defined in section 50AA of the Corporations Act

**ATTACHMENT E**

**Investor Certificates for Canadian and US Investors**

## Medusa Mining Limited

### Canadian Investor Certificate

The undersigned makes this certificate in connection with an acquisition of ordinary shares (“New Shares”) of Medusa Mining Limited, an Australian company (the “Company”).

The undersigned certifies that he/she/it:

- (a) is entitled under applicable provincial securities laws to acquire the New Shares without the benefit of a prospectus qualified under those securities laws;
- (b) is an “accredited investor” as defined in National Instrument 45-106 – *Prospectus Exemptions*) and a “permitted client” (as defined in National Instrument 31-103 – Registration Requirements, Exemptions and Ongoing Registrant Obligations);
- (c) is acquiring the New Shares as principal;
- (d) confirms that the offer of New Shares was not made through an advertisement in any printed media of general and regular paid circulation, radio, television or telecommunications, including electronic display or any other form of advertising, in Canada;
- (e) understands that the Company is not required and does not intend to file a Canadian prospectus or similar document and that any resale of the New Shares must be in accordance with applicable Canadian securities legislation, which may require resales to be made in accordance with exemptions from dealer registration and prospectus requirements;
- (f) acknowledge that any certificate, holding statement or CHESST allotment confirmation notice confirming the issuance of the New Shares may bear the following legend: “Unless permitted under securities legislation, the holder of this security must not trade the security before the date that is four months and one day after the later of (i) the settlement date for the issuance of the New Shares and (ii) the date the Company became a report issuer in any province or territory of Canada”;
- (g) confirms that, to the best of its knowledge, none of the funds to be provided by it to the Company are being tendered on behalf of a person or entity who is unknown to it;
- (h) confirms that none of the funds being used to purchase the New Shares are, to its knowledge, proceeds obtained or derived, directly or indirectly, as a result of illegal activities and that:
  - (i) the funds being used to purchase the New Shares and advanced by it to the Company do not represent proceeds of crime for the purpose of the Proceeds of Crime (Money Laundering) Act (Canada) (the “PCMLA”);
  - (ii) it is not a person or entity identified in the *United Nations Act* (Canada), the *Special Economic Measures Act* (Canada), the *Freezing Assets of Corrupt Foreign Officials Act* (Canada) or the *Justice for Victims of Corrupt Foreign Officials Act* (Canada) or under Part II.1 of the *Criminal Code* (Canada) or under any similar trade sanctions legislation or regulations; and
- (i) confirms that documents relating in any way to the sale of New Shares may be drafted in the English language only. C'est la volonté expresse de chaque acquéreur que tous les documents faisant foi ou se rapportant de quelque manière à la vente des valeurs mobilières soient rédigés uniquement en anglais.

Name of investor: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title (if investor is a legal entity):

Date: \_\_\_\_\_



# Medusa Mining Limited

## U.S. Investor Certificate

The undersigned makes this certificate in connection with an acquisition of ordinary shares (the "Shares") of Medusa Mining Limited, an Australian company (the "Company").

The undersigned certifies that he/she/it:

1. is acquiring the Shares in exchange for ordinary shares of Ten Sixty Four Ltd and for the undersigned's own account with the present intention of holding the Shares for the purpose of investment and not with the intention of selling the Shares in a public distribution in violation of the U.S. federal securities laws or any applicable state securities laws.
2. understands that:
  - (a) no U.S. federal or state securities commission has recommended nor considered the merits of any investment in the Shares;
  - (b) the Shares have not been registered under the U.S. Securities Act or the securities laws of any state; and
  - (c) the Shares will constitute "restricted securities" with the meaning of Rule 144 under the Securities Act and, as such, cannot be transferred or resold unless they are (i) registered under the Securities Act; (ii) transferred or sold in a transaction exempt from registration under the Securities Act and applicable state securities laws; or (iii) sold outside the United States in compliance with Regulation S under the Securities Act, including in ordinary course transactions on the Australian Securities Exchange ("ASX").
3. confirms that he/she/it:
  - (a) is knowledgeable in relation to the business of the Company and capable of evaluating the merits and risks of an investment in the Shares, including income tax consequences of acquiring, owning and disposing of the Shares;
  - (b) has been afforded access to information about the Shares, the Company's financial condition, results of operations, business, property, management and prospects sufficient to enable him to invest in the Shares, including information that the Company has filed with the ASX;
  - (c) understands that the acquisition of the Shares involves financial risks; and
  - (d) is able to bear the economic risk of an investment in the Shares for an indefinite period of time.

Name of investor: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print title if legal entity: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT F**

**Disclosure Letter**

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]

---

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

[Redacted]

- [Redacted]

- [Redacted]

[Redacted]

- [Redacted]

[Redacted]

- [Redacted]

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED] \_\_\_\_\_

[REDACTED] \_\_\_\_\_

[REDACTED] \_\_\_\_\_

[REDACTED] \_\_\_\_\_

[REDACTED]

[REDACTED]

[REDACTED]

Warranty No.	Disclosure	Data Room reference
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	

Warranty No.	Disclosure	Data Room reference
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	





**ATTACHMENT G**

**Form of deed poll releases**

# Deed poll - officer release

Dated

---

By

**Officer**                    **[#insert]**  
of **[#insert]**

In favour of

**Company**                    **Ten Sixty Four Limited ACN 614 771 407**  
of Level 6, Suite 2, Blue Tower, 12 Creek Street, Brisbane, Queensland 4000.

## Background

- A     The Officer is a current or former director, alternate director, executive officer, or other officer, of the Company.
- B     The Officer releases the Company from certain obligations on the terms set out in this document.

## Operative provisions

### 1 Definitions and interpretation

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#### 1.1 Definitions

Term	Definition
<b>Claim</b>	means any claim, action, proceeding or demand, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
<b>Completion</b>	means completion of the sale and purchase of the entire issued share capital of the Company under the Share Sale Deed.
<b>Constitution</b>	means the constitution of the Company.
<b>Continuing Officer</b>	has the meaning given to that term in the Share Sale Deed.
<b>D&amp;O Policy</b>	has the meaning given to that term in the Deed of Access, Insurance and Indemnity.
<b>Deed of Access, Insurance and Indemnity</b>	means the deed of access insurance and indemnity between the Officer and Company dated <b>[#insert]</b> .
<b>Effective Date</b>	means the earlier of:

<b>Term</b>	<b>Definition</b>
	(a) Completion; and (b) 13 January 2022.
<b>Share Sale Deed</b>	means the share sale deed between the shareholders of the Company, Medusa Mining Limited ACN 099 377 849, Ryan Welker, Nicholas Williams, Matthew Burges and Lazaros Nikeas dated [#insert] under which the shareholders of the Company agree to sell and Medusa Mining Limited agrees to buy the entire issued share capital of the Company.
<b>Other Officer</b>	means a person who is not a Continuing Officer.
<b>Released Claims</b>	means any Claim the subject of the releases in clauses 2.1 or 2.2.

## 1.2 Interpretation

In this document:

- (a) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;
- (b) a reference to a party to this document or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;
- (e) a reference to this document includes the agreement recorded by this document;
- (f) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (g) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity; and
- (h) a reference to 'month' means calendar month.

## 2 Release

### 2.1 Insurance obligations

If the Officer is party to a D&O Policy, on and from the Effective Date:

- (a) if the Officer is a Continuing Officer and Completion does not occur on or prior to the 12 January 2022, the Officer irrevocably and unconditionally releases and discharges the Company from all Claims he may have against the Company in connection with its

obligations to maintain and pay a premium on a D&O Policy under the Deed of Access, Insurance and Indemnity between 13 January 2022 and Completion; and

- (b) if the Officer is an Other Officer, the Officer irrevocably and unconditionally releases and discharges the Company from all Claims he may have against the Company in connection with its obligations to maintain and pay a premium on a D&O Policy under the Deed of Access, Insurance and Indemnity.

## **2.2 Indemnity obligations**

Subject to Completion occurring, but with effect on and from the Effective Date, the Officer irrevocably and unconditionally releases and discharges the Company from all Claims he may have against the Company in connection with the Company's obligations to indemnify the Officer, including under either or both of (to the extent applicable):

- (a) the Deed of Access, Insurance and Indemnity; and
- (b) the Constitution,

provided that, in the case of a Continuing Officer, this clause 2.2 will not apply in respect of any acts or omissions (or alleged acts and omissions) of the Officer that occur following Completion or for which the Company is insured under a policy of insurance.

## **2.3 Bar to proceedings**

The Officer agrees not to make any Claim or participate in any Claim, against the Company in respect of, or in relation to, the Released Claims and agrees that this document may be pleaded as a bar to any such Claim.

# **3 General**

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## **3.1 Amendments**

This document may only be amended by written agreement between all parties.

## **3.2 Assignment**

A party may only assign this document or a right under this document with the written consent of the other party.

## **3.3 No merger**

The rights and obligations of the parties under this document do not merge on completion of any transaction contemplated by this document.

## **3.4 Entire agreement**

- (a) This document supersedes all previous agreements about its subject matter. This document embodies the entire agreement between the parties.
- (b) To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion, is withdrawn and has no effect except to the extent expressly set out or incorporated by reference in this document.

- (c) Each party acknowledges and agrees that it does not rely on any prior conduct or representation by the other party in entering into this document.

### 3.5 Governing law and jurisdiction

- (a) Queensland law governs this document.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the Queensland courts and courts competent to hear appeals from those courts.

### 3.6 Severability

- (a) A clause or part of a clause of this document that is illegal or unenforceable may be severed from this document and the remaining clauses or parts of the clause of this document continue in force.
- (b) If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from this document in the relevant jurisdiction, but the rest of this document will not be affected.

## Execution

EXECUTED as a deed poll

Signed sealed and delivered  
by [#insert name] in the presence of:

^ \_\_\_\_\_  
Signature of [#insert name]

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

^ \_\_\_\_\_  
Name of witness (print)