



HERBERT  
SMITH  
FREEHILLS

## Deed

Subsidiary DOCA  
VB 800

## Deed of company arrangement

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Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as joint and several administrators of the Deed Company

VB 800 2009 Pty Ltd (Administrators Appointed) ACN 135 488 934

BC Hart Aggregator, L.P.

***Exchanged and effective at 4:15pm (AEST) on 25 September 2020***



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### **Schedule 1**

#### **Creditors' Trust Deed**

### **Schedule 2**

#### **Creditor Indemnity**

### **Schedule 3**

#### **Excluded Contracts**

### **Signing page**

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## Deed of Company Arrangement

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Date ► 25 September 2020

Between the parties

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**Deed Administrators** **Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes**, each in their capacity as joint and several administrators of the Deed Company, of c/- Deloitte, Level 9, 225 George Street, Sydney NSW 2000

Email: vstrawbridge@deloitte.com.au, saalgeri@deloitte.com.au, richhughes@deloitte.com.au, jgreig@deloitte.com.au

Attention: Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes

**Deed Company** **VB 800 2009 Pty Ltd (Administrators Appointed) ACN 135 488 934**

of c/- Deloitte, Level 9, 225 George Street, Sydney NSW 2000

Email: vstrawbridge@deloitte.com.au, saalgeri@deloitte.com.au, richhughes@deloitte.com.au, jgreig@deloitte.com.au

Attention: Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes

**Deed Proponent** **BC Hart Aggregator, L.P.**, of PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands

Email: blyons@baincapital.com, sgarfield@baincapital.com

Attention: Barnaby Lyons and Scott Garfield



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Recitals

- 1 On the Appointment Date, Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes were appointed as administrators of the Deed Company pursuant to Part 5.3A of the Corporations Act.
- 2 At a meeting held on 4 September 2020 and convened pursuant to section 439A of the Corporations Act (**Second Meeting**), the Creditors of the Deed Company resolved that the Deed Company execute the deed of company arrangement proposed by the Deed Proponent under section 444B(2)(b) of the Corporations Act.
- 3 The Deed Company, the Deed Administrators, and the Deed Proponent have agreed to execute this Deed to give effect to the resolution referred to in recital 2.
- 4 The Deed Administrators have consented to be the administrators of this Deed.
- 5 Subject to the terms of this Deed, this Deed binds all creditors of the Deed Company, in accordance with section 444D of the Corporations Act and also binds the Deed Company, and its Officers and Members in accordance with section 444G of the Corporations Act.

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This deed witnesses as follows:

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# 1 Definitions and interpretation

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## 1.1 Definitions

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

Term	Meaning
<b>737 2012 No.1</b>	737 2012 No.1 Pty. Ltd. (Administrators Appointed) ACN 154 201 859
<b>737 2012 No. 2</b>	737 2012 No. 2 Pty Ltd (Administrators Appointed) ACN 154 225 064
<b>ACN 098 904 262</b>	A.C.N. 098 904 262 Pty Ltd (Administrators Appointed) ACN 098 904 262.
<b>Administration Debt</b>	any: <ol style="list-style-type: none"><li>1 debt referred to in section 443A(1) of the Corporations Act which was incurred by the Administrators during the Administration Period;</li><li>2 liability to the Commissioner of Taxation referred to in section 443BA(1); and</li><li>3 other debts or liabilities referred to in section 443D(aa) of the Corporations Act,</li></ol> in respect of which the Administrators are entitled to be indemnified under section 443D of the Corporations Act.
<b>Administration Period</b>	the period of time commencing on the Appointment Date and concluding on the Commencement Date.
<b>Administrators</b>	jointly and severally, Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as administrators of the Deed Company and any successor to that office appointed pursuant to the Corporations Act.
<b>Aircraft Excluded Contract</b>	means any contract (including any lease): <ol style="list-style-type: none"><li>1 set out in Part 4 of Schedule 3 in respect of an aircraft leasing or financing transaction provided that the Deed Proponent confirms in the Excluded Contracts Designation Notice that the Deed Company has entered into an amendment agreement in respect of the contracts relating to that aircraft leasing or</li></ol>



Term	Meaning
	<p>financing transaction with the relevant counterparties prior to Completion, and any conditions to the effectiveness of the amendments contemplated by the amendment agreement have been satisfied or waived (or will be satisfied simultaneously with Completion); or</p> <p>2 otherwise designated in the Excluded Contracts Designation Notice.</p> <p>A reference to a contract set out in Schedule 3 is a reference to that contract as amended or supplemented from time to time, including any amendment or supplement entered into after the Appointment Date.</p>
<b>Aircraft Protocol Agreement</b>	any aircraft protocol agreement entered into between the Administrators and any party to an Aircraft Excluded Contract in accordance with orders made by the Federal Court of Australia on 15 May 2020, including any amendment or substitution of that agreement.
<b>Appointment Date</b>	20 April 2020.
<b>Asset Sale Agreement</b>	the asset sale agreement entered into or to be entered into between, among others, the Administrators, the Deed Company and a Related Body Corporate of the Deed Proponent in accordance with the Sale and Implementation Deed.
<b>ASIC</b>	the Australian Securities and Investment Commission.
<b>Business Day</b>	<p>1 for the purposes of clause 3 – has the meaning given to that term in the Corporations Act; and</p> <p>2 otherwise, a day other than a Saturday, Sunday or public holiday and on which banks are open for business generally in Brisbane, Sydney and New York.</p>
<b>Claim</b>	a debt payable by, and all claims against, the Deed Company (present or future, certain or contingent, ascertained or sounding only in damages), being a debt or claim that would be admissible to proof against the Deed Company in accordance with Division 6 of Part 5.6 of the Corporations Act, if the Deed Company had been wound up and the winding up is taken to have commenced on the Appointment Date, and any fine or penalty to which the Deed Company is subject or liable to be subject arising out of circumstances occurring prior to the Appointment Date that would be so admissible but for the operation of section 553B of the Corporations Act.



Term	Meaning
	<p>'Claim':</p> <ol style="list-style-type: none"> <li>1 includes a Claim of a Secured Creditor; but</li> <li>2 does not include an Excluded Claim.</li> </ol>
<b>Commencement Date</b>	the date that this Deed is executed by the Deed Administrators, the Deed Company, and the Deed Proponent.
<b>Committee of Inspection</b>	<p>the committee of inspection formed:</p> <ol style="list-style-type: none"> <li>1 in accordance with Divisions 75 and 80 of the IPS and Division 75 of the IPR, as amended by the Court Orders; and</li> <li>2 by resolution of creditors dated 12 May 2020.</li> </ol>
<b>Completion</b>	the occurrence of the extinguishment and release of Claims pursuant to clause 10.2.
<b>Conditions</b>	each of the conditions in clause 4.1.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Costs</b>	includes costs, charges, fees, government charges, taxes and expenses, including those incurred in connection with advisers, incurred in connection with the performance of the Administrators' and Deed Administrators' duties, obligations and responsibilities under the Corporations Act and this Deed during the Administration Period and the Deed Period and includes any Administration Debt.
<b>Court</b>	the Supreme Court of New South Wales or the Federal Court of Australia.
<b>Court Orders</b>	the Orders made by Justice Middleton on 24 April 2020 in Federal Court of Australia proceeding no. NSD464/2020.
<b>Creditor</b>	a person who has a Claim.
<b>Deed</b>	this deed of company arrangement as amended from time to time.



Term	Meaning
<b>Deed Administrators</b>	jointly and severally, Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as administrators of the Deed and any successor to that office appointed pursuant to the Corporations Act.
<b>Deed Company</b>	VB 800.
<b>Deed Period</b>	means the period commencing on the Commencement Date and ending on the Termination Date.
<b>Directors</b>	the directors of the Deed Company from time to time.
<b>Employee</b>	any person who was an employee of the Deed Company as at or prior to the Appointment Date and any person who made an advance of money to the Deed Company for which section 560 of the Corporations Act would apply if the Deed Company was taken to be in liquidation as at the Appointment Date.
<b>Encumbrance</b>	<p>any:</p> <ol style="list-style-type: none"><li>1 security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power, or title retention or flawed deposit arrangement and any 'security interest' as defined in sections 12(1) or (2) of the PPSA; or</li><li>2 right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or</li><li>3 right that a person (other than the owner) has to remove something from land (known as a profit à prendre), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or</li><li>4 third party right or interest or any right arising as a consequence of the enforcement of a judgment,</li></ol> <p>or any agreement to create any of them or allow them to exist.</p>
<b>Enforcement Process</b>	has the meaning given to that term in the Corporations Act.
<b>Excluded Cash</b>	has the meaning given in the Primary DOCA.
<b>Excluded Claim</b>	any:

Term	Meaning
	<ol style="list-style-type: none"> <li>1 Insured Claim;</li> <li>2 Intra-Group Claim;</li> <li>3 Claim arising under an Excluded Contract other than an Excluded Contract Released Claim;</li> <li>4 Claim arising under an Aircraft Excluded Contract other than a Claim in respect of any obligations, duties and liabilities which have arisen under such contracts before Completion or which relate to the period before Completion (but without limiting the rights of a party to an Aircraft Excluded Contract to receive any payment to which that party is entitled under any Aircraft Protocol Agreement); or</li> <li>5 other Claim that the Deed Proponent nominates in writing to the Deed Administrators as an Excluded Claim before Completion.</li> </ol>
<b>Excluded Contract</b>	<p>means any contract (including any lease but not including any Aircraft Excluded Contract):</p> <ol style="list-style-type: none"> <li>1 set out in Part 1 of Schedule 3;</li> <li>2 set out in Part 2 of Schedule 3 provided that either: <ol style="list-style-type: none"> <li>a. the Creditor has waived or waives, prior to or with effect from Completion, any event of default or breach by the Deed Company which occurred on or prior to the Commencement Date or which may occur during the Deed Period or on Completion insofar as the Creditor would be entitled to terminate the contract or (where applicable) take possession of or otherwise recover from the Deed Company property leased under that contract; or</li> <li>b. the Deed Proponent confirms in the Excluded Contracts Designation Notice that the contract is an Excluded Contract notwithstanding that the Creditor has not satisfied the requirements of paragraph (a);</li> </ol> </li> <li>3 set out in Part 3 of Schedule 3, provided that the Deed Proponent confirms in the Excluded Contracts Designation Notice that any conditions to the inclusion of that contract as an 'Excluded Contract' for the purposes of this Deed identified in Part 3 of Schedule 3 for that contract have been satisfied or waived (or will be satisfied simultaneously with Completion); or</li> <li>4 otherwise designated in the Excluded Contracts Designation Notice.</li> </ol> <p>A reference to a contract set out in Schedule 3 is a reference to that contract as amended or supplemented from time to time, including any amendment or supplement entered into after the Appointment Date.</p>

Term	Meaning
<b>Excluded Contracts Designation Notice</b>	<p>the notice to be delivered by the Deed Proponent to the Deed Administrators pursuant to clause 10.1 specifying the designations and confirmations (if any) referred to in:</p> <ol style="list-style-type: none"> <li>1 items 2b, 3 and 4 of the definition of Excluded Contract; and</li> <li>2 item 2 of the definition of Aircraft Excluded Contract.</li> </ol>
<b>Excluded Contract Released Claim</b>	<p>in relation to an Excluded Contract, any Claim under or in respect of that Excluded Contract that relates to:</p> <ol style="list-style-type: none"> <li>1 an amount that was due and payable by the Deed Company before the Appointment Date or relates to a period up to the Appointment Date whether or not due and payable at that date;</li> <li>2 goods or services supplied to the Deed Company prior to the Appointment Date;</li> <li>3 amounts payable under any Excluded Contract that are referable to a period prior to the Appointment Date;</li> <li>4 any failure of the Deed Company to perform obligations or duties under an Excluded Contract prior to, or in respect of the period prior to, the Appointment Date;</li> <li>5 amounts payable under any Excluded Contract that are referable to the Administration Period or which relate to goods or services supplied by the Deed Company or failure to perform obligations or duties under an Excluded Contract during the Administration Period (but without limiting any right that a Creditor has to be paid any amount in respect of an Administration Debt); and</li> <li>6 any other liability of the Deed Company that arose by reason of the appointment of the Administrators or Deed Administrators to the Deed Company including any obligations to pay charges or default interest and any liability under any indemnity provisions in the relevant Excluded Contract.</li> </ol>
<b>Group Companies</b>	<p>VAH and VAIH and their respective Subsidiaries to which the Administrators were appointed on the Appointment Date.</p>
<b>GST</b>	<p>has the meaning given to that term in the GST Act and any value added tax, goods and services tax or other similar tax.</p>
<b>GST Act</b>	<p>the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).</p>
<b>IG DOCA</b>	<p>the deed of company arrangement in relation to the IG DOCA Companies proposed by the Deed Proponent and put to the creditors of the IG DOCA Companies at the IG Group Second Meeting or, where the context requires, the deed of company</p>



Term	Meaning
	arrangement in relation to the IG DOCA Companies executed on or about the Commencement Date between the Deed Proponent, the IG DOCA Companies and Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as joint and several administrators of the IG DOCA Companies.
<b>IG DOCA Companies</b>	<ol style="list-style-type: none"><li>1 VAIH;</li><li>2 VAIA;</li><li>3 Tiger International;</li><li>4 VAA (SE Asia).</li></ol>
<b>IG DOCA Completion</b>	completion of the IG DOCA in accordance with its terms.
<b>IG DOCA Conditions</b>	the conditions to completion of the IG DOCA.
<b>IG DOCA Event</b>	<ol style="list-style-type: none"><li>1 the creditors of the IG DOCA Companies do not resolve that the IG DOCA Companies enter into the IG DOCA under section 444B(2)(b) of the Corporations Act at the IG Group Second Meeting; or</li><li>2 one or more IG DOCA Conditions are not satisfied, or become incapable of being satisfied (and, where capable of being waived, are not waived in accordance with the terms of the IG DOCA); or</li><li>3 the IG DOCA is terminated in accordance with its terms prior to IG DOCA Completion.</li></ol>
<b>IG Group Second Meeting</b>	the meeting of creditors held on 4 September 2020 convened pursuant to section 439A of the Corporations Act and held concurrently in respect of each IG DOCA Company.
<b>Implementation Date</b>	<p>the fifth Business Day after:</p> <ol style="list-style-type: none"><li>1 the satisfaction of all of the Conditions;</li><li>2 the satisfaction or waiver of all of the Primary DOCA Conditions or, if a Primary DOCA Event occurs, the conditions to completion of the Asset Sale Agreement;</li><li>3 the satisfaction or waiver of all of the IG DOCA Conditions or, if an IG DOCA Event occurs, the conditions to completion of the Asset Sale Agreement;</li><li>4 the satisfaction or waiver of all of the Subsidiary DOCA Conditions for each Subsidiary DOCA other than this Deed (except to the extent a Subsidiary DOCA Event has occurred in</li></ol>

Term	Meaning
	<p>relation to a Subsidiary DOCA); and</p> <p>5 if a Subsidiary DOCA Event occurs in respect of a Subsidiary DOCA and that Subsidiary DOCA has not been terminated in accordance with its terms, the conditions to completion of the Asset Sale Agreement,</p> <p>or such other date as is agreed in writing by the Deed Administrators and the Deed Proponent.</p>
<b>Insured Claim</b>	<p>a Claim which a Creditor has against the Deed Company where:</p> <ol style="list-style-type: none"> <li>1 the Deed Company is insured against that Claim under a contract of insurance (not being a contract of reinsurance) entered into before the Appointment Date; and</li> <li>2 an amount in respect of that Claim would be payable by the insurer to the Deed Company under the contract of insurance,</li> </ol> <p>but only to the extent of such part of the Claim as would be discharged by the payment from the insurer.</p>
<b>Intra-Group Claim</b>	<ol style="list-style-type: none"> <li>1 intercompany loan balances owed by the Deed Company to a Primary DOCA Company but only if Primary DOCA Completion occurs;</li> <li>2 intercompany loan balances owed by the Deed Company to an IG DOCA Company but only if IG DOCA Completion occurs;</li> <li>3 intercompany loan balances owed by the Deed Company to another Subsidiary DOCA Company but only if Subsidiary DOCA Completion occurs in respect of the Subsidiary DOCA for that Subsidiary DOCA Company.</li> </ol>
<b>IPR</b>	the <i>Insolvency Practice Rules (Corporations) 2016</i> (Cth).
<b>IPS</b>	the <i>Insolvency Practice Schedule (Corporations)</i> set out at Schedule 2 to the Corporations Act.
<b>Leased Property</b>	means any property in relation to which another person is the Owner and which was used or occupied by, or on behalf of, or in possession of the Deed Company at the Appointment Date or in relation to which the Deed Company is liable at the Appointment Date to pay any amount in connection with the use or occupation of the property.
<b>Legal Personal Representative</b>	a trustee or executor appointed to a Deed Administrator upon death, incapacity, insanity or any combination of them.

Term	Meaning
<b>Liabilities</b>	any liability or obligation (whether actual, contingent or prospective), including for any Loss of whatever description irrespective of when the acts, events or things giving rise to the liability or obligation occurred.
<b>Loss</b>	includes any loss, damage, liability, obligation, compensation, fine, penalty, charge, payment, cost or expense (including any legal cost or expense) however it arises and whether it is present or future, fixed or unascertained, actual or contingent but excluding any consequential or indirect loss, economic loss or loss of profits.
<b>Member</b>	has the meaning given to that term in the Corporations Act.
<b>Non-Participating Claim</b>	any: <ol style="list-style-type: none"> <li>1 Claim of a Related Body Corporate of the Deed Company which is not an Excluded Claim;</li> <li>2 Claim in respect of which a Creditor has agreed with the Administrators or Deed Administrators not to participate as a Creditor in respect of the Deed Company;</li> <li>3 Claim which is a 'subordinate claim' as defined in section 563A of the Corporations Act.</li> </ol>
<b>Officer</b>	has the meaning given to that term in the Corporations Act.
<b>Owner</b>	any person who is the legal or beneficial owner or holder of a leasehold interest (including any lessor) of property in the possession of the Deed Company as at the Appointment Date.
<b>Pool A Fund</b>	has the meaning given in the Trust Deed.
<b>PPSA</b>	the <i>Personal Property Securities Act 2009</i> (Cth).
<b>Primary DOCA</b>	the deed of company arrangement in relation to the Primary DOCA Companies proposed by the Deed Proponent and put to the creditors of the Primary DOCA Companies at the Primary DOCA Companies Second Meeting or, where the context requires, the deed of company arrangement in relation to the Primary DOCA Companies executed on or about the Commencement Date between the Deed Proponent, the Primary DOCA Companies and Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as joint and several administrators of the



Term	Meaning
	Primary DOCA Companies.
<b>Primary DOCA Companies</b>	<ol style="list-style-type: none"><li>1 VAH;</li><li>2 VAAH;</li><li>3 VAH Newco No.1;</li><li>4 Tiger Airways;</li><li>5 VAA;</li><li>6 Virgin Tech;</li><li>7 ACN 098 904 262;</li><li>8 VARA;</li><li>9 Virgin Holidays;</li><li>10 VB Ventures;</li><li>11 VAC;</li><li>12 VB Leaseco;</li><li>13 VB Investco;</li><li>14 VAH Newco No.2;</li><li>15 VAIO;</li><li>16 VBNC5;</li><li>17 Short Haul 17 1;</li><li>18 VB PDP 2010-11;</li><li>19 VB LH 2008 No. 1;</li><li>20 VB LH 2008 No. 2;</li><li>21 737 2012 No.1;</li><li>22 737 2012 No. 2;</li><li>23 VA Regional Leaseco;</li><li>24 VA Hold Co;</li><li>25 Virgin Australia 2013-1 Issuer Co;</li><li>26 VA Lease Co;</li><li>27 Short Haul 16 1; and</li><li>28 Short Haul 16 2.</li></ol>
<b>Primary DOCA Completion</b>	completion of the Primary DOCA in accordance with its terms.
<b>Primary DOCA</b>	the conditions to completion of the Primary DOCA.





Term	Meaning
<hr/>	
<b>Conditions</b>	
<hr/>	
<b>Primary DOCA Event</b>	<ol style="list-style-type: none"><li>1 the creditors of the Primary DOCA Companies do not resolve that the Primary DOCA Companies enter into the Primary DOCA under section 444B(2)(b) of the Corporations Act at the Primary DOCA Companies Second Meeting; or</li><li>2 one or more Primary DOCA Conditions are not satisfied, or become incapable of being satisfied (and, where capable of being waived, are not waived in accordance with the terms of the Primary DOCA); or</li><li>3 the Primary DOCA is terminated in accordance with its terms prior to Primary DOCA Completion.</li></ol>
<hr/>	
<b>Primary DOCA Companies Second Meeting</b>	the meeting of creditors held on 4 September 2020 convened pursuant to section 439A of the Corporations Act and held concurrently in respect of each Primary DOCA Company.
<hr/>	
<b>Priority Claim</b>	a Claim of an Employee that would have been entitled to priority over the Claims of other unsecured creditors under section 556(1) of the Corporations Act if the Deed Company had been wound up and the winding up was taken to have commenced on the Appointment Date.
<hr/>	
<b>Regulations</b>	the <i>Corporations Regulations</i> 2001 (Cth).
<hr/>	
<b>Related Body Corporate</b>	has the meaning given to that term in the Corporations Act.
<hr/>	
<b>Remuneration</b>	<p>the remuneration payable to the Administrators and Deed Administrators for acting as:</p> <ol style="list-style-type: none"><li>1 the administrators of the Deed Company under Part 5.3A of the Corporations Act; and</li><li>2 the Deed Administrators of the Deed Company under this Deed.</li></ol>
<hr/>	
<b>Sale and Implementation Deed</b>	the Sale and Implementation Deed dated 26 June 2020 between, among others, the Administrators, the Deed Company and the Deed Proponent.
<hr/>	
<b>Second Meeting</b>	has the meaning given in the Recitals.
<hr/>	



Term	Meaning
<b>Section 439C Resolution</b>	the resolution referred to in recital 2.
<b>Secured Creditor</b>	any Creditor with the benefit of a Security Interest at the Appointment Date over all or any property of the Deed Company securing all or any part of the Creditor's Claim.
<b>Security Interest</b>	any mortgage, chattel mortgage, pledge, charge, agreement, encumbrance, lien, letter of credit, deposit, cash reserve, right of set-off (arising otherwise than by operation of law or as a result of a banker's right to combine accounts) and assignment (including over insurance policies) and any other type of security which provides for and secures the payment of any debt or monetary liability or the performance of any obligation as at the Appointment Date and any 'security interest' as defined in sections 12(1) or (2) of the PPSA, each in respect of the Deed Company and includes any proceeds from dealing with any security.
<b>Short Haul 14 1</b>	Short Haul 2014 No. 1 Pty Ltd (Administrators Appointed) ACN 600 809 612.
<b>Short Haul 14 2</b>	Short Haul 2014 No. 2 Pty Ltd (Administrators Appointed) ACN 600 878 199.
<b>Short Haul 16 1</b>	Short Haul 2016 No. 1 Pty Ltd (Administrators Appointed) ACN 612 766 328.
<b>Short Haul 16 2</b>	Short Haul 2016 No. 2 Pty Ltd (Administrators Appointed) ACN 612 796 077.
<b>Short Haul 17 1</b>	Short Haul 2017 No. 1 Pty Ltd (Administrators Appointed) ACN 617 644 390.
<b>Short Haul 17 2</b>	Short Haul 2017 No. 2 Pty Ltd (Administrators Appointed) ACN 617 644 443.
<b>Short Haul 17 3</b>	Short Haul 2017 No. 3 Pty. Ltd. (Administrators Appointed) ACN 622 014 813.
<b>Short Haul 18 1</b>	Short Haul 2018 No. 1 Pty. Ltd. (Administrators Appointed) ACN



Term	Meaning
	622 014 831.
<b>Subsidiary</b>	has the meaning given in the Corporations Act.
<b>Subsidiary DOCA</b>	in respect of a Subsidiary DOCA Company other than the Deed Company, the deed of company arrangement in relation to that Subsidiary DOCA Company proposed by the Deed Proponent and put to the creditors of the Subsidiary DOCA Company at a Subsidiary DOCA Company Second Meeting or, where the context requires, the deed of company arrangement in relation to that Subsidiary DOCA Company executed on or about the Commencement Date between the Deed Proponent, the Subsidiary DOCA Company and Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as joint and several administrators of the Subsidiary DOCA Company.
<b>Subsidiary DOCA Company</b>	each of: <ol style="list-style-type: none"><li>1 VB Leaseco No 2;</li><li>2 VB 800;</li><li>3 Short Haul 17 2;</li><li>4 Short Haul 18 1;</li><li>5 VA Borrower 19 1;</li><li>6 VA Borrower 19 2;</li><li>7 Short Haul 14 1 and Short Haul 14 2; and</li><li>8 Short Haul 17 3.</li></ol>
<b>Subsidiary DOCA Completion</b>	in respect of a Subsidiary DOCA, completion of the Subsidiary DOCA in accordance with its terms.
<b>Subsidiary DOCA Conditions</b>	in respect of a Subsidiary DOCA, the conditions to completion of the Subsidiary DOCA.
<b>Subsidiary DOCA Event</b>	In respect of a Subsidiary DOCA: <ol style="list-style-type: none"><li>1 the creditors of the Subsidiary DOCA Company do not resolve that the Subsidiary DOCA Company enter into the Subsidiary DOCA under section 444B(2)(b) of the Corporations Act at the Subsidiary DOCA Company Second Meeting; or</li><li>2 one or more Subsidiary DOCA Conditions are not satisfied, or become incapable of being satisfied (and, where capable of being waived, are not waived in accordance with the terms of</li></ol>

Term	Meaning
	the Subsidiary DOCA); or 3 the Subsidiary DOCA is terminated in accordance with its terms prior to Subsidiary DOCA Completion.
<b>Subsidiary DOCA Company Second Meeting</b>	in respect of a Subsidiary DOCA Company, the meeting of creditors held on 4 September 2020 convened pursuant to section 439A of the Corporations Act.
<b>Termination Date</b>	the date upon which this Deed is terminated.
<b>Tiger Airways</b>	Tiger Airways Australia Pty Limited (Administrators Appointed) ACN 124 369 008.
<b>Tiger International</b>	Tiger International Number1 Pty Ltd (Administrators Appointed) ACN 606 131 944.
<b>Trust</b>	the Virgin Group Creditors' Trust to be established under the Trust Deed.
<b>Trust Creditors</b>	a Creditor who has a Claim except to the extent that that Claim is a Non-Participating Claim.
<b>Trust Deed</b>	the trust deed to be entered into between, among others, the Deed Company, the Deed Administrators and the Trustees substantially in the form of that contained in Schedule 1, which creates the Trust.
<b>Trust Fund</b>	has the meaning given to that term in the Trust Deed.
<b>Trustees</b>	the trustees of the Trust established under the Trust Deed, being Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as joint and several deed administrators of the Deed Company.
<b>VAA</b>	Virgin Australia Airlines Pty Ltd (Administrators Appointed) ACN 090 670 965.
<b>VAAH</b>	Virgin Australia Airlines Holdings Pty Ltd (Administrators Appointed) ACN 093 924 675.



Term	Meaning
<b>VAA (SE Asia)</b>	Virgin Australia Airlines (SE Asia) Pty Ltd (Administrators Appointed) ACN 097 892 389.
<b>VA Borrower 19 1</b>	VA Borrower 2019 No. 1 Pty Ltd (Administrators Appointed) ACN 633 241 059.
<b>VA Borrower 19 2</b>	VA Borrower 2019 No. 2 Pty Ltd (Administrators Appointed) ACN 637 371 343.
<b>VAC</b>	Virgin Australia Cargo Pty Ltd (Administrators Appointed) ACN 600 667 838.
<b>VAH</b>	Virgin Australia Holdings Limited (Administrators Appointed) ACN 100 686 226.
<b>VAH Newco No.1</b>	VAH Newco No.1 Pty Ltd (Administrators Appointed) ACN 160 881 345.
<b>VAH Newco No.2</b>	VAH Newco No.2 Pty Ltd (Administrators Appointed) (In Liquidation) ACN 160 881 354.
<b>VA Hold Co</b>	VA Hold Co Pty Ltd (Administrators Appointed) ACN 165 507 157
<b>VAIA</b>	Virgin Australia International Airlines Pty Ltd (Administrators Appointed) ACN 125 580 823.
<b>VAIH</b>	Virgin Australia International Holdings Pty Ltd (Administrators Appointed) ACN 155 860 021.
<b>VAIO</b>	Virgin Australia International Operations Pty Ltd (Administrators Appointed) ACN 155 859 608.
<b>VA Lease Co</b>	VA Lease Co Pty Ltd (Administrators Appointed) ACN 165 507 291
<b>VARA</b>	Virgin Australia Regional Airlines Pty Ltd (Administrators Appointed) ACN 008 997 662.



Term	Meaning
<b>VA Regional Leaseco</b>	VA Regional Leaseco Pty Ltd (Administrators Appointed) ACN 127 491 605
<b>VB 800</b>	VB 800 2009 Pty Ltd (Administrators Appointed) ACN 135 488 934.
<b>VB Investco</b>	VB Investco Pty Ltd (Administrators Appointed) (In Liquidation) ACN 101 961 095.
<b>VB Leaseco</b>	VB Leaseco Pty Ltd (Administrators Appointed) ACN 134 268 741.
<b>VB Leaseco No 2</b>	VB Leaseco No 2 Pty Ltd (Administrators Appointed) ACN 142 533 319.
<b>VB LH 2008 No. 1</b>	VB LH 2008 No. 1 Pty Ltd (Administrators Appointed) ACN 134 280 354
<b>VB LH 2008 No. 2</b>	VB LH 2008 No. 2 Pty Ltd (Administrators Appointed) ACN 134 288 805
<b>VBNC5</b>	VBNC5 Pty Ltd (Administrators Appointed) ACN 119 691 502
<b>VB PDP 2010-11</b>	VB PDP 2010-11 Pty Ltd (Administrators Appointed) ACN 140 818 266
<b>VB Ventures</b>	VB Ventures Pty Ltd (Administrators Appointed) ACN 125 139 004.
<b>Virgin Australia 2013-1 Issuer Co</b>	Virgin Australia 2013-1 Issuer Co Pty Ltd (Administrators Appointed) ACN 165 507 326
<b>Virgin Holidays</b>	Virgin Australia Holidays Pty Ltd (Administrators Appointed) ACN 118 552 159.
<b>Virgin Tech</b>	Virgin Tech Pty Ltd (Administrators Appointed) ACN 101 808 879.

## 1.2 Interpretation

In the Deed, unless the subject or context otherwise requires:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual;
- (f) a reference to a clause, party, part, schedule, attachment or exhibit is a reference to a clause or part of, and a party, schedule, attachment or exhibit to, this Deed;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (h) a reference to a document (including this Deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to Australian currency unless denominated otherwise;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney;
- (k) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Deed;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Deed will be construed adversely to a party because that party was responsible for the preparation of this Deed or that provision;
- (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (o) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (p) a reference to a body, other than a party to this Deed (including an institute, association or authority), whether statutory or not:
  - (1) which ceases to exist; or
  - (2) whose powers or functions are transferred to another body,
 is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

### **1.3 Inconsistency with Act or Regulations**

If there is any inconsistency between the provisions of this Deed and the Corporations Act or Regulations, this Deed prevails to the extent permitted by law.

### **1.4 Other inconsistencies**

If there is any inconsistency between the provisions of this Deed and the constitution of the Deed Company or any other obligation binding on the Deed Company, the provisions of this Deed prevail to the extent of the inconsistency, and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which will be borne by the Deed Company.

### **1.5 Business Days**

Except where otherwise expressly provided, if the day on or by which any act, matter or thing is to be done as required by this Deed is a day other than a Business Day, that act, matter or thing will be done on the immediately succeeding Business Day.

### **1.6 Bar to Claims**

Subject to section 444D of the Corporations Act, this Deed may be pleaded and tendered by:

- (a) the Deed Company or the Deed Administrators against any person having or asserting a Claim released, discharged and extinguished by clause 6.4; and
- (b) the recipient of any release or covenant contained in this Deed,

as an absolute bar and defence to any legal proceeding brought or made at any time in respect of a claim, release or covenant as the case may be.

### **1.7 Exclusion of Prescribed Provisions**

Subject to clause 12.1, the prescribed provisions contained in Schedule 8A of the Regulations do not apply to this Deed.

### **1.8 Required Provisions**

To the extent that the Corporations Act requires any provision to be included in this Deed which is not expressly included in this Deed, such provision will be deemed to be included in this Deed.

### **1.9 Deed components**

This Deed includes any Schedule.

## **2 Operation**

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### **2.1 Commencement Date**

Subject to clause 3(a), this Deed will commence and take effect on the Commencement Date.



## 2.2 Interim Effect

To the extent that a person would be bound by this Deed if it had already been executed, the person must not, at any time after the Section 439C Resolution is passed but before this Deed is executed, do anything inconsistent with the terms of this Deed, except with the leave of the Court.

## 2.3 Termination

This Deed continues until it is terminated in accordance with clause 18 of this Deed.

## 3 Execution by all Parties

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- (a) This Deed is subject to and conditional upon the execution of this Deed by each person named as a party to it.
- (b) If as a result of clause 3(a), this Deed has not come into full force and effect on or prior to the expiration of 15 Business Days (or such further period as the Court allows) after the Section 439C Resolution is passed, then this Deed will terminate automatically.

## 4 Conditions

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### 4.1 Conditions

The operation of clause 10.2 is conditional upon each of the following events taking place:

- (a) Primary DOCA Completion has occurred (or will occur simultaneously with Completion);
- (b) the Deed Proponent has confirmed in writing to the Deed Administrators that the Deed Company has entered into an amendment agreement in respect of the Aircraft Excluded Contracts relating to at least one aircraft with the relevant counterparty and any conditions to the effectiveness of the amendments contemplated by the amendment agreement have been satisfied or waived (or will be satisfied simultaneously with Completion); and
- (c) the Sale and Implementation Deed has not been terminated.

### 4.2 Obligation to satisfy conditions

The parties must promptly take all reasonable steps within their control to ensure that the Conditions are satisfied.

### 4.3 Waiver of conditions

- (a) The Condition in clause 4.1(c) is for the benefit of the Deed Proponent and the Deed Administrators and may only be waived by written agreement between them.
- (b) The Conditions in clauses 4.1(a) and (b) are for the benefit of the Deed Proponent and may only be waived by the Deed Proponent in writing.

#### 4.4 Consequence of non-satisfaction of the conditions

- (a) If:
- (1) each of the Conditions is not satisfied or waived by 30 November 2020 (or such later date as may be agreed in writing by the Deed Administrators and the Deed Proponent); or
  - (2) the Deed Administrators and the Deed Proponent are of the opinion that one or more of the Conditions is incapable of being satisfied,
- then, unless the Deed Proponent notifies the Deed Administrators in writing that the assets of the Deed Company will not be subject to the Asset Sale Agreement pursuant to clause 18.2(a):
- (3) the parties must complete the acquisition of the assets of the Deed Company under the Asset Sale Agreement in accordance with its terms; and
  - (4) this Deed will continue in operation until completion of the Asset Sale Agreement.
- (b) Following completion of the Asset Sale Agreement, the Deed Administrators will convene a meeting to consider the future of the Deed Company pursuant to clause 16.

## 5 The Officers and Members

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### 5.1 Effect of the Deed on Officers of the Deed Company

- (a) The Directors of the Deed Company will remain in office throughout the Deed Period unless they resign or are removed by the Deed Administrators.
- (b) During the Deed Period, unless authorised in writing by the Deed Administrators, the Directors and Officers of the Deed Company cannot perform or exercise, and must not purport to perform or exercise, a function or power as an Officer of the Deed Company.
- (c) For the avoidance of doubt, the Directors of the Deed Company will not pass a resolution to place the entity into voluntary administration or take any step to wind up the Deed Company except with the written approval of the Deed Administrators.
- (d) While they remain Directors, the Directors will not be relieved of their statutory duties as Directors and for the avoidance of doubt, the Deed Administrators will not be responsible for such statutory obligations during the Deed Period.
- (e) During the Deed Period, the Directors must:
  - (1) co-operate with and assist the Deed Administrators in the performance by the Deed Administrators of their obligations under this Deed;
  - (2) carry out and perform such operations, functions, powers and other matters as may be delegated to them by the Deed Administrators; and
  - (3) perform their obligations pursuant to the Deed.

## 5.2 Effect of this Deed on Members

Until this Deed terminates any Member of the Deed Company and any Creditor holding any Encumbrance over any shares in the Deed Company must not without the prior written consent of the Deed Administrators deal with any shares in the Deed Company or exercise shareholder rights over any shares in the Deed Company in a way that is contrary to this Deed or the purpose of the Deed.

## 6 Moratorium and Release

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### 6.1 Binding Effect

The Deed binds:

- (a) in accordance with section 444D of the Corporations Act, all Creditors; and
- (b) in accordance with section 444G of the Corporations Act, the Deed Company, its Officers and Members and the Deed Administrators.

### 6.2 No Limitation

Nothing in the Deed limits the rights in law or equity of the Deed Administrators:

- (a) to make an application under section 444F of the Corporations Act; or
- (b) to apply for orders or directions pursuant to the Corporations Act (including, without limitation, section 447A(1) of the Corporations Act or section 90-15 of the IPS), or otherwise.

### 6.3 Moratorium

- (a) Subject to clauses 6.3(b), 7 and 9 and subject to clause 8 in relation to Insured Claims, during or after the Deed Period a Creditor may not, in relation to that Creditor's Claim:
  - (1) make or proceed with an application for an order to wind up the Deed Company or for the appointment of a provisional liquidator or a court appointed receiver to the Deed Company and its property;
  - (2) institute, revive or continue any action, suit, arbitration, mediation or proceeding against the Deed Company or in relation to the property of the Deed Company;
  - (3) institute, revive or continue with any Enforcement Process against the property of the Deed Company;
  - (4) take any action whatsoever to seek to recover any part of its Claim;
  - (5) exercise any right of set off or defence, cross claim or cross action to which that Creditor would not have been entitled had the Deed Company been wound up on the Appointment Date;
  - (6) commence or take any further step in any arbitration against the Deed Company or to which the Deed Company is a party in relation to any matter arising or occurring before the Appointment Date; or
  - (7) otherwise enforce any right it may have or acquire,



except to the extent of that Creditor's entitlement, if any to participate in the Trust Fund in accordance with the terms of the Trust Deed.

- (b) Despite anything to the contrary in this Deed, nothing in this Deed affects the rights of any Secured Creditor or Owner in respect of a leasing, hire purchase or financing transaction relating to any aircraft, aircraft engine or airframe (or any associated technical records and parts) to enforce, realise or otherwise deal with any Security Interest or Leased Property and retain the proceeds from the enforcement or realisation of, or other dealing with, any Security Interest or Leased Property.

## **6.4 Release Upon Completion**

Subject to clause 6.6, each Creditor agrees that on Completion, its Claims are extinguished and released.

## **6.5 Execution of all necessary documents**

- (a) Each Creditor must, if required by the Deed Company or the Deed Administrators, execute any document that the Deed Company or a Deed Administrator may require from time to time to give effect to the releases in clause 6.4.
- (b) The Deed Administrators must take all steps reasonably required by the Deed Proponent to obtain such releases from any Creditors nominated by the Deed Proponent.

## **6.6 Conversion of Claims**

- (a) Subject to clause 6.6(b), the Deed Administrators and the Creditors agree that, upon all Claims being released pursuant to clause 6.4:
  - (1) each Trust Creditor who had a Claim, will be entitled to make a claim against the Trust Fund, in accordance with the Trust Deed, which is equal in amount to their released Claim; and
  - (2) each FFC Creditor will be entitled to a Future Flight Credit in respect of their released FFC Claim.
- (b) A Creditor is not entitled to make a claim against, participate in or receive any distribution from, the Trust Fund in respect of a Non-Participating Claim.

## **7 Secured Creditors**

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Nothing in this Deed will restrict the right of a Secured Creditor to realise or otherwise deal with its security to the extent permitted by section 444D(2) of the Corporations Act.

## **8 Insured Claims**

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### **8.1 Rights of Creditors who have Claims covered by insurance**

If insurance is held by or on behalf of the Deed Company in respect of an Insured Claim:



- (a) the Creditor may, in relation to its Insured Claim and notwithstanding that Completion has occurred, take action to recover the amount due in respect of the Claim against the Deed Company, but such action must not exceed what is necessary to obtain payment from the insurer;
- (b) to the extent that the Creditor is able, by settlement, arbitral award or judgment, to obtain payment from the insurer on account of the Claim, the Creditor may retain that amount in full satisfaction of its right to receive a distribution from the Trust Fund in respect of that Claim;
- (c) the Deed Company is not required to provide assistance to a Creditor in relation to a Claim under this clause or take any action in response to enforcement action taken by a Creditor in accordance with this clause; and
- (d) where a Creditor intends to take enforcement action in relation to a Claim under this clause:
  - (1) if requested by the Deed Company, the Creditor must, prior to taking any enforcement action in relation to the Claim, provide the Deed Company with an indemnity in the form of Schedule 2 (**Creditor Indemnity**);
  - (2) if requested by the Deed Company, provide the Deed Company with evidence, to the reasonable satisfaction of the Deed Company, that the Creditor will be (and will continue to be) in a financial position, or have access to sufficient funds, to enable it to satisfy the Creditor Indemnity; and
  - (3) the Deed Company may plead this Deed as a bar to any enforcement action taken by a Creditor in relation to the Claim in circumstances where the Creditor has not, prior to commencing that enforcement action, given the Creditor Indemnity referred to in clause 8.1(d)(1) to the Deed Company.

## 8.2 Release of Insured Claims where payment not obtained from insurer

To the extent that the Creditor is unable to seek or obtain payment on account of its Insured Claim from the insurer (including, without limitation, by reason of any excess or deductible applicable to the insurance policy, or failure by the Deed Company to take action) this Deed operates as a complete release and bar to that part of the Creditor's Claim which has not been met by the insurer.

## 9 Owners of Property in the possession of the Deed Company

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Nothing in this Deed will restrict a right that an Owner has in relation to the property of that Owner under section 444D(3) of the Corporations Act.

## 10 Implementation

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### 10.1 Pre-Completion steps

No later than 2 Business Days prior to the Implementation Date, the Deed Proponent must deliver the Excluded Contracts Designation Notice to the Deed Administrators.

## 10.2 Implementation

The extinguishment and release of Claims pursuant to clause 6.4 will be deemed to occur on the Implementation Date:

- (a) unless a Primary DOCA Event occurs, simultaneously with the release of claims against the Primary DOCA Companies pursuant to clause 10.2(c) of the Primary DOCA;
- (b) if a Primary DOCA Event occurs, simultaneously with completion of the Asset Sale Agreement in accordance with its terms.

## 10.3 Reconstitution of boards

Immediately following Completion, the board of the Deed Company will be reconstituted in accordance with the Deed Proponent's direction.

## 10.4 Trust Creditors' Available Assets

- (a) Unless a Primary DOCA Event occurs, the assets of the Pool A Fund will be available to pay the Trust Creditors' Claims.
- (b) If a Primary DOCA Event occurs:
  - (1) no assets of the Deed Company will be available to pay the Trust Creditors' Claims and no distribution will be made to the Trust Creditors under this Deed or from the Trust Fund; but
  - (2) for the avoidance of doubt, the extinguishment and release of Claims pursuant to clause 6.4 will not limit a Creditor's rights in respect of any claim in the liquidation of a Group Company that arises from the same underlying obligation, or in connection with the same underlying transaction, as that Creditor's Claim (for example, where a Group Company is a guarantor, indemnifier or co-obligor of an obligation or debt owing by the Deed Company).

## 10.5 Consistency with the Corporations Act

- (a) Notwithstanding any other provision of this Deed, for the purposes of section 444DA of the Corporations Act, any Priority Claims of an Employee will retain a priority until Completion in respect of the assets of the Deed Company under the Deed Administrators' control, and thereafter, in respect of the assets of the Trust Fund at least equal to that which they would have been entitled to if the property of the Deed Company had been applied in accordance with sections 556, 560 and 561 of the Corporations Act.
- (b) For the purposes of section 444DB of the Corporations Act, the Deed Administrators (including in their capacity as Trustees) must determine that a debt (or part thereof) by way of superannuation contribution (**Superannuation Debt**) is not admissible to proof as a Claim or a Claim against the Trust Fund if:
  - (1) that debt (or that part of the debt) by way of superannuation guarantee charge:
    - (A) has been paid; or
    - (B) is, or is to be admissible against the Deed Company; and
  - (2) the Deed Administrators are satisfied that the superannuation guarantee charge is attributable to the Superannuation Debt.



- (c) If the Deed Administrators make a determination in accordance with clause 10.5(b), the Superannuation Debt is to be treated as extinguished as against the Deed Company.

## **11 Deed Administrators' Appointment**

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### **11.1 Appointment**

On the Commencement Date, the Deed Administrators are appointed joint and several administrators of the Deed.

### **11.2 Acceptance of Appointment**

The Deed Administrators:

- (a) accept the appointment as administrators of the Deed; and
- (b) agree to act as administrators of the Deed during the Deed Period or until the Deed Administrators retire or are removed from office in accordance with the Deed or the Corporations Act.

### **11.3 Deed Administrators are agents**

In exercising the powers conferred by the Deed and carrying out the duties arising under the Deed, the Deed Administrators will act as agent for and on behalf of the Deed Company.

### **11.4 Management**

The Deed Administrators will retain day to day management and control of the Deed Company until the Termination Date to the exclusion of the Directors of the Deed Company.

### **11.5 Joint and several**

The rights, powers and privileges of the Deed Administrators may be exercised by them jointly and severally.

### **11.6 Deed Administrators' resignation**

Any Deed Administrator may resign at any time by giving not less than 28 days' prior written notice to the Deed Company unless that resignation would result in there being no remaining Deed Administrator in which event the Deed Administrator must:

- (a) convene meetings of Creditors of the Deed Company in accordance with clause 16 for the purpose of nominating a replacement deed administrator;
- (b) assign to a replacement deed administrator nominated by the Creditors the Deed Administrators' rights, title and benefit under this Deed; and
- (c) do all things reasonably necessary to effect the assignment referred to in clause 11.6(b).

## 12 Powers of the Deed Administrators

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### 12.1 Powers

For the purposes of administering this Deed, the Deed Administrators have the following powers:

- (a) all the powers set out in paragraph 2 of Schedule 8A of the Regulations, provided that the Deed Administrators must not, without the prior written consent of the Deed Proponent:
  - (1) bring an application for the winding up of the Deed Company;
  - (2) exercise any of the powers set out in items (c), (n), (za), (zb), (zc) or (ze) of paragraph 2 of Schedule 8A of the Regulations; or
  - (3) except in the ordinary course of business of the Deed Company, exercise any of the powers set out in items (h) or (s) of paragraph 2 of Schedule 8A of the Regulations;
- (b) to remove from office a Director;
- (c) to appoint a person as a director of the Deed Company, whether to fill a casual vacancy or not;
- (d) to perform any function and exercise any power that the Deed Company or any of its Officers could perform or exercise if the Deed Company was not subject to this Deed; and
- (e) to do anything that is incidental to exercising a power set out in this clause 12.1.

### 12.2 Calling for proofs of debt

The Deed Administrators may exercise any of the powers conferred on the Trustees under the Trust Deed for the purpose of commencing the process for the adjudication of Claims under the Trust Deed, which exercise will be treated for all purposes under the Trust Deed as if those powers had been exercised by the Trustees after the commencement of the Trust.

### 12.3 Solicitors, Advisers and Consultants

- (a) The Deed Administrators may engage the services of their partners, employees, directors, officers, contractors, advisers, delegates, solicitors and consultants to assist them in the performance or exercise of their duties, obligations, responsibilities and powers under this Deed and the Deed Company will pay all costs of any solicitors and consultants engaged by the Deed Administrators.
- (b) The Deed Administrators may delegate their powers under this clause 12 including by way of appointing agents and authorising such agents to act on behalf of the Deed Administrators or the Deed Company.

### 12.4 No Personal Liability

Subject to the Corporations Act and to the extent permitted by law, in the performance or exercise, or purported performance or exercise, of any of the Deed Administrators' functions, powers and duties in the Deed Period, the Deed Administrators will not be personally liable for:





- (a) any debt, liability or other obligation which the Deed Administrators themselves or any of their partners, employees, directors, officers, contractors, advisers, authorised agents or delegates may incur on behalf of the Deed Company; or
- (b) any loss or damage caused by any act, default or omission by or on behalf of the Deed Administrators or any of their partners, employees, directors, officers, contractors, advisers, authorised agents or delegates except where such loss, damage, claim, liability or expense is caused by fraud, unlawful conduct, wilful misconduct or is contrary to the terms of the Deed; or
- (c) any debt payable or liabilities incurred by the Deed Company after Completion including any amounts payable by the Deed Administrators for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of the Deed Company.

## 13 Reporting

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Except as required by law, the Deed Administrators are not required to report to Creditors. However, the Deed Administrators may, in their absolute discretion, report to Creditors during the Deed Period at such times as the Deed Administrators consider appropriate and on matters which the Deed Administrators consider ought to be brought to the attention of the Creditors.

## 14 Committee of Inspection

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- (a) The Committee of Inspection, which was formed for the purposes of the administration of the Deed Company will continue to operate for the purposes contemplated by this Deed and to assist the Deed Administrators in respect of the Deed Company, with such modifications as necessary.
- (b) The members of the Committee of Inspection are permitted to continue dealing with the Deed Company on a business as usual basis during the Deed Period.
- (c) The Committee of Inspection may approve the remuneration of the Deed Administrators (and the Administrators) in accordance with Division 60 of the IPS.

## 15 Administrators' and Deed Administrators' remuneration and indemnity

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### 15.1 Remuneration

- (a) The Administrators and the Deed Administrators are entitled to:
  - (1) payment of Costs; and
  - (2) receive in accordance with Division 60 of the IPS their Remuneration on the basis of the time spent by the Administrators and Deed Administrators (as the case may be) themselves or any of their partners, employees, directors, officers, contractors, advisers, authorised agents or delegates in the performance of services in

connection with or in relation to the administration of the Deed Company under Part 5.3A of the Corporations Act and this Deed and such time will be charged at the Administrators' and Deed Administrators' standard rates, from time to time, for work of that nature by the firm of which the Administrators and Deed Administrators are partners or employees.

- (b) The Deed Administrators acknowledge that their Remuneration and Costs will only be paid by the Deed Company to the extent of the Excluded Cash held by the Deed Administrators or otherwise from the Trust Fund.
- (c) The Administrators and the Deed Administrators' Remuneration and Costs referred to in this clause 15 and all other costs shall be reimbursed and/or paid out of the Trust Fund. The Administrators' and the Deed Administrators (whether or not they are still acting in either capacity) can request the Trustees to draw such amounts from the Trust Fund from time to time.

## 15.2 Indemnity

The Deed Administrators and Administrators (whether or not they are still acting in either capacity) are entitled to be indemnified by the Deed Company until Completion, and after Completion from the Trust Fund in respect of:

- (a) all debts, liabilities, actions, suits, proceedings, accounts, claims, damages, awards and judgments whatsoever arising out of or in any way connected to the administration of the Deed Company or their role as Administrators and incurred or sustained in good faith and without negligence;
- (b) any amount which the Administrators are, or but for the transactions contemplated by this Deed would be, entitled to be indemnified out of the assets of the Deed Company for, in accordance with the Corporations Act, at law or in equity, including any amounts payable pursuant to section 443A, section 443B or section 443BA of the Corporations Act;
- (c) any debts, liabilities, damages, losses and remuneration to which the statutory indemnity under section 443D of the Corporations Act applies;
- (d) any amount for which the Administrators and Deed Administrators are entitled to exercise a lien at law or in equity on the property of the Deed Company;
- (e) the Administrators' and Deed Administrators' Remuneration and Costs; and
- (f) all debts, liabilities, actions, suits, proceedings, accounts, claims, damages, awards and judgments arising out of or in the course of the Deed and incurred or sustained in good faith and without negligence.

## 15.3 Continuing Indemnity

The indemnity in the Deed is a continuing indemnity and will endure for the benefit of the Legal Personal Representatives despite the removal of the Deed Administrators and the appointment of new Deed Administrators or the termination of the Deed for any reason whatsoever.

## 15.4 Indemnity not to be affected or prejudiced

The indemnity under clauses 15.2 and 15.3 will not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Administrators or Deed Administrators and extends to cover any actions, suits, proceedings, accounts, liabilities, claims



and demands arising in any way out of any defect in the appointment of the Administrators or Deed Administrators or defect in the approval or execution of the Deed or otherwise; or

- (b) affect or prejudice all or any rights that the Administrators or Deed Administrators may have against the Deed Company or any other person to be indemnified against the Costs, and liabilities incurred by the Administrators or Deed Administrators in the performance of, or incidental to, any of the powers or authorities conferred on the Administrators or Deed Administrators by this Deed or otherwise.

## **15.5 Administrators' and Deed Administrators' lien**

Until Completion, the Deed Administrators and Administrators (whether or not they are still acting in either capacity) are entitled to exercise a lien over the Deed Company's assets for all amounts in respect of which they are entitled to an indemnity from the Deed Company under clause 15.2.

## **15.6 Priority**

The Administrators' and Deed Administrators' right of indemnity under clause 15.2 and their lien under clause 15.5 have priority over the claims of all Creditors.

# **16 Creditors' Meetings**

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The Deed Administrators may convene a meeting or meetings of Creditors at any time, and except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this Deed, Division 75 of Part 3 of the IPR applies, with such modifications as are necessary, to meetings of Creditors held under this Deed as if references to the 'external administrator' or chairperson, as the case may be, were references to the Deed Administrators.

# **17 Application to Court**

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- (a) If any unforeseen circumstances arise that are not contemplated by the Deed, the Deed Administrators may, in their absolute discretion, if they think fit, apply to the Court for directions.
- (b) No person bound by the Deed (other than the Deed Administrators or the Deed Proponent) may make any application to the Court in relation to any matter arising under the Deed unless at least 5 Business Days' prior notice in writing has been given to the Deed Administrators. The notice must give particulars of the proposed application.

# **18 Termination of the Deed**

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## **18.1 Termination on effectuation of Deed**

The Deed will terminate immediately after Completion.

## 18.2 Termination on failure of Deed

This Deed automatically terminates in respect of the Deed Company upon the happening of any one of the following events:

- (a)
  - (1) each of the Conditions is not satisfied or waived by 30 November 2020 (or such later date as may be agreed in writing by the Deed Administrators and the Deed Proponent); or
  - (2) the Deed Administrators and the Deed Proponent are of the opinion that one or more of the Conditions is incapable of being satisfied, and the Deed Proponent confirms in writing to the Deed Administrators that the assets of the Deed Company will not be subject to the Asset Sale Agreement;
- (b) the Court makes an order terminating this Deed under section 445D of the Corporations Act; or
- (c) the creditors of the Deed Company pass a resolution terminating this Deed in accordance with sections 445C(b) and 445CA of the Corporations Act.

## 18.3 Notice of Effectuation of Deed

Upon termination in accordance with the provisions of clause 18.1, the Deed Administrators or one of them must immediately certify, in writing that the terms of this Deed have been fulfilled and, as soon as practicable, must lodge with ASIC a notice substantially in the following form in respect of the Deed Company:

‘We, [***name of administrators***] of [***address***] as administrators of the deed of company arrangement executed on [date], CERTIFY that the deed has been wholly effectuated in respect to [***name of Deed Company***].’

and the execution of the notice terminates this Deed and, subject to clauses 6.6 and 8, all Claims of Creditors of the Deed Company will be extinguished, discharged and released if not extinguished or released earlier under the Deed.

## 18.4 Effect of Termination

In accordance with section 445H of the Corporations Act, the termination or avoidance, in whole or in part, of this Deed does not affect the previous operation of this Deed.

## 18.5 Severance

If any part of this Deed is or becomes illegal, ineffective, invalid or unenforceable, that part will be severed from this Deed and that severance will not affect the effectiveness, validity or enforceability of the remaining part of this Deed.

## 18.6 Consequences of Termination of the Deed for non-performance

Upon termination of the Deed under clause 18.2:

- (a) the Deed Company will be taken to have passed a special resolution under section 491 of the Corporations Act that the Deed Company be voluntarily wound up and that the Deed Administrators be the Deed Company's liquidators; and
- (b) the Deed Company will be wound up.



## 18.7 Survival of clauses

Despite any other provision of this Deed, clauses 1, 6, 7, 8, 9, 15, 18, 19, 20 and 21 survive the termination of this Deed.

## 19 General

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### 19.1 Variation

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

### 19.2 Assignment

Rights arising out of or under this Deed are not assignable by a party, except if the assignor is required to make the assignment pursuant to clause 11.6 or makes the assignment with the prior written consent of the other parties.

### 19.3 Further Assurances

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

### 19.4 Governing Law and Jurisdiction

This Deed is governed by the law in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the Court of New South Wales and any Court which may hear appeals from those Courts.

### 19.5 Waiver

No party to this Deed may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this clause 19.5 are set out below.

Term	Meaning
<b>conduct</b>	includes delay in the exercise of a right.
<b>right</b>	any right arising under or in connection with this Deed and includes the right to rely on this clause.
<b>waiver</b>	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

### 19.6 Counterparts

- (a) This Deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this Deed by signing any counterpart.
- (d) Counterparts may be exchanged by email or other electronic means.

## **19.7 Creditor's Power of Attorney**

Each Creditor irrevocably appoints each of the Deed Administrators jointly and severally as its attorney to execute any document to give effect to the releases in clause 6.

## **19.8 Joint Parties**

If two or more parties are included within the same defined term in this Deed:

- (a) liability of those parties under this Deed is a joint liability of all of them and a several liability of each of them.
- (b) a right given to those parties under this deed is a right given severally to each of them; and
- (c) a representation, warranty or undertaking made by those parties is made by each of them.

## **19.9 Costs**

Each party must pay its own costs of negotiating, preparing and executing this Deed.

## **19.10 Stamp duty**

The Deed Proponent must pay all stamp duties and any related interest, fines and penalties in respect of this Deed, and must indemnify each other party against any liability arising from failure to comply with this clause 19.10.

# **20 GST**

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## **20.1 Interpretation**

The parties agree that:

- (a) except where the context suggests otherwise, terms used in this clause 20 have the meanings given to those terms by the GST Act (as amended from time to time);
- (b) any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 20;
- (c) unless otherwise expressly stated, all consideration to be provided under any other provision of this Deed is exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purpose of this clause 20;
- (d) a reference to the GST payable by an entity or the input tax credit entitlements of an entity will include a reference to the GST payable or input tax credit entitlements of the representative member of any GST group to which that entity may belong;
- (e) a reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts; and
- (f) if any value added tax, goods and services tax or other similar tax is payable pursuant to a law of another jurisdiction on any supply made under or in

connection with this Deed, then the provisions of this clause 20 apply as if references to a word or expression defined in the GST Act were to the corresponding concepts in the law of that other jurisdiction.

## **20.2 Reimbursements and similar payments**

Any reimbursement or similar payment required to be made under this Deed that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates plus an amount calculated in accordance with clause 20.3 where applicable.

## **20.3 GST payable**

- (a) If GST is payable in relation to a supply made under or in connection with this Deed then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must pay an additional amount to the Supplier equal to the GST-exclusive consideration for that supply multiplied by the rate of GST prevailing at the time the supply is made.
- (b) The Recipient must make payment of the additional amount in respect of GST at the same time as the other consideration is to be first provided for that supply, or if any of the consideration has been already paid or provided, within 5 Business Days of receiving a written demand from the Supplier.

## **20.4 Tax Invoice/Adjustment Notes**

The right of the Supplier to recover any amount in respect of GST under this Deed 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.

## **20.5 Variation to GST payable**

If the GST payable in relation to a supply made under or in connection with this Deed varies from the additional amount paid by the Recipient under clause 20.3 then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this paragraph is deemed to be a payment, credit or refund of the additional amount payable under clause 20.3.

# **21 Notices**

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## **21.1 Notice to be in writing**

Any notice or document required to be given to or served upon any of the parties pursuant to or in connection with the Deed must be in writing.

## **21.2 Signing of Notice**

Any notice or document may be given or signed on behalf of the party giving or serving the same by a director, secretary or other duly authorised person thereof.



### 21.3 How notice must be given and when notice is received

- (a) Any notice or document must be given by one of the methods set out in the table below.
- (b) A notice or document is regarded as given and received at the time set out in the table below.

However, if this means the notice or document would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the notice or document will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post	When it would have been delivered in the ordinary course of post
By email to the nominated email address (set out in the details for each party to this Deed)	When the email (including any attachment) has been sent to the addressee's email address (unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee)

### 21.4 Notice must not be given by electronic communication

A notice or document must not be given by electronic means of communication (other than email in accordance with clause 21.3).





## Schedule 1

### Creditors' Trust Deed

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Attached.



HERBERT  
SMITH  
FREEHILLS

Deed

## Project Volar creditors' trust deed

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Vaughan Strawbridge, Salvatore Algeri, John Greig  
and Richard Hughes in their capacity as joint and  
several deed administrators of the Deed Companies

Vaughan Strawbridge, Salvatore Algeri, John Greig  
and Richard Hughes in their capacity as trustees

Each company listed in Parts 1, 2 and 3 of Schedule  
1

BC Hart Aggregator, L.P. as Deed Proponent



## Project Volar Creditors' Trust Deed

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Date ►

Between the parties

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**Deed Administrators**     **Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes**, each in their capacity as joint and several deed administrators of the Deed Companies, of c/- Deloitte, Level 9, 225 George Street, Sydney NSW 2000

Email: vstrawbridge@deloitte.com.au, saalgeri@deloitte.com.au, richughes@deloitte.com.au, jgreig@deloitte.com.au

Attention: Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes

**Trustees**     **Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes**, each in their capacity as joint and several trustees of the Trust, of c/- Deloitte, Level 9, 225 George Street, Sydney NSW 2000

Email: vstrawbridge@deloitte.com.au, saalgeri@deloitte.com.au, richughes@deloitte.com.au, jgreig@deloitte.com.au

Attention: Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes

**Deed Companies**     **Each company listed in Parts 1, 2 and 3 of Schedule 1**, of c/- Deloitte, Level 9, 225 George Street, Sydney NSW 2000

Email: vstrawbridge@deloitte.com.au, saalgeri@deloitte.com.au, richughes@deloitte.com.au, jgreig@deloitte.com.au

Attention: Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes

**Deed Proponent**     **BC Hart Aggregator, L.P.**, of PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands

Email: blyons@baincapital.com, sgarfield@baincapital.com

Attention: Barnaby Lyons and Scott Garfield

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## Recitals

- 1 On the Appointment Date, Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes were appointed as administrators of the Deed Companies pursuant to Part 5.3A of the Corporations Act.
- 2 At a meeting held on 4 September 2020 and convened pursuant to section 439A of the Corporations Act, the Creditors of the Deed Companies resolved that the Deed Companies execute deeds of company arrangement proposed under section 444B(2)(b) of the Corporations Act.
- 3 On 25 September 2020, the Deed Administrators and the Deed Companies executed the DOCAs pursuant to section 444B(2)(b) of the Corporations Act.
- 4 The Fund Amount will be transferred to the Trustees to settle the Trust in accordance with the DOCAs.
- 5 The Deed Companies and the Trustees enter into this Deed as contemplated by the DOCAs in order to facilitate a distribution by the Trustees to the Trust Creditors in their capacity as beneficiaries of the Trust Fund.

## Governing law

New South Wales

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This deed witnesses as follows:

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# 1 Definitions and interpretation

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## 1.1 Definitions

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

Term	Meaning
<b>Administrators</b>	jointly and severally, Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as administrators of the Deed Companies and any successor to that office appointed pursuant to the Corporations Act.
<b>Admitted Claim</b>	the Claim of any Trust Creditor admitted by the Trustees after adjudication in accordance with clause 7 of this Deed.
<b>Administration Debt</b>	any: <ol style="list-style-type: none"> <li>1 debt referred to in section 443A(1) of the Corporations Act which was incurred by the Administrators during the Administration Period in respect of a Deed Company;</li> <li>2 liability to the Commissioner of Taxation referred to in section 443BA(1); and</li> <li>3 other debts or liabilities referred to in section 443D(aa) of the Corporations Act,</li> </ol> in respect of which the Administrators are entitled to be indemnified under section 443D of the Corporations Act.
<b>Administration Period</b>	in respect of a Deed Company, the period of time commencing on the Appointment Date for that Deed Company and concluding on the Commencement Date.
<b>Appointment Date</b>	in respect of a Deed Company, the date on which the Administrators were appointed as joint and several administrators of the Deed Company, being the 'Appointment Date' in respect of a Deed Company as defined in a DOCA.
<b>ASIC</b>	the Australian Securities and Investment Commission.
<b>Business Day</b>	a day other than a Saturday, Sunday or public holiday and on which banks are open for business generally in Brisbane, Sydney and New York.



Term	Meaning
<b>Claim</b>	in respect of a Deed Company, a 'Claim' as defined in the DOCA for that Deed Company.
<b>Commencement Date</b>	in respect of a Deed Company and a DOCA, the date on which the DOCA is executed by the Deed Administrators, the Deed Company and the Deed Proponent.
<b>Committee of Inspection</b>	the committee of inspection formed: <ol style="list-style-type: none"><li>1 in accordance with Divisions 75 and 80 of the IPS and Division 75 of the IPR, as amended by the Court Orders; and</li><li>2 by resolution of creditors dated 12 May 2020,</li></ol> as that committee is constituted from time to time.
<b>Contingent Value Entitlement</b>	has the meaning given in the Primary DOCA.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Court</b>	the Supreme Court of New South Wales or any court having jurisdiction to hear and determine matters under the Corporations Act and the Trustee Act.
<b>Court Orders</b>	the Orders made by Justice Middleton on 24 April 2020 in Federal Court of Australia proceeding no. NSD464/2020.
<b>Creditor</b>	a person with a Claim.
<b>Critical Supplier</b>	a Trust Creditor identified in Schedule 3.
<b>Critical Supplier Dividend Amount</b>	an amount set out in respect of a Pool C Creditor in Schedule 3.
<b>Cross-Over Claim</b>	any Admitted Claim against an IG DOCA Company that arises from a common underlying obligation or in connection with the same underlying transaction as an Admitted Claim against a Primary DOCA Company (for example, where an IG DOCA Company is a guarantor, indemnifier or co-obligor of an obligation or debt owing by a Primary DOCA Company).



Term	Meaning
<b>Deed</b>	this creditors' trust deed as amended from time to time.
<b>Deed Administrators' Costs</b>	includes costs, charges and expenses, including those incurred in connection with advisers, incurred in connection with the performance of the Deed Administrators' duties, obligations and responsibilities under the Corporations Act and any DOCA during the Administration Period and the Deed Period.
<b>Deed Period</b>	in respect of a Deed Company, the 'Deed Period' as defined in the DOCA for that Deed Company.
<b>Deed Proponent</b>	BC Hart Aggregator, L.P.
<b>Dividend</b>	any amount paid to a Trust Creditor in respect of that creditors' Admitted Claim.
<b>DOCA</b>	<ol style="list-style-type: none"><li>1 in respect of a Deed Company that is a Primary DOCA Company, the Primary DOCA;</li><li>2 in respect of a Deed Company that is an IG DOCA Company, the IG DOCA;</li><li>3 in respect of a Deed Company that is a Subsidiary DOCA Company, the Participating Subsidiary DOCA in respect of that Deed Company.</li></ol>
<b>Employee</b>	any person who was an employee of a Deed Company as at or prior to the Appointment Date in respect of that Deed Company and any person who made an advance of money to a Deed Company for which section 560 of the Corporations Act would apply if the Deed Company was taken to be in liquidation as at the Appointment Date in respect of that Deed Company.
<b>Excluded Cash</b>	has the meaning given in the Primary DOCA.
<b>Excluded Superannuation Debt</b>	in respect of a Deed Company, an 'Excluded Superannuation Debt' as defined in the DOCA for that Deed Company.
<b>Final Dividend</b>	the last Dividend payment to be made by the Trustees to any Trust Creditor under this Deed.
<b>Fund Amount</b>	<ol style="list-style-type: none"><li>1 if Primary DOCA Completion and IG DOCA Completion occur, the Pool A Fund Amount, the Pool B Fund Amount and the</li></ol>



Term	Meaning
	Pool C Fund Amount; 2 if Primary DOCA Completion occurs and IG DOCA Completion does not occur, the Pool A Fund Amount and the Pool C Fund Amount; 3 if Primary DOCA Completion does not occur and IG DOCA Completion occurs, the Pool D Fund Amount.
<b>GST</b>	has the meaning given to that term in the GST Act.
<b>GST Act</b>	the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>Historical Underpayments</b>	any historical underpayment of wages or superannuation.
<b>IG DOCA</b>	the deed of company arrangement in relation to the IG DOCA Companies proposed by the Deed Proponent and put to the Creditors of the IG DOCA Companies at the Second Meeting or, where the context requires, the deed of company arrangement in relation to the IG DOCA Companies executed on the Commencement Date between the Deed Proponent, the IG DOCA Companies and Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as joint and several administrators of the IG DOCA Companies.
<b>IG DOCA Companies</b>	the companies listed in Part 2 of Schedule 1.
<b>IG DOCA Completion</b>	completion of the IG DOCA in accordance with its terms.
<b>IG Group Foreign Currency Accounts</b>	the foreign currency accounts held by IG DOCA Companies described in Part 1 of Schedule 4.
<b>Implementation Date</b>	1 if Primary DOCA Completion occurs, the 'Implementation Date' as defined in the Primary DOCA; or 2 if Primary DOCA Completion does not occur and IG DOCA Completion occurs, the 'Implementation Date' as defined in the IG DOCA.
<b>IPR</b>	the <i>Insolvency Practice Rules (Corporations) 2016</i> (Cth).





Term	Meaning
<b>IPS</b>	the <i>Insolvency Practice Schedule (Corporations)</i> contained in Schedule 2 of the Corporations Act.
<b>Non-Participating Claim</b>	in respect of a Deed Company, a 'Non-Participating Claim' as defined in the DOCA for that Deed Company.
<b>Participating Subsidiary DOCA</b>	a Subsidiary DOCA in respect of which Subsidiary DOCA Completion occurs.
<b>Participating Subsidiary DOCA Company</b>	a Deed Company that is or was subject to a Participating Subsidiary DOCA.
<b>Pool A Creditors</b>	<ol style="list-style-type: none"><li>1 each Trust Creditor that is a Creditor of a Primary DOCA Company, other than a Pool C Creditor;</li><li>2 if IG DOCA Completion occurs, each Trust Creditor that is a Creditor of an IG DOCA Company; and</li><li>3 each Trust Creditor that is a Creditor of a Participating Subsidiary DOCA Company.</li></ol>
<b>Pool A Fund</b>	<p>the following assets, to be made available for distribution to Pool A Creditors if Primary DOCA Completion occurs:</p> <ol style="list-style-type: none"><li>1 the Pool A Fund Amount;</li><li>2 the Excluded Cash;</li><li>3 any amount received by the Trustees in respect of the Contingent Value Entitlement;</li><li>4 the cash balances of the VAA Foreign Currency Accounts;</li><li>5 if IG DOCA Completion occurs, the cash balances of the IG Group Foreign Currency Accounts;</li><li>6 if IG DOCA Completion does not occur, the Claims of the Primary DOCA Companies against the IG DOCA Companies;</li><li>7 the Pool C Surplus (if any); and</li><li>8 interest accruing from time to time on the Trust Fund.</li></ol>
<b>Pool A Fund Amount</b>	has the meaning given in the Primary DOCA.
<b>Pool B Creditors</b>	each Trust Creditor with a Cross-Over Claim, but only in respect of that Cross-Over Claim.



Term	Meaning
<b>Pool B Fund</b>	the Pool B Fund Amount, to be made available for distribution to Pool B Creditors if Primary DOCA Completion and IG DOCA Completion occur.
<b>Pool B Fund Amount</b>	has the meaning given in the Primary DOCA.
<b>Pool C Creditors</b>	<ol style="list-style-type: none"><li>1 each Critical Supplier listed in Part 1 of Schedule 3, provided that the Critical Supplier has entered into a binding agreement, with effect from Primary DOCA Completion, to waive all termination rights, review events and defaults under any contract between the Critical Supplier and a Primary DOCA Company and to release any Security Interest over aircraft or other assets of any Primary DOCA Company; and</li><li>2 each Critical Supplier listed in Part 2 of Schedule 3.</li></ol>
<b>Pool C Fund</b>	the Pool C Fund Amount, to be made available for distribution to Pool C Creditors if Primary DOCA Completion occurs.
<b>Pool C Fund Amount</b>	has the meaning given in the Primary DOCA.
<b>Pool C Surplus</b>	the sum of the Critical Supplier Dividend Amounts (if any) for each Critical Supplier listed in Part 1 of Schedule 3 in respect of which the condition in paragraph 1 of the definition of 'Pool C Creditors' is not satisfied.
<b>Pool D Creditors</b>	each Trust Creditor that is a Creditor of an IG DOCA Company.
<b>Pool D Fund</b>	<p>the following assets, to be made available for distribution to Pool D Creditors if IG DOCA Completion occurs and Primary DOCA Completion does not occur:</p> <ol style="list-style-type: none"><li>1 the Pool D Fund Amount;</li><li>2 the cash balances of the IG Group Foreign Currency Accounts; and</li><li>3 interest accruing from time to time on the Pool D Fund.</li></ol>
<b>Pool D Fund Amount</b>	has the meaning given in the IG DOCA.
<b>Primary DOCA</b>	the deed of company arrangement in relation to the Primary DOCA Companies proposed by the Deed Proponent and put to the Creditors of the Primary DOCA Companies at the Second Meeting or, where the context requires, the deed of company arrangement



Term	Meaning
	in relation to the Primary DOCA Companies executed on the Commencement Date between the Deed Proponent, the Primary DOCA Companies and Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as joint and several administrators of the Primary DOCA Companies.
<b>Primary DOCA Companies</b>	each company listed in Part 1 of Schedule 1.
<b>Primary DOCA Completion</b>	completion of the Primary DOCA in accordance with its terms.
<b>Priority Claim</b>	in respect of a Deed Company, a Claim of an Employee that would have been entitled to priority over the Claims of other unsecured creditors under section 556(1) of the Corporations Act if the Deed Company had been wound up and the winding up was taken to have commenced on the Appointment Date in respect of that Deed Company.
<b>Regulations</b>	the <i>Corporations Regulations 2001</i> (Cth).
<b>Second Meeting</b>	the meeting of creditors held on 4 September 2020 convened pursuant to section 439A of the Corporations Act and held concurrently in respect of each Primary DOCA Company, IG DOCA Company and Subsidiary DOCA Company.
<b>Security Interest</b>	any mortgage, chattel mortgage, pledge, charge, agreement, encumbrance, lien, right of set-off (arising otherwise than by operation of law or as a result of a banker's right to combine accounts) and assignment which provides for and secures the payment of any debt or monetary liability or the performance of any obligation and any 'security interest' as defined in sections 12(1) or (2) of the PPSA, each in respect of a Primary DOCA Company, IG DOCA Company or Subsidiary DOCA Company, as the context requires.
<b>Subsidiary DOCA</b>	in respect of a Subsidiary DOCA Company, the deed of company arrangement in relation to that Subsidiary DOCA Company proposed by the Deed Proponent and put to the Creditors of the Subsidiary DOCA Company at the Second Meeting or, where the context requires, the deed of company arrangement in relation to the Subsidiary DOCA Company executed on the Commencement Date between the Deed Proponent, the Subsidiary DOCA Company and Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as joint and several administrators of the Subsidiary DOCA Company.



Term	Meaning
<b>Subsidiary DOCA Companies</b>	each company listed in Part 3 of Schedule 1.
<b>Subsidiary DOCA Completion</b>	with respect to a Subsidiary DOCA, completion of that Subsidiary DOCA in accordance with its terms.
<b>Termination Date</b>	the date on which the Trust terminates in accordance with clause 16.
<b>Trust</b>	the trust established by this Deed.
<b>Trust Creditor</b>	<ol style="list-style-type: none"><li>1 if Primary DOCA Completion and IG DOCA Completion occur, a 'Trust Creditor' as defined in the Primary DOCA, IG DOCA and each Participating Subsidiary DOCA;</li><li>2 if Primary DOCA Completion occurs and IG DOCA Completion does not occur, a 'Trust Creditor' as defined in the Primary DOCA and each Participating Subsidiary DOCA;</li><li>3 if Primary DOCA Completion does not occur and IG DOCA Completion occurs, a 'Trust Creditor' as defined in the IG DOCA.</li></ol>
<b>Trust Creditor's Claim</b>	a Claim of a Trust Creditor.
<b>Trust Fund</b>	<ol style="list-style-type: none"><li>1 if Primary DOCA Completion and IG DOCA Completion occur, the Pool A Fund, the Pool B Fund and the Pool C Fund;</li><li>2 if Primary DOCA Completion occurs and IG DOCA Completion does not occur, the Pool A Fund and the Pool C Fund;</li><li>3 if Primary DOCA Completion does not occur and IG DOCA Completion occurs, the Pool D Fund.</li></ol>
<b>Trustee Act</b>	the <i>Trustee Act 1925</i> (NSW).
<b>Trustees</b>	jointly and severally, Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes, in their capacity as trustees of the Trust and any successor to that office appointed pursuant to the Trustee Act.
<b>Trustees' Costs</b>	the costs, charges and expenses, incurred by the Trustees in connection with the performance of their duties, obligations and responsibilities as trustees of the Trust, including those incurred in



Term	Meaning
	connection with advisers.
<b>Trustees' Remuneration</b>	the remuneration of the Trustees referred to in clause 10.1.
<b>VAA Foreign Currency Accounts</b>	the foreign currency accounts held by Primary DOCA Companies described in Part 2 of Schedule 4.
<b>VAH</b>	Virgin Australia Holdings Limited (subject to deed of company arrangement) ACN 100 686 226.

## 1.2 Interpretation

In the Deed, unless the subject or context otherwise requires:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual;
- (f) a reference to a clause, party, part, schedule, attachment or exhibit is a reference to a clause or part of, and a party, schedule, attachment or exhibit to, this Deed;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (h) a reference to a document (including this Deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to Australian currency unless denominated otherwise;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney;
- (k) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Deed;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Deed will be construed adversely to a party because that party was responsible for the preparation of this Deed or that provision;



- (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (o) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (p) a reference to a body, other than a party to this Deed (including an institute, association or authority), whether statutory or not:
  - (1) which ceases to exist; or
  - (2) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

### **1.3 Inconsistency with Act or Regulations**

If there is any inconsistency between the provisions of this Deed and the Corporations Act, Regulations or the IPR, this Deed shall prevail to the extent permitted by law.

### **1.4 Other inconsistencies**

If there is any inconsistency between the provisions of this Deed and the constitution of a Deed Company or any other obligation binding on a Deed Company, the provisions of this Deed shall prevail to the extent of the inconsistency, and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which shall be borne by the Deed Companies.

### **1.5 Business Days**

Except where otherwise expressly provided, if the day on or by which any act, matter or thing is to be done as required by this Deed is a day other than a Business Day, such act, matter or thing shall be done on the immediately succeeding Business Day.

### **1.6 Deed components**

This Deed includes any Schedule.

## **2 Commencement of this Deed**

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The Trust will come into effect and the Deed Administrators will act as Trustees pursuant to the terms of this Deed immediately upon completion of:

- (a) the Primary DOCA; or
- (b) if the conditions to the Primary DOCA are not satisfied, upon completion of the IG DOCA.



### 3 Payment of Fund Amount

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- (a) If Primary DOCA Completion occurs and IG DOCA Completion occurs, on the Implementation Date, subject to the terms of the Primary DOCA and in accordance with clause 10.4 of the Primary DOCA, VAH must pay, or procure the payment of, the Pool A Fund Amount, the Pool B Fund Amount and the Pool C Fund Amount at the direction of the Deed Administrators to the Trustees.
- (b) If Primary DOCA Completion occurs and IG DOCA Completion does not occur, on the Implementation Date, subject to the terms of the Primary DOCA and in accordance with clause 10.4 of the Primary DOCA, VAH must pay, or procure the payment of, the Pool A Fund Amount and the Pool C Fund Amount at the direction of the Deed Administrators to the Trustees.
- (c) If Primary DOCA Completion does not occur and IG DOCA Completion occurs, on the Implementation Date, subject to the terms of the IG DOCA and in accordance with clause 10.2 of the IG DOCA, the Deed Proponent must pay, or procure the payment of, the Pool D Fund Amount at the direction of the Deed Administrators to the Trustees.

### 4 Declaration of Trust

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#### 4.1 Declaration

The Trustees acknowledge and declare that the Trust Fund will be held on trust by the Trustees as follows:

- (a) if Primary DOCA Completion and IG DOCA Completion occur:
  - (1) the Pool A Fund, for the Pool A Creditors;
  - (2) the Pool B Fund, for the Pool B Creditors;
  - (3) the Pool C Fund, for the Pool C Creditors;
- (b) if Primary DOCA Completion occurs and IG DOCA Completion does not occur:
  - (1) the Pool A Fund, for the Pool A Creditors;
  - (2) the Pool C Fund, for the Pool C Creditors;
- (c) if Primary DOCA Completion does not occur but IG DOCA Completion occurs, the Pool D Fund, for the Pool D Creditors,

on the terms in this Deed.

#### 4.2 Name of Trust

The trust constituted by this Deed will be called the Project Volar Creditors' Trust.

#### 4.3 Trustees' powers

Without limiting the powers that the Trustees have by operation of the Trustees Act, for the purposes of administering the trust created by this Deed, the Trustees have the following powers:

- (a) to administer and distribute the Trust Fund in accordance with the provisions set out in each DOCA and this Deed;



- (b) to fulfil the Trustees' obligations in accordance with the terms of this Deed including to take such legal proceedings or other steps as the Trustees think fit to fulfil these obligations;
- (c) to sell, re-invest or otherwise deal with the assets of the Trust Fund;
- (d) to perfect title in any assets of the Trust Fund;
- (e) to insure any assets of the Trust Fund;
- (f) to, at any time, call meetings of the Trust Creditors for the purpose of considering the variation or termination of this Deed in accordance with the provisions of this Deed;
- (g) to admit Claims to proof in accordance with the provisions of each DOCA and this Deed;
- (h) to determine Admitted Claims and then to pay Dividends in accordance with the terms of this Deed;
- (i) to act as attorney for the Deed Companies or any other person for any purpose associated with the Trust or this Deed;
- (j) to enforce compliance with the terms of this Deed and each DOCA including to take such legal proceedings or other steps as the Trustees think fit to enforce these obligations;
- (k) to accept the transfer of any shares, stocks, debentures, debenture stock, annuities, bonds, obligations or other securities of whatever nature that may at any time be transferred to the Trustees;
- (l) to enter upon or take possession of the Trust Fund and to collect the revenue or income from or interest on the Trust Fund and exercise any rights or powers relating to any part of the Trust Fund;
- (m) to bring, prosecute and defend any claim, action, suit or proceeding, which includes the power to bring and defend any claim, counter-claim, set-off, action, suit or proceeding in any Deed Company's name or (after assignment) in the Trustees' name, to enforce any right, claim or cause of action that forms part of the Trust Fund, and to that end:
  - (1) to issue or accept service of any writ, summons or other legal process and to appear or be represented in any court and before all wardens, magistrates or judicial or other officers as the Trustees think fit and to commence or defend and conduct any action or other proceeding in any court of justice in relation to the Trust Fund and any claim, proceeding or action forming part of the Trust Fund and to prosecute, discontinue, compromise, stay, terminate or abandon that proceeding or action as the Trustees think fit;
  - (2) to appoint any solicitor and counsel to prosecute or defend in those proceedings as the occasion may require; and
  - (3) to take any other lawful ways and means for the recovering or getting in any of the Trust Fund;
- (n) to convene and hold meetings of the Trust Creditors for any purpose as the Trustees consider fit;
- (o) to permit any person authorised by the Trustees to operate any account in the name of the Trust;
- (p) to do all acts and execute in the name and on behalf of the Trust all deeds, receipts and other documents;





- (q) to draw, accept, make or endorse any bill of exchange or promissory note in the name and on behalf of the Trust;
- (r) subject to the Corporations Act, to prove in the winding up of or under any scheme of arrangement entered into by, or deed of company arrangement executed by, any contributory or debtor of the Trust;
- (s) to bring or defend an application for the vesting or winding up of the Trust;
- (t) to report to the Trust Creditors from time to time;
- (u) to make interim or other distributions of the Trust Fund;
- (v) to appoint agents to do any business or attend to any matter or affairs of the Trust that the Trustees are unable to do, or that it is unreasonable to expect the Trustees to do, in person;
- (w) to appoint a solicitor, accountant or other professionally qualified person to assist the Trustees;
- (x) to compromise any claim, action, suit or proceeding brought by or against the Trustees on such terms as the Trustees consider fit, which includes the power to compromise any claim, action, suit or proceeding referred to in paragraph (m) of this clause;
- (y) to provision for and set aside a sum or sums equal to an amount which the Trustees reasonably anticipate may be payable in respect of any tax, including income tax, capital gains tax or GST;
- (z) to do anything incidental to exercising a power set out in this Deed;
- (aa) to do anything else that is necessary or convenient for administering the Trust; and
- (bb) to pay any amounts from the Trust Fund for which an indemnity exists under this Deed.

#### **4.4 Exercise of discretion and powers**

- (a) The Trustees may exercise any discretion under this Deed in the Trustees' absolute and unfettered discretion.
- (b) The Trustees shall not be required to give any reason for the exercise of, or failure to exercise, any of the Trustees' powers.

#### **4.5 Objects of the Trust**

The Trustees shall receive and hold the Trust Fund on trust for the benefit of the Trust Creditors and will distribute the Trust Fund in accordance with the terms of this Deed.

## **5 Trust Fund**

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### **5.1 Trust Fund**

The Trust Fund shall be comprised of:

- (a) if Primary DOCA Completion and IG DOCA Completion occur, the Pool A Fund, the Pool B Fund and the Pool C Fund;



- (b) if Primary DOCA Completion occurs but IG DOCA Completion does not occur, the Pool A Fund and the Pool C Fund;
- (c) if IG DOCA Completion occurs but Primary DOCA Completion does not occur, the Pool D Fund.

## 5.2 Distribution of the Trust Fund

- (a) Subject to clause 5.2(d), the Trust Fund will be available for distribution to the Trust Creditors as set out in this clause 5.2.
- (b) If Primary DOCA Completion occurs, the Pool A Fund, Pool B Fund and Pool C Fund will be available for distribution as follows, provided that the Pool B Fund will only be available for distribution if IG DOCA Completion also occurs:
  - (1) the Pool A Fund will be available for distribution to the Pool A Creditors as follows:
    - (A) first, to the Administrators or Deed Administrators for any amount which they are entitled to be paid or indemnified for under:
      - i. the Primary DOCA;
      - ii. if IG DOCA Completion occurs, the IG DOCA; and
      - iii. each Participating Subsidiary DOCA,  
(even though they may have ceased to be Administrators or Deed Administrators);
    - (B) next, to the Trustees in satisfaction of the Trustees' Remuneration and the Trustee's Costs (which may include an amount of the Trustees' Remuneration and the Trustees' Costs which are estimated to be incurred by the Trustees up to the Termination Date);
    - (C) next, to each Pool A Creditor that is an Employee of a Primary DOCA Company, Participating Subsidiary DOCA Company or (if IG DOCA Completion occurs) an IG DOCA Company, the amount of any Priority Claim including any Claim in respect of Historical Underpayments;
    - (D) next, to the Pool A Creditors on a pro rata basis in accordance with the dollar value of the Admitted Claims of those Pool A Creditors.
  - (2) if IG DOCA Completion occurs, the Pool B Fund will be available for distribution to each Pool B Creditor on a pro rata basis, in accordance with the dollar value of the Cross-Over Claims of the Pool B Creditors; and
  - (3) the Pool C Fund will be available for distribution to each Pool C Creditor in the amount of the Critical Supplier Dividend Amount allocated to that Pool C Creditor set out in Schedule 3.
- (c) If IG DOCA Completion occurs but Primary DOCA Completion does not occur, the Pool D Fund will be available for distribution as follows:
  - (1) first, to the Administrators or Deed Administrators for any amount which they are entitled to be paid or indemnified for under the IG DOCA (even though they may have ceased to be Administrators or Deed Administrators);



- (2) next, to the Trustees in satisfaction of the Trustees' Remuneration and the Trustee's Costs (which may include an amount of the Trustees' Remuneration and the Trustees' Costs which are estimated to be incurred by the Trustees up to the Termination Date);
  - (3) next, to each Pool D Creditor that is an Employee of an IG DOCA Company, the amount of any Priority Claim including any Claim in respect of Historical Underpayments;
  - (4) next, to the Pool D Creditors on a pro rata basis in accordance with the dollar value of the Admitted Claims of those Pool D Creditors.
- (d) Notwithstanding clauses 5.2(b) and 5.2(c), any Creditor who would have been entitled to priority over other unsecured creditors under section 562 of the Corporations Act in respect of any amount forming part of the Trust Fund will retain a priority in respect of the assets of the Trust Fund at least equal to that they would have been entitled to if the property of the relevant Deed Company had been applied in accordance with section 562 of the Corporations Act.
- (e) Notwithstanding any other provision of this Deed, for the purposes of section 444DA of the Corporations Act and clause 5.2(b)(1)(C), any Priority Claims of an Employee will retain a priority in respect of the assets of the Trust Fund at least equal to that which they would have been entitled to if the property of the relevant Deed Company had been applied in accordance with sections 556, 560 and 561 of the Corporations Act.
- (f) No distributions will be made in respect of a Trust Creditor's Claim unless that Trust Creditor's Claim is an Admitted Claim.
- (g) The Trustees may distribute the Trust Fund at such times as the Trustees consider, in their absolute discretion, that is appropriate and feasible to do so, including making distributions (whether interim or final) under any provision of clause 5.2 in advance of making any payments under any lower ranking subclause in this clause 5.2 on the basis that they have retained sufficient funds to ensure that any payments to be made under any provision of clause 5.2 having higher priority may be made when the time comes to do so.

### **5.3 Postponement**

Should proceedings be brought by any person in respect of the distribution of the Trust Fund, then the Trustees are entitled at their sole discretion to postpone the payment of any entitlement until determined by the Trustees.

### **5.4 Unclaimed moneys**

In the event that the Trustees, for any reason, are unable to locate a Trust Creditor, or if any cheque sent by the Trustees to a Trust Creditor has not been presented within 6 months, then:

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



## 5.5 Multiple claims arising out of the same circumstances

- (a) Subject to clause 5.5(b), if a Trust Creditor is a Creditor of two or more Deed Companies in respect of Admitted Claims that arise from a common underlying obligation or in connection with the same underlying transaction (for example, where one Deed Company is a guarantor, indemnifier or co-obligor of an obligation or debt owing by another Deed Company), then the Trust Creditor is only entitled to receive a distribution for one of those Admitted Claims, and where they are for different amounts, for the largest Admitted Claim.
- (b) Notwithstanding clause 5.5(a), Pool B Creditors will be entitled to a distribution from the Pool A Fund and the Pool B Fund in respect of a Cross-Over Claim.
- (c) If multiple Trust Creditors are Creditors of a Deed Company in respect of Admitted Claims that arise from a common underlying obligation or in connection with the same underlying transaction (for example, where a Creditor that is an agent or trustee of another Creditor has a Claim against a Deed Company in respect of the same underlying debt), only one Trust Creditor will be entitled to receive a distribution for one of those Admitted Claims.

## 6 Perpetuity period

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Notwithstanding any other provision in this Deed, each

- (a) interest in property; and
  - (b) Trustee's power over or in connection with property,
- created or granted by this Deed that, but for this provision, might vest, take effect, or be exercisable after the expiry of eighty (80) years commencing on the date of this Deed, but which has not vested or taken effect by that date,
- (c) will vest or take effect on the last day of that period; and
  - (d) is exercisable only on or before the last day of that period.

## 7 Claims

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### 7.1 Admissibility of Claims

- (a) Upon this Deed being settled, and in accordance with clause 6.6 of the Primary DOCA, clause 6.6 of the IG DOCA and clause 6.6 of each Participating Subsidiary DOCA, as applicable, each Claim of a Trust Creditor against a Deed Company will convert to and become a claim against the Trust Fund under this Deed, equal in amount to the Trust Creditor's entitlement to a distribution in respect of the Trust Creditor's released Claim in accordance with clause 5.2 of this Deed.
- (b) Interest will not accrue or be payable on any Admitted Claim.

### 7.2 Trustees' discretion

The Trustees may, in their absolute discretion:

- (a) call for proofs of debt or claim;



- (b) admit all or part of a Claim;
  - (c) reject all or part of a Claim; or
  - (d) pay any Admitted Claim,
- in accordance with the provisions of this Deed.

### **7.3 Determination of Claims**

- (a) Subdivisions A, B, C and E of Division 6 of Part 5.6 of the Corporations Act apply to Claims under this Deed as if references to the liquidator were references to the Trustees and references to winding up were references to this Deed, and with such other modifications as are necessary to give effect to this Deed, except to the extent that those provisions are varied or excluded expressly or impliedly by this Deed.
- (b) Regulations 5.6.11A, 5.6.37, 5.6.39 to 5.6.43 (inclusive), 5.6.44 to 5.6.53 (inclusive) and 5.6.55 to 5.6.72 (inclusive) of the Regulations shall apply to this Deed and to the Trustees as if references to the liquidator were references to the Trustees and references to winding up were references to this Deed, and with such other modifications as are necessary to give effect to this Deed, except to the extent that those provisions are varied or excluded expressly or impliedly by this Deed.
- (c) The Trustees may make interim distributions of trust property under this Deed.
- (d) The Trustees may make any distribution by cheque or by electronic funds transfer to a bank account nominated by the relevant Trust Creditor.
- (e) The Trustees must declare and distribute trust property under this Deed as soon as practicable after the Trust comes into effect under clause 4.1. However, subject to clauses 7.3(a) and 7.3(b), the Trustees have an absolute and unfettered discretion as to the admission of Claims, and the amount and timing of the distribution of the trust property in payment of Admitted Claims.
- (f) Where the Trustees propose to reject a Claim (whether in part or in full) the Trustees shall send a notice to the Creditor informing the Creditor of the proposed rejection and giving the party 14 days within which to make an application to the Court to determine the questions relating to the Claim.
- (g) The Trustees are entitled to rely upon any steps and determinations made by the Deed Administrators for the purposes of this clause in respect of whether a claim asserted for the purposes of claiming under this Deed is an Admitted Claim, together with any information and proofs or particulars of debt provided to the Administrators or Deed Administrators.

### **7.4 Access to records**

The Trustees may at any time inspect and take copies of the books and records of the Deed Companies at no cost and the Deed Companies authorise the Trustees and their staff to enter the Deed Companies' premises on any Business Day between the hours of 9.00am and 5.00pm with no less than 24 hours' notice, for the purpose of conducting such an inspection and for the purpose of doing anything necessary or desirable in the exercise of their powers and discretions and the performance of their duties, obligations and responsibilities as Trustees under this Deed, including to take photocopies or images of any books and records for that purpose.



## **7.5 Excluded Superannuation Debts not admissible**

An Excluded Superannuation Debt is not admissible to proof against the Trust Fund.

## **7.6 Creditors' costs and expenses**

Any costs and expenses incurred by a Trust Creditor in asserting a Claim (including any application under clause 7.3(f)) under this Deed will be borne by that Trust Creditor and will not form part of that Trust Creditor's Claim under this Deed.

## **7.7 Abandonment of Claims**

A Trust Creditor will have abandoned, and will be taken for all purposes to have abandoned, all Claims and all other entitlements (if any) in the Trust Fund:

- (a) which are not the subject of a proof lodged with the Deed Administrators or the Trustees in the form required by the Trustees prior to the declaration of a Final Dividend; or
- (b) which have been rejected by the Trustees and which are not the subject of any appeal or application to the Court within the time allowed under clause 7.3(f).

## **7.8 Discharge of Claims**

- (a) All persons having a Claim must accept their Admitted Claims under this Deed (if any) in full satisfaction and complete discharge of all claims which they have or claim to have against the Trustees or the Trust Fund and each of them will, if called upon to do so, execute and deliver to the Trustees such forms of release of any such claim as the Trustees require.
- (b) The Trustees must take all steps reasonably required by the Deed Proponent to obtain such releases from any Trust Creditors nominated by the Deed Proponent.

## **7.9 Claims extinguished**

On payment of the Final Dividend to the Trust Creditors from the Trust Fund:

- (a) all Claims against the Trust Fund are extinguished; and
- (b) the obligations of the Trustees to the Trust Creditors under the Trust will be fully and finally discharged.

## **7.10 Bar**

After distribution of the Final Dividend from the Trust Fund, the Trustees may plead this Deed in bar to any Claim.

## **7.11 Non-Participating Claims**

No Creditor is entitled to participate in or receive any distribution from the Trust Fund in respect of a Non-Participating Claim.



## 8 GST on Claims

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### 8.1 Definitions

Words and expressions used in this clause 8 which are defined in the GST Act have the same meaning in this clause.

### 8.2 GST credits on Claims which have been or will be claimed by the Deed Companies

To the extent that input tax credits on Admitted Claims have been or will be claimed by a Deed Company, the parties agree and acknowledge that following the payment of distributions to those Creditors by the Trustees from the Trust Fund, the Deed Company by its directors will be responsible for making any adjustment required by the provisions of the GST Act insofar as those adjustments relate to those Admitted Claims and Practice Statement PS LA 2012/1 (GA) will be applied by the Deed Company to calculate the impact of those adjustments.

### 8.3 GST credits for Administration Debts and Deed Administrators' Costs

To the extent that:

- (a) an input tax credit is available in respect of an Administration Debt or a Deed Administrators' Cost; and
- (b) neither the Administrators nor the Deed Administrators are able to claim that input tax credit because it is attributable to a tax period that arises after the date on which the GST registration of the Administrators or the Deed Administrators ends,

then, the parties agree and acknowledge that the Deed Companies are responsible for claiming that input tax credit.

### 8.4 GST credits during operation of Trust

The parties agree and acknowledge that to the extent that an input tax credit is available in respect of a Trustee Cost which is incurred and paid for by the Trustees during the operation of the Trust, the Trustees (acting in their capacity as Trustees of the Trust) will be responsible for the claiming those input tax credits.

## 9 Meetings of Trust Creditors

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- (a) The Trustees may at any time convene a meeting of Trust Creditors and except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this Deed, Division 75 of Part 3 of the IPR applies, with such modifications as are necessary, to meetings of the Trust Creditors as if references to the 'external administrator' or chairperson, as the case may be, were references to one or more of the Trustees.
- (b) Trust Creditors who have been paid the full amount of their entitlement in respect of their Admitted Claim under this Deed will no longer be entitled to attend and participate in meetings of Trust Creditors.



- (c) Subject to clause 9(d), the Trustees may, by deed or resolution and with the consent of the majority of the Trust Creditors given at a meeting convened pursuant to this clause 9, vary the provisions of this Deed.
- (d) Despite any other provision of this Deed, the Trustees may not amend this Deed to lessen the Trustees' liabilities or obligations under this Deed or at law including, but not limited to, lessening their liabilities in respect of any fraud, wilful default, negligence or breach of trust by the Trustees.

## 10 Remuneration

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### 10.1 Remuneration of Trustees

The Trustees:

- (a) are to be remunerated at the usual rates charged by Deloitte Financial Advisory Pty Ltd from time to time in respect of any work done by the Trustees, and any partner or employee of the Trustees, in connection with:
  - (1) the exercise of their powers and discretions and performance of their duties, obligations and responsibilities as Administrators and/or Deed Administrators, even though that remuneration has not been approved by the Creditors pursuant to Division 60 Subdivision B of the IPS;
  - (2) the calling for and adjudicating upon proofs of Claims;
  - (3) the distribution of the Trust Fund; and
  - (4) the exercise of their powers and discretions and performance of their duties, obligations and responsibilities as Trustees under this Deed, and
- (b) acknowledge that the Trustees' Costs, including costs, charges and expenses (including those incurred in connection with advisers) incurred in connection with the foregoing, including any stamp duty payable by them in respect of this Deed, will be payable from the Trust Fund.
- (c) The Trustees' Remuneration and the Trustees' Costs referred to in this clause 10.1 and all other costs shall be reimbursed and/or paid out of the Trust Fund. The Trustees shall be entitled to draw such amounts from the Trust Fund from time to time. The Administrators have estimated the Trustees' Costs to be between \$7 million and \$8 million excluding GST and disbursements. For the avoidance of doubt, where the Trustees are liable to pay GST in respect of any taxable supply (within the meaning of the GST Act) they make under this Deed, the Trustees are entitled to recover an additional amount equal to the amount of that GST liability from the Trust Fund.

### 10.2 Acknowledgement

The parties acknowledge that the Trustee's Remuneration as referred to in clause 10.1(a) includes remuneration and costs incurred by the Trustees in connection with or as a result of their duties, obligations and responsibilities as Administrators and/or Deed Administrators.





## 11 Committee of Inspection

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- (a) The Trustees may convene meetings of the Committee of Inspection from time to time for the purpose of consulting with the Committee of Inspection on matters arising in the course of the administration of the Trust including in respect of the Trustees' Remuneration.
- (b) The Committee of Inspection will operate as a consultative committee and will not have power to direct or bind the Trustees in any way.
- (c) The:
  - (1) appointment or removal of members of the Committee of Inspection will be governed by Division 80-15 of the IPS and Division 80-10 of the IPR;
  - (2) power to convene meetings of the Committee of Inspection will be governed by Division 80-27 of the IPS; and
  - (3) obligations of members of the Committee of Inspection will be governed by Division 80-55 of the IPS,with such amendments in form and substance as are necessary to give efficacy to the administration of the Trust by the Trustees.
- (d) Subject to the discretion of the Trustees to make such disclosures as are necessary or convenient for the purposes of the administration of the Trust, the affairs of the Committee of Inspection will be conducted on a confidential basis.
- (e) The Committee of Inspection may, if requested, approve the Trustees' Remuneration by a majority in attendance at the relevant meeting.

## 12 Indemnity

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### 12.1 Indemnity

The Trustees are entitled to be indemnified out of the Trust Fund for all actions, suits, proceedings, accounts, claims and demands arising out of or relating to this Deed which may be commenced, incurred by or made on the Trustees by any person and against all costs, charges and expenses incurred by the Trustees in respect of them, provided that the Trustees shall not be entitled to an indemnity in respect of any liabilities or demands to the extent that the indemnification contravenes the Corporations Act or the Trustee Act.

### 12.2 Continuing indemnity

This indemnity takes effect on and from the date of this Deed and will be without limitation as to time and will operate notwithstanding the removal of the Trustees (or any of them) and the appointment of new trustees or the termination of this Trust for any reason whatsoever.

### 12.3 Indemnity not to be affected or prejudiced

The indemnity under clause 12.1 will not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Trustees and will extend to all actions, suits,



proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Trustees, the approval and execution of this Deed or otherwise; and

- (b) affect or prejudice all or any rights that the Trustees may have against any other person to be indemnified against the costs, charges, expenses and liabilities incurred by the Trustees of or incidental to the exercise or performance of any of the powers or authorities conferred on the Trustees by this Deed or otherwise.

## 13 Liability

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### 13.1 Exclusion of liability

- (a) The Trustees, and the Trustees' partners and employees, are not liable for any loss or damage occasioned to any trust property under this Deed (including the Trust Fund) or to any person by:
  - (1) the exercise of any discretion or power conferred by this Deed or by law on the Trustees or any delay or failure to exercise any of those discretions or powers;
  - (2) any breach of duty or trust, unless it is proved to have been committed, made or omitted in personal, conscious and fraudulent bad faith by the Trustees, partner or employee; or
  - (3) any disclosure by the Trustees or the officer of any document, matter or thing relating to the Trust, the trust property or any Trust Creditor.
- (b) All persons claiming any interest in the trust property must be treated as taking it with and subject to notice of the protection conferred by this clause 13.

### 13.2 Proceedings against co-trustee

The Trustees are not bound to take any proceeding against a co-trustee for any breach or alleged breach of trust committed by the co-trustee.

### 13.3 Reliance on advice

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

## 14 Trustees' resignation

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Any Trustee may resign at any time by giving not less than 28 days' prior written notice to the Deed Companies unless that resignation would result in there being no remaining Trustees, in which event the Trustees must:

- (a) convene a meeting of Trust Creditors in accordance with clause 9 of this Deed for the purpose of nominating a replacement trustee;



- (b) assign to a replacement trustee nominated by the Trust Creditors the Trustees' rights, title and benefit under this Deed; and
- (c) do all things reasonably necessary to effect the assignment referred to in clause 14(b).

## 15 Trustees not obliged to take action

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The Trustees will not be obliged to take any action under this Deed until such time as there are sufficient funds in hand and immediately available to them to pay the Trustees' Remuneration and Trustees' Costs.

## 16 Termination

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### 16.1 Termination of the Trust

This Trust will terminate and the Trustees will resign as soon as reasonably practicable:

- (a) after distribution of the Final Dividend from the Trust Fund; or
- (b) upon the expiry of the perpetuity period referred to in clause 6, whichever occurs first.

### 16.2 Meeting of Trust Creditors

The Trustees must convene a meeting of Trust Creditors to consider a resolution to vary this Deed or terminate the Trust if:

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

### 16.3 Termination of the Trust by Court order and Trust Creditors' resolution

This Trust will terminate if:

- (a) a Court so orders; or
- (b) the Trust Creditors pass a resolution terminating this Trust at a meeting duly convened pursuant to clause 16.2.

In that event, either of the following may occur:

- (c) if all Trust Creditors have received their distribution in accordance with clause 5.2, any remaining part of the Trust Fund must be immediately paid to or at the direction of the Deed Proponent and shall not be available for distribution to Trust Creditors; or
- (d) if any Trust Creditors have not received their distribution in accordance with clause 5.2, then any remaining part of the Fund Amount will be refunded to or at the direction of the Deed Proponent and any other remaining funds in the Trust



Fund will be returned to the Deed Companies and shall not be available for distribution to Trust Creditors.

#### **16.4 Report to Trust Creditors**

Upon a meeting being convened pursuant to clause 16.2, the Trustees must send each Trust Creditor prior to the meeting a report as to the state of affairs of the Trust accompanied by such financial statements as the Trustees think fit. The report must include:

- (a) a statement explaining the circumstances which have caused the Trustees to convene the meeting pursuant to clause 16.2; and
- (b) a statement that the Trust will be terminated if the Trust Creditors so resolve.

#### **16.5 Previous operation of this Deed preserved**

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

#### **16.6 Variation of Deed**

This Deed may be varied:

- (a) with the consent of the Trustees by resolution passed at a meeting of Trust Creditors by a majority of Trust Creditors in number and in value, but only if the variation is not materially different from the proposed variation set out in the notice of that meeting and provided that the variation does not materially prejudice the interests of any class of Trust Creditors without the approval of a majority of that class of Trust Creditors in number and value; or
- (b) by the Court upon application of any of the Trust Creditors or the Trustees pursuant to the Trustee Act.

### **17 General**

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#### **17.1 Invalidity and enforceability**

- (a) If any provision of this Deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 17.1(a) does not apply where enforcement of the provision of this Deed in accordance with clause 17.1(a) would materially affect the nature or effect of the parties' obligations under this Deed.

#### **17.2 Waivers**

No party to this Deed may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this clause 17.2 are set out below.



Term	Meaning
conduct	includes delay in the exercise of a right.
right	any right arising under or in connection with this Deed and includes the right to rely on this clause.
waiver	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

### 17.3 Counterparts

- (a) This Deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this Deed by signing any counterpart.
- (d) Counterparts may be exchanged by email or other electronic means.

### 17.4 Governing law and jurisdiction

This Deed is governed by the law in force in the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the Court of New South Wales and any Court which may hear appeals from those Courts.

### 17.5 Further action to be taken at each party's own expense

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

### 17.6 Assignment

Unless expressed otherwise, rights arising out of or under this Deed are not assignable by a party without the prior written consent of the other parties.

### 17.7 Entire agreement

This Deed states all the express terms agreed by the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.

### 17.8 No reliance

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

### 17.9 Relationship of the parties

Nothing in this Deed gives a party authority to bind any other party in any way.



## **17.10 Exercise of rights**

- (a) Unless expressly required by the terms of this Deed, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this Deed.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this Deed. Any conditions must be complied with by the party relying on the consent, approval or waiver.

## **17.11 Stamp duty**

Any stamp duty assessed on this Deed is to be paid out of the Trust Fund.

## **17.12 Creditor's Power of Attorney**

Each Trust Creditor irrevocably appoints each of the Trustees jointly and severally as its attorney to execute any document to give effect to the releases in clause 7.

## **17.13 Joint Parties**

If two or more parties are included within the same defined term in this Deed:

- (a) liability of those parties under this Deed is a joint liability of all of them and a several liability of each of them.
- (b) a right given to those parties under this deed is a right given severally to each of them; and
- (c) a representation, warranty or undertaking made by those parties is made by each of them.

## **17.14 Costs**

Each party must pay its own costs of negotiating, preparing and executing this Deed.

## **17.15 Survival**

Despite any other provision of this Deed, clauses, 1, 8, 10, 12, 13, 16 and 17 survive the termination of this Deed.

# **18 Notices**

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## **18.1 Form of Notice**

A notice or other communication to a party under this Deed (**Notice**) must be:

- (a) in writing and in English and signed by or on behalf of the sending party; and
- (b) addressed to that party in accordance with the details nominated in Schedule 2 (or any alternative details nominated to the sending party by Notice).



## 18.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting
By email to the nominated email address	When the email (including any attachment) has been sent to the addressee's email address (unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee)

## 18.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than email as permitted in clause 18.2).



## Schedule 1

### Deed Companies

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#### 1 Primary DOCA Companies

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	Name	ACN
1.	Virgin Australia Holdings Limited (subject to deed of company arrangement)	100 686 226
2.	Virgin Australia Airlines Holdings Pty Ltd (subject to deed of company arrangement)	093 924 675
3.	VAH Newco No.1 Pty Ltd (subject to deed of company arrangement)	160 881 345
4.	Tiger Airways Australia Pty Limited (subject to deed of company arrangement)	124 369 008
5.	Virgin Australia Airlines Pty Ltd (subject to deed of company arrangement)	090 670 965
6.	Virgin Tech Pty Ltd (subject to deed of company arrangement)	101 808 879
7.	A.C.N. 098 904 262 Pty Ltd (subject to deed of company arrangement)	098 904 262
8.	Virgin Australia Regional Airlines Pty Ltd (subject to deed of company arrangement)	008 997 662
9.	Virgin Australia Holidays Pty Ltd (subject to deed of company arrangement)	118 552 159
10.	VB Ventures Pty Ltd (subject to deed of company arrangement)	125 139 004
11.	Virgin Australia Cargo Pty Ltd (subject to deed of company arrangement)	600 667 838





12.	VB Leaseco Pty Ltd (subject to deed of company arrangement)	134 268 741
13.	VB Investco Pty Ltd (subject to deed of company arrangement) (in liquidation)	101 961 095
14.	VAH Newco No.2 Pty Ltd (subject to deed of company arrangement) (in liquidation)	160 881 354
15.	Virgin Australia International Operations Pty Ltd (subject to deed of company arrangement)	155 859 608
16.	VBNC5 Pty Ltd (subject to deed of company arrangement)	119 691 502
17.	Short Haul 2017 No. 1 Pty Ltd (subject to deed of company arrangement)	617 644 390
18.	VB PDP 2010-11 Pty Ltd (subject to deed of company arrangement)	140 818 266
19.	VB LH 2008 No. 1 Pty Ltd (subject to deed of company arrangement)	134 280 354
20.	VB LH 2008 No. 2 Pty Ltd (subject to deed of company arrangement)	134 288 805
21.	737 2012 No.1 Pty. Ltd. (subject to deed of company arrangement)	154 201 859
22.	737 2012 No. 2 Pty Ltd (subject to deed of company arrangement)	154 225 064
23.	VA Regional Leaseco Pty Ltd (subject to deed of company arrangement)	127 491 605
24.	VA Hold Co Pty Ltd (subject to deed of company arrangement)	165 507 157
25.	Virgin Australia 2013-1 Issuer Co Pty Ltd (subject to deed of company arrangement)	165 507 326
26.	VA Lease Co Pty Ltd (subject to deed of company arrangement)	165 507 291
27.	Short Haul 2016 No. 1 Pty Ltd (subject to deed of	612 766 328



	company arrangement)	
28.	Short Haul 2016 No. 2 Pty Ltd (subject to deed of company arrangement)	612 796 077

## 2 IG DOCA Companies

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	Name	ACN
1.	Virgin Australia International Holdings Pty Ltd (subject to deed of company arrangement)	155 860 021
2.	Virgin Australia International Airlines Pty Ltd (subject to deed of company arrangement)	125 580 823
3.	Tiger International Number1 Pty Ltd (subject to deed of company arrangement)	606 131 944
4.	Virgin Australia Airlines (SE Asia) Pty Ltd (subject to deed of company arrangement)	097 892 389

## 3 Subsidiary DOCA Companies

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	Name	ACN
1.	VB Leaseco No 2 Pty Ltd (subject to deed of company arrangement)	142 533 319
2.	VB 800 2009 Pty Ltd (subject to deed of company arrangement)	135 488 934
3.	Short Haul 2017 No. 2 Pty Ltd (subject to deed of company arrangement)	617 644 443
4.	Short Haul 2018 No. 1 Pty. Ltd. (subject to deed of company arrangement)	622 014 831
5.	VA Borrower 2019 No. 1 Pty Ltd (subject to deed of company arrangement)	633 241 059



6.	VA Borrower 2019 No. 2 Pty Ltd (subject to deed of company arrangement)	637 371 343
7.	Short Haul 2014 No. 1 Pty Ltd (subject to deed of company arrangement)	600 809 612
8.	Short Haul 2014 No. 2 Pty Ltd (subject to deed of company arrangement)	600 878 199
9.	Short Haul 2017 No. 3 Pty. Ltd. (subject to deed of company arrangement)	622 014 813

## Schedule 2

### Notice details

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#### Clause 18.1

<b>Trustees</b>	Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes in their capacity as joint and several trustees of the Trust
Address	c/- Deloitte, Level 9, 225 George Street, Sydney NSW 2000
Attention	Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes
Email	vstrawbridge@deloitte.com.au, saalgeri@deloitte.com.au, richughes@deloitte.com.au, jgreig@deloitte.com.au

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<b>Deed Companies</b>	each company listed in Part 1, Part 2 and Part 3 of Schedule 1
Address	c/- Deloitte, Level 9, 225 George Street, Sydney NSW 2000
Attention	Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes
Email	vstrawbridge@deloitte.com.au, saalgeri@deloitte.com.au, richughes@deloitte.com.au, jgreig@deloitte.com.au

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<b>Deed Proponent</b>	BC Hart Aggregator, L.P.
Address	PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands
Attention	Barnaby Lyons and Scott Garfield
Email	blyons@baincapital.com, sgarfield@baincapital.com

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## Schedule 3

### Critical Suppliers

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#### 1 Airport Critical Suppliers

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Name of Creditor	Critical Supplier Dividend Amount (including GST)
Adelaide Airport Limited	\$3,255,154
Brisbane Airport Corporation Limited	\$12,475,820
Canberra Airport Pty Limited	\$2,344,711
Gold Coast Airport Pty Limited	\$2,113,084
Australia Pacific Airports (Melbourne) Pty Ltd	\$9,769,041
Perth Airport Pty Ltd	\$6,647,577
Australia Pacific Airports (Launceston) Pty Ltd	\$409,285
Hobart International Airport Pty Ltd	\$977,624
Townsville Airport Pty Ltd	\$157,232
Sunshine Coast Airport Pty Ltd	\$262,667
Sydney Airport Corporation Limited	\$8,858,189



## 2 Other Critical Suppliers

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Name of Creditor	Critical Supplier Dividend amount (including GST)
Tech Mahindra Limited	\$1,840,000
The Boeing Company	\$45,000,000



## Schedule 4

### Foreign currency accounts

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#### 1 IG Group Foreign Currency Accounts

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Bank Name	Account name	Acc number	Currency
ANZ Bank, Solomon Islands	VAIA SBD	*****7455	SBD
ANZ BANK (VANUATU) LTD	VAIA VUV	*****1500	VUV
ANZ Bank, Tonga	VAIA TOP	*****7472	TOP
ANZ BANK (SAMOA) LTD	VAIA FX WST	*****9724	WST
BANK ANZ INDONESIA, P.T.	VAIA FX IDR	*****0001	IDR
AUSTRALIA AND NEW ZEALAND BANKING GROUP (PNG) LTD.	VASE FX PGK	*****9010	PGK

#### 2 VAA Foreign Currency Accounts

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Bank Name	Account name	Acc number	Currency
ANZ Bank, Australia	VAA ANZ JPY ACC	*****0001	JPY
Hong Kong Branch	VA FX HKD	*****9532	HKD
JPMORGAN CHASE BANK, N.A.	VA FX EUR	*****5167	EUR
WESTPAC BANKING CORPORATION	VA WBC FJD	*****1473	FJD



## Signing page

Executed as a deed

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**Trustee**

Signed sealed and delivered by

**Vaughan Strawbridge**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---

**Trustee**

Signed sealed and delivered by

**Salvatore Algeri**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---





**Trustee**

Signed sealed and delivered by  
**John Greig**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---

**Trustee**

Signed sealed and delivered by  
**Richard Hughes**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_



**Deed Administrator**

Signed sealed and delivered by  
**Vaughan Strawbridge**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---

**Deed Administrator**

Signed sealed and delivered by  
**Salvatore Algeri**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_



**Deed Administrator**

Signed sealed and delivered by  
**John Greig**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---

**Deed Administrator**

Signed sealed and delivered by  
**Richard Hughes**

*sign here* ► \_\_\_\_\_

*print name* \_\_\_\_\_

in the presence of

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_



### **Deed Companies**

Signed sealed and delivered for and on behalf of each of the following Primary DOCA Companies:

**Virgin Australia Holdings Limited (subject to deed of company arrangement)**

**Virgin Australia Airlines Holdings Pty Ltd (subject to deed of company arrangement)**

**VAH Newco No.1 Pty Ltd (subject to deed of company arrangement)**

**Tiger Airways Australia Pty Limited (subject to deed of company arrangement)**

**Virgin Australia Airlines Pty Ltd (subject to deed of company arrangement)**

**Virgin Tech Pty Ltd (subject to deed of company arrangement)**

**A.C.N. 098 904 262 Pty Ltd (subject to deed of company arrangement)**

**Virgin Australia Regional Airlines Pty Ltd (subject to deed of company arrangement)**

**Virgin Australia Holidays Pty Ltd (subject to deed of company arrangement)**

**VB Ventures Pty Ltd (subject to deed of company arrangement)**

**Virgin Australia Cargo Pty Ltd (subject to deed of company arrangement)**

**VB Leaseco Pty Ltd (subject to deed of company arrangement)**

**VB Investco Pty Ltd (subject to deed of company arrangement) (in liquidation)**

**VAH Newco No.2 Pty Ltd (subject to deed of company arrangement) (in liquidation)**

**Virgin Australia International Operations Pty Ltd (subject to deed of company arrangement)**

**VBNC5 Pty Ltd (subject to deed of company arrangement)**

**Short Haul 2017 No. 1 Pty Ltd (subject to deed of company arrangement)**

**VB PDP 2010-11 Pty Ltd (subject to deed of company arrangement)**

**VB LH 2008 No. 1 Pty Ltd (subject to deed of company arrangement)**

**VB LH 2008 No. 2 Pty Ltd (subject to deed of company arrangement)**



**arrangement)**

**737 2012 No.1 Pty. Ltd. (subject to deed of company arrangement)**

**737 2012 No. 2 Pty Ltd (subject to deed of company arrangement)**

**VA Regional Leaseco Pty Ltd (subject to deed of company arrangement)**

**VA Hold Co Pty Ltd (subject to deed of company arrangement)**

**Virgin Australia 2013-1 Issuer Co Pty Ltd (subject to deed of company arrangement)**

**VA Lease Co Pty Ltd (subject to deed of company arrangement)**

**Short Haul 2016 No. 1 Pty Ltd (subject to deed of company arrangement)**

**Short Haul 2016 No. 2 Pty Ltd (subject to deed of company arrangement)**

by their joint and several deed administrator:

*sign here ►* \_\_\_\_\_  
Deed Administrator

*print name* \_\_\_\_\_

in the presence of

*sign here ►* \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---



Signed sealed and delivered for and on behalf of each of the following IG DOCA Companies:

**Virgin Australia International Holdings Pty Ltd (subject to deed of company arrangement)**

**Virgin Australia International Airlines Pty Ltd (subject to deed of company arrangement)**

**Tiger International Number1 Pty Ltd (subject to deed of company arrangement)**

**Virgin Australia Airlines (SE Asia) Pty Ltd (subject to deed of company arrangement)**

by their joint and several deed administrator:

*sign here ►* \_\_\_\_\_  
Deed Administrator

*print name* \_\_\_\_\_

in the presence of

*sign here ►* \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_



Signed sealed and delivered for and on behalf of each of the following Subsidiary DOCA Companies:

**VB Leaseco No 2 Pty Ltd (subject to deed of company arrangement)**

**VB 800 2009 Pty Ltd (subject to deed of company arrangement)**

**Short Haul 2017 No. 2 Pty Ltd (subject to deed of company arrangement)**

**Short Haul 2018 No. 1 Pty. Ltd. (subject to deed of company arrangement)**

**VA Borrower 2019 No. 1 Pty Ltd (subject to deed of company arrangement)**

**VA Borrower 2019 No. 2 Pty Ltd (subject to deed of company arrangement)**

**Short Haul 2014 No. 1 Pty Ltd (subject to deed of company arrangement)**

**Short Haul 2014 No. 2 Pty Ltd (subject to deed of company arrangement)**

**Short Haul 2017 No. 3 Pty. Ltd. (subject to deed of company arrangement)**

by their joint and several deed administrator:

*sign here ►* \_\_\_\_\_  
Deed Administrator

*print name* \_\_\_\_\_

in the presence of

*sign here ►* \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_



### Deed Proponent

Signed sealed and delivered by

**BC Hart Aggregator, L.P.**

By: BC Hart Investors, LLC

its general partner

By: Bain Capital Asia Fund IV, L.P.

its manager

By: Bain Capital Investors Asia IV,  
LLC

its general partner

By: Bain Capital Investors, LLC  
its manager



*sign here* ► \_\_\_\_\_  
Authorised signatory

*sign here* ► \_\_\_\_\_  
Witness

*print name* Ryan Cotton \_\_\_\_\_

*print name* \_\_\_\_\_





## Schedule 2

### Creditor Indemnity

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To: **[insert name of Deed Company] (Company)**

#### **INDEMNITY IN RELATION TO INSURED CLAIM**

I/We **[insert creditor name]** refer to the deed of company arrangement in respect of the Company (**DOCA**) dated **[insert date]**.

I/We wish to take legal proceedings to enforce a Claim under clause 8 of the DOCA (**Insured Claim**) against the Company. The Insured Claim is **[insert full description]**.

I/We irrevocably and unconditionally indemnify the Company against any costs, expenses, judgments (including but not limited to any judgment or order obtained by me/us against the Company, or any amounts required to be paid by the Company in connection with any judgment or order), suits or actions incurred directly or indirectly as a consequence of commencing legal proceedings in relation to the Insured Claim (**Costs**) to the extent that the Company is not indemnified for such costs pursuant to a contract of insurance entered into before **[insert Appointment Date for Deed Company]** or such Costs are not otherwise paid by the Company's insurer.

I/We confirm our agreement to be bound by the terms of clause 8 of the DOCA in respect of the Insured Claim.

Dated: **[insert date]**

Executed as a deed poll in favour of **[insert name of Deed Company]**.

**Signed sealed and delivered** for and on behalf of

**[Creditor name]**

by its duly authorised representative  
in the presence of:

---

Signature of witness

---

Signature of authorised representative

---

Name of witness (please print)

---

Name of authorised representative  
(please print)



## Schedule 3

### Excluded Contracts

---

Attached.



## Part 1

---

N/A

## Part 2

---

N/A

## Part 3

---

N/A

## Part 4

---

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### **MSN 36605**

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1. Aircraft Lease Agreement between BOC Aviation (USA) Corporation as lessor and VB 800 as lessee dated 27 February 2009.
  2. Deed of Lease Novation and Amendment between BOC Aviation (USA) Corporation, Aircraft Leasing IV Limited and VB 800 dated 4 September 2018.
  3. Deed of Lease Amendment between Aircraft Leasing IV Limited, VB 800, VAA and VAH dated 26 December 2019.
-

4. Side Letter regarding Aircraft Lease Agreement from BOC Aviation (USA) Corporation to VB 800 and VAA dated 11 March 2015.
  5. Sublease Agreement between VB 800 and VAA dated 11 March 2015.
  6. Sublease Amendment Agreement between VB 800 and VAA dated 4 September 2018.
  7. Specific Security Agreement (Contractual Rights – Sublease) between Aircraft Leasing IV Limited and VB 800 dated 4 September 2018.
  8. Notice of Security from VB 800 to VAA dated 4 September 2018.
  9. Acknowledgement of Subordination from VB 800 and VAA to AS Air Lease IV (Ireland) Limited dated 4 September 2018.
  10. Assignment of Insurances from VB 800, VAA and Aircraft Leasing IV Limited as assignee dated 4 September 2018.
  11. Airframe Warranty Agreement between BOC Aviation (USA) Corporation, AS Air Lease 71 (Ireland) Limited, VB 800 and VAA and acknowledged by The Boeing Company dated 4 September 2018.
  12. Notice and Acknowledgment of Security Assignment from Aircraft Leasing IV Limited to Citibank, N.A., VB 800, VAA and VAH dated 5 September 2018.
  13. Letter of Quiet Enjoyment from Citibank, N.A. to VB 800 and VAA dated 5 September 2018.
  14. Quiet Enjoyment Letter from AS Air Lease 71 (Ireland) Limited to VB 800 and VAA dated 4 September 2018.
- MSN 36607**
15. Aircraft Lease Agreement between BOC Aviation (USA) Corporation as lessor and VB 800 as lessee dated 27 February 2009.
  16. Letter Agreement No. 1 re specification changes between VB 800 and BOC Aviation (USA) Corporation dated 6 November 2009.
  17. Extension Option Notice from VB 800 to BOC Aviation (USA) Corporation dated 24 April 2018.
  18. Deed of Lease Novation and Amendment between BOC Aviation (USA) Corporation, Aircraft Leasing VI Limited and VB 800 dated 28 May 2019.
  19. Deed of Lease Amendment between Aircraft Leasing VI Limited, VB 800, VAA and VAH dated 26 December 2019.
  20. Sublease Agreement between VB 800 and VAA dated 6 November 2009.
  21. Sublease Amendment Agreement between VB 800 and VAA dated 6 June 2019.



22. Acknowledgement of Subordination from VB 800 and VAA to Aircraft Leasing VI Limited dated 6 June 2019.
23. Assignment of Insurances between VB 800, VAA and Aircraft Leasing VI Limited as assignor dated 6 June 2019.
24. Airframe Warranty Agreement between BOC Aviation (USA) Corporation, AS Air Lease 108 (Ireland) Limited, VB 800 and VAA and acknowledged by The Boeing Company dated 6 June 2019.
25. Notice and Acknowledgment of Security Assignment from Aircraft Leasing VI Limited to UMB Bank, N.A., VB 800, VAA and VAH dated 28 May 2019.
26. Letter of Quiet Enjoyment from UMB Bank, N.A. to VB 800 and VAA dated 6 June 2019.
27. Quiet Enjoyment Letter from AS Air Lease 108 (Ireland) Limited to VB 800 and VAA dated 6 June 2019.
- MSN 36608**
28. Aircraft Lease Agreement between AWAS 36608 UK Limited as lessor and VB 800 as lessee dated 27 February 2009 as amended and restated on 29 July 2014 and 18 September 2017.
29. Deed of Novation and Amendment between BOC Aviation (USA) Corporation as original lessor, AWAS 36608 UK Limited as new lessor and VB 800 as lessee dated 29 July 2014.
30. Aircraft Sublease Agreement between VB 800 as sublessor and VAA as sublessee dated 21 December 2009.
31. Aircraft Sublease Amendment Agreement between VB 800 as lessor and VAA as lessee dated 29 July 2014.
32. Notice and Acknowledgment of Assignment of Lease, Lease Guarantee and Assignment of Insurances between VB 800 as lessee, VAH as guarantor and VAA as guarantor, AWAS 36608 UK Limited as assignor, JRQ 5 Limited as assignee, BNP Paribas as security agent dated 29 July 2014.
33. Acknowledgement of Subordination from VB 800 as lessee, VAA as sublessee and AWAS 36608 UK Limited as lessor dated 29 July 2014.
34. Quiet Enjoyment Letter to VB 800 as lessor from JRQ 5 Limited as owner dated 29 July 2014.
35. Deregistration Power of Attorney between VAA as principal, VB 800 as principal, AWAS 36608 UK Limited as lessor and attorney, JRQ 5 Limited as attorney and BNP Paribas, Singapore Branch as attorney dated 29 July 2014.




## Signing page

Executed as a deed

---


### Administrator

Signed sealed and delivered by  
**Vaughan Strawbridge**

sign here ► 

print name Vaughan Strawbridge

in the presence of

sign here ►   
Witness

print name Jillian Robertson

---

### Administrator

Signed sealed and delivered by  
**Salvatore Algeri**

sign here ► \_\_\_\_\_

print name \_\_\_\_\_

in the presence of

sign here ► \_\_\_\_\_  
Witness

print name \_\_\_\_\_

---



HERBERT  
SMITH  
FREEHILLS

## Signing page

Executed as a deed

---

### Administrator

Signed sealed and delivered by  
**Vaughan Strawbridge**

sign here ► \_\_\_\_\_

print name \_\_\_\_\_

in the presence of

sign here ► \_\_\_\_\_  
Witness

print name \_\_\_\_\_

---

### Administrator

Signed sealed and delivered by  
**Salvatore Algeri**

sign here ► \_\_\_\_\_

print name Salvatore Algeri \_\_\_\_\_

in the presence of

sign here ► \_\_\_\_\_  
Witness

print name Georgina Whiting \_\_\_\_\_

---



HERBERT  
SMITH  
FREEHILLS

**Administrator**

Signed sealed and delivered by  
**John Greig**

sign here ►

print name

JOHN GREIG.

in the presence of

sign here ►

Witness

print name

Anna Joy Trevor

---

**Administrator**

Signed sealed and delivered by  
**Richard Hughes**

sign here ►

print name

in the presence of

sign here ►

Witness

print name





HERBERT  
SMITH  
FREEHILLS

**Administrator**

Signed sealed and delivered by  
**John Greig**

sign here ► \_\_\_\_\_

print name \_\_\_\_\_

in the presence of

sign here ► \_\_\_\_\_  
Witness

print name \_\_\_\_\_

---

**Administrator**

Signed sealed and delivered by  
**Richard Hughes**

sign here ► Richard Hughes

print name RICHARD JOHN HUGHES

in the presence of

sign here ► Susanna Olga Hart  
Witness

print name Susanna Olga Hart



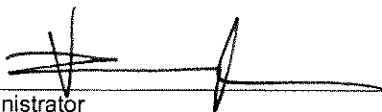
HERBERT  
SMITH  
FREEHILLS

**Deed Company**

Signed sealed and delivered for and on behalf of:


**VB 800 2009 Pty Ltd (Administrators Appointed) ACN 135 488 934**

by its joint and several administrator:

sign here ►   
Administrator

print name Hughan Shawbridge

in the presence of

sign here ►   
Witness

print name Jillian Robertson



HERBERT  
SMITH  
FREEHILLS

### Deed Proponent

Signed sealed and delivered by

**BC Hart Aggregator, L.P.**

By: BC Hart Investors, LLC

its general partner

By: Bain Capital Asia Fund IV, L.P.

its manager

By: Bain Capital Investors Asia IV,  
LLC

its general partner

By: Bain Capital Investors, LLC

its manager



sign here ▶

Authorised signatory

sign here ▶

Witness

print name Ryan Cotton

print name

Kelly Milnette