

Freedom Foods Group Limited

ACN 002 814 235

SECOND SUPPLEMENTARY PROSPECTUS

Important Notice

This Second Supplementary Prospectus relates to the Prospectus lodged by Freedom Foods Group Limited (**Company**) with the Australian Securities and Investments Commission (**ASIC**) on 19 March 2021 in relation to a capital raising to raise up to \$265 million through the issue of unlisted, subordinated, secured convertible notes (**Prospectus**) and the supplementary prospectus lodged with ASIC on 27 April 2021 (**First Supplementary Prospectus**).

This Second Supplementary Prospectus supplements, and should be read with, the Prospectus and First Supplementary Prospectus in their entirety. Words and expressions used in this Second Supplementary Prospectus have the meaning given to them in the Prospectus. Other than as set out below, all details in relation to the Prospectus and First Supplementary Prospectus remain unchanged.

This Second Supplementary Prospectus is dated 24 May 2021 and a copy of this Second Supplementary Prospectus was lodged with ASIC on that date. Neither ASIC nor ASX take any responsibility for the contents of this Second Supplementary Prospectus.

The Directors believe that the circumstances disclosed in this Second Supplementary Prospectus are not materially adverse from the point of view of an investor, and no withdrawal rights will be offered for the purposes of section 724 of the Corporations Act. Accordingly, no action needs to be taken if you have already submitted an Application Form.

1 Second Supplementary Prospectus

This Second Supplementary Prospectus has been prepared to:

- (a) amend the Note Terms and Trust Deed, and to provide Eligible Investors with a copy of the revised Note Terms, attached as Annexure A;
- (b) increase the size of the Wholesale Investor Offer (and the proportionate reduction in the minimum subscription required by Arrovest under the Placement), noting that the total offer size of the Capital Raising will remain at \$265 million;
- (c) update the summary of the control implications resulting from Arrovest's scaled back participation in the Capital Raising in Sections 1.4 (Overview of Arrovest), 4 (Investor Presentation) and 5.5 (Purpose and effect of the Capital Raising on the Company) of the Prospectus; and
- (d) clarify the date on which allotment statements will be issued to successful Applicants.

2 Amendments to Note Terms

Attached to this Second Supplementary Prospectus in Annexure A is a copy of the revised Note Terms, showing all the amendments in red line.

The key amendments to the Note Terms are as follows:

- (a) amending the definitions of certain Noteholder voting thresholds, including the definition of Majority Noteholders Resolution, Simple Majority Noteholders Resolution, Special Resolution, Super Resolution;
- (b) adjusting the Mandatory Conversion threshold in clause 5.5 of the Note Terms;
- (c) increasing the makewhole amount payable to Noteholders in the circumstances described in clause 6.6(b)(iii) of the Note Terms;
- (d) providing Noteholders with the right to obtain certain information provided by the Company to its senior financiers as described in clause 9.4(c) of the Note Terms;
- (e) amending the thresholds for when Noteholders can direct the Trustee to take enforcement action upon an Event of Default, as described in clause 11.3(b) of the Note Terms;
- (f) amending the Note transfer restrictions as described in clause 13.7(e) of the Note Terms;
- (g) amending the thresholds for when Noteholders can modify certain provisions of the Note Terms, as described in clause 17.3(c) of the Note Terms; and
- (h) amending a number of definitions including Permitted Debt, Permitted Sale and Permitted Senior Debt.

Investors should be aware that corresponding changes are made to the following Sections of the Prospectus to align with the amendments to the Note Terms:

- (i) sections 9.25, 9.38, 9.41 and 9.45; and
- (j) pages 20, 186 and 189.

Arrovest Pty Ltd has consented to the amendments to the Note Terms pursuant to a side letter to the Arrovest Commitment Letter dated 24 May 2021.

3 Trust Deed amendments

To ensure consistency with the Note Terms, corresponding changes have been made to the Trust Deed.

In addition, under the revised Trust Deed:

- (a) where the Company is in default, the Trustee may not take action any action or proceeding against the Company to enforce the observance or performance of any covenant, obligation, condition or provision under the Trust Deed or any other Transaction Document unless it has been directed to take such action in accordance with clause 11.3(b) of the Note Terms; and
- (b) a modification to the Trust Deed or the Note Terms that amends the Conversion terms in respect of the Notes or amends clause 11.3 of the Note Terms, requires a Super Resolution.

The Trustee has consented to the changes to the Note Terms and the Trust Deed.

4 Change to size of Placement and Wholesale Investor Offer

The Capital Raising made under the Prospectus involved an offer of up to \$265 million of Notes comprising:

- (a) an invitation to Eligible Investors to participate in an offer of up to \$130 million of Notes (**Wholesale Investor Offer**); and

- (b) a placement of \$200 million of Notes to Arrovest, subject to the Company having the ability to scale back Arrovest's investment to a minimum of \$135 million depending on the level of participation under the Wholesale Investor Offer (**Placement**).

Under the Wholesale Investor Offer, the Company received approximately \$8.9 million in oversubscriptions. The Company has determined to increase the size of the Wholesale Investor Offer to \$138.9 million and decrease Arrovest's minimum participation under the Placement to \$126.1 million. Arrovest has agreed to decrease its participation in the Placement such that it will be issued \$126.1 million of Notes.

Accordingly, investors should note that all references in the Prospectus to:

- (a) the maximum size of the Wholesale Investor Offer being "\$130 million" are replaced with "\$138.9 million", and the maximum number of Notes being issued under the Wholesale Investor Offer being "130 million Notes" are replaced with "138.9 million Notes"; and
- (b) the minimum subscription of Arrovest under the Placement being "\$135 million" are replaced with "\$126.1 million", and the number of Notes being issued to Arrovest is "126.1 million Notes".

5 Control implications

As a result of the changes to the size of the Placement and Wholesale Investor Offer described in this Second Supplementary Prospectus, the control implications of Arrovest's participation in the Capital Raising will change.

Consequently:

- (a) **Section 1.4** (What will Arrovest's ownership in the Company be following completion of the Capital Raising?); and
- (b) **Section 5.5** (Purpose and effect of the Capital Raising on the Company):

are deleted and replaced with the following:

"The table below sets out the number of Notes that Arrovest will acquire under the Placement and the effect on the voting power of the Company if those Notes are Converted.

...

	\$126.1m to Arrovest \$138.9m to Eligible Investors
Shares held by Arrovest prior to the Capital Raising	145,556,000
Shares issued to Arrovest upon Conversion of the Notes at the Maturity Date	251,161,788
Pro forma shares held by Arrovest upon Conversion of the Notes at the Maturity Date	396,717,788
Pro forma shares on Conversion of the Notes at the Maturity Date	804,871,314
Voting power (%) in respect of matters requiring Noteholder approval	47.6%
Voting power (%) in Shares prior to Conversion of Notes by Arrovest	52.5%
Voting power (%) in Shares following Conversion of the Notes by Arrovest at the Maturity Date	49.3%

Investors should note that all additional references in the Prospectus (including Section 4) to the control implications of Arrovest's participation in the Capital Raising, including the maximum dilutionary impact, are amended accordingly.

6 Allotment Statements

Page 19 of the Prospectus provides that the Company expects to issue allotment statements in respect of the Wholesale Investor Offer on the date of the Company's Extraordinary General Meeting.

The Company has determined that allotment statements will be issued on the date the Notes are issued under the Wholesale Investor Offer, being 27 May 2021 (as amended by the First Supplementary Prospectus).

Consequently, all references in the Prospectus to the date on which allotment statements will be sent to successful Applicants is replaced with "27 May 2021".

7 Company announcements

In addition to the list of continuous disclosure announcements made by the Company to ASX since 30 November 2020, the Company adds the following items to the table on page 131 of the Prospectus:

Date	Headline
21/05/2021	Trading Halt
21/05/2021	Pause in trading
30/04/2021	Appendix 4C and Q3 FY21 Activity Report

8 Third party consents

The Company confirms that as at the date of this Second Supplementary Prospectus, each of the parties that have been named as having consented to being named in the Prospectus have not withdrawn that consent.

9 Directors' consent

In accordance with section 720 of the Corporations Act, each of the Directors of the Company has consented to the lodgement of this Second Supplementary Prospectus with ASIC and has not withdrawn that consent prior to lodgement.

Dated: 24 May 2021

Signed for and on behalf of the Company.



Genevieve Gregor
Chair & Non-Executive Director

Annexure A – Amended Note Terms

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Convertible Notes – Terms of Issue



Arnold Bloch Leibler

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Sydney NSW 2000 Australia

Convertible Notes – Terms of Issue

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Convertible Notes – Terms of Issue

1 Definitions and interpretation

1.1 Definitions

In this document, unless expressly provided otherwise:

Accession Letter	means the 'Accession Deed for new Obligors' attached as Schedule 3 to the Security Trust Deed and set out in Schedule 3 of this document.
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Agency and Registry Agreement	means: <ul style="list-style-type: none">(a) the agreement entitled "FNP Agency and Registry Agreement", among others, the Issuer, the Registrar, the Paying Agent and the Trustee dated on or before the date of the Trust Deed; and(b) any other agency agreement entered into between the Issuer and an agent in connection with any issue of the Notes.
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Agent	means each of the Paying Agent and the Registrar.
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Applicable Regulations	means such provisions of the ASX Listing Rules, the Corporations Act and any regulations or rules under or pursuant to any such provisions as may be applicable to the transfer of a Note.
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ASX	means ASX Limited (ABN 98 003 624 691) or the securities market operated by it, as the context requires.
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ASX Listing Rules	means the listing rules of ASX.
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<u>Associate</u>	<u>has the meaning given to that term by section 9 of the Corporations Act.</u>
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Australian Guarantors	means each Guarantor incorporated in Australia.
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Authorisation	means: <ul style="list-style-type: none">(a) an authorisation, consent, approval, resolution, licence, exemption, filing or registration; or(b) in relation to anything which will be fully or partly prohibited or restricted by law if a Government Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.
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BD Agreement	means the agreement dated 18 October 2011 with Blue Diamond Growers (a Californian corporation) and Freedom Foods Pty Ltd (a subsidiary of the Issuer), as amended pursuant to the First Amendment to the agreement dated 1 August 2014.
Business Day	means a day on which banks are open for general banking business in Sydney, New South Wales, Australia and Melbourne, Victoria, Australia, excluding Saturdays, Sundays and public holidays in those cities.
C&S Business	means the cereal and snacks business of the Group sold pursuant to the C&S Sale Agreement.
C&S Companies	means the following entities: <ul style="list-style-type: none"> (a) Freedom Foods Pty Ltd ACN 068 972 181; (b) Freedom Foods Group Dandenong Pty Ltd ACN 007 362 263; and (c) Freedom Foods Group IP Pty Ltd ACN 109 854 373.
C&S Sale Agreement	means the Business Sale Agreement entered into between, amongst others, the C&S Companies and Liberty Operations Pty Ltd ACN 646 575 966 dated 17 December 2020 as amended on or about 3 February 2021.
Calculation Date	means 30 June and 31 December in each year.
Calculation Period	means each period of twelve months ending on a Calculation Date.
Cash Interest	has the meaning given to it in clause 3.1(c)(i).
Cash-Settled Conversion Date	means in respect of a Cash-Settled Conversion Notice issued: <ul style="list-style-type: none"> (a) pursuant to clause 4.2(a) – <ul style="list-style-type: none"> (i) in the case of paragraphs (a) or (b) of the definition of Change of Control Event - the last date of the offer period following which that Change of Control Event has occurred; (ii) in the case of paragraph (c) of the definition of Change of Control Event - the date on which the scheme of arrangement is implemented; (iii) in all other cases – the date on which completion or implementation of the Exit Event has occurred; (b) pursuant to clause 4.2(b) – within 20 Business Days following receipt of the Cash-Settled Conversion Notice; or (c) pursuant to clause 4.2(c) - the Maturity Date.
Cash-Settled Conversion Notice	means a notice of conversion given in accordance with clauses 4.2 and 4.3.

Cash-Settled Conversion Right	has the meaning given to it in clause 4.1.
Cash Settlement Condition	has the meaning given to it in clause 4.2.
Cash Settlement Amount	has the meaning given to it in clause 4.1.
Change of Control Event	<p>means each of:</p> <ul style="list-style-type: none"> (a) a takeover bid is made to acquire all of the Shares and: <ul style="list-style-type: none"> (i) the bidder has acquired at any time during the offer period a relevant interest in more than 50% of the Shares on issue; and (ii) the takeover bid is or has become unconditional; and (b) a transaction or transactions: <ul style="list-style-type: none"> (i) occur or are implemented, which will; or (ii) are announced or entered into which, if completed or implemented, would result in an entity or persons (other than the Current Majority Shareholder and/or their related bodies corporate) Controlling the Issuer (whether by takeover bid, scheme of arrangement, shareholder approved acquisition, reverse takeover, dual-listed company structure, recapitalisation or any other transaction or arrangement); and (c) a court approves (by order under section 411(4)(b) of the Corporations Act) a proposed scheme of arrangement which, when implemented, will result in a person having a relevant interest in 100% of the Shares on issue.
Change of Control Event Trigger	<p>means:</p> <ul style="list-style-type: none"> (a) in respect of paragraph (a) of the Change of Control Event definition, when the Issuer receives the bidder's statement in respect of that takeover bid under step 3 of section 633 of the Corporations Act; (b) in respect of paragraph (b) of the Change of Control Event definition, when a legally binding agreement to implement a transaction or transactions which, if implemented in accordance with its terms, would result in an entity or persons (other than the Current Majority Shareholder and/or their related bodies corporate) Controlling the Issuer is entered into; and (c) in respect of paragraph (c) of the Change of Control Event definition, when an agreement to propose and implement the scheme of arrangement is entered into.

Collateral Securities	means: (a) each General Security Deed; and (b) each other Collateral Security specified in Schedule 2.
Control	has the meaning given to it in section 50AA of the Corporations Act and the word Controlling bears a corresponding meaning.
Conversion	means the conversion of a Note in accordance with clause 4 or clause 5 and the words Convert , Convertible , Converting and Converted bear a corresponding meaning.
Conversion Date	means the Equity Conversion Date or Cash-Settled Conversion Date (as applicable).
Conversion Price	means an amount of \$0.70, as may be adjusted under clauses 4 or 5.
Conversion Shares	has the meaning given to it in clause 5.6(a).
Corporations Act	means the <i>Corporations Act 2001</i> (Cth).
Current Majority Shareholder	means Arrovest Pty Ltd (ACN 117 953 205).
Delisting Event	will occur if the Shares cease to be quoted on ASX.
Direction	has the meaning given to it in the Trust Deed.
Directors	means some or all of the directors of the Issuer acting as a board.
Disputes Undertaking	means the undertaking in clause 9.3(d).
Distribution	means any dividend, charge, interest, fee, payment or other distribution (whether cash or assets) or redemption, repurchase, defeasance, retirement or repayment declared or paid on or in respect of any shares issued by the Issuer.
Distribution Undertaking	means the undertaking in clause 9.2(b).
Early Redemption Notice	means a notice given by the Issuer to the Trustee, each Agent and the Noteholders under clause 6.2(a).

EBITDA

means, in respect of any period and the Group, the consolidated net profit of the Group for that period determined by reference to the latest Financial Reports:

- (a) after adding back any corporate tax or other taxes on income or gains in respect of that period;
- (b) after adding back AASB16 impacts, so that EBITDA is presented on a pre AASB 16 basis;
- (c) after adding back any interest expense paid or payable in respect of that period;
- (d) after deducting (to the extent included) interest income received by a member of the Group in that period;
- (e) after adding back any reasonable extraordinary or unusual losses which are not recurring (to the extent excluded) and after deducting any extraordinary or unusual gains which are not recurring (to the extent included), capped at 20% of unadjusted EBITDA for that period;
- (f) after adjustment to remove profits or losses of any Group member which have been consolidated within operating profit but are attributable to any third party (not being a member of the Group);
- (g) after deducting (to the extent otherwise included) any gain arising on any revaluation of any asset during that period;
- (h) after adding back (to the extent otherwise deducted) any loss or gain against book value incurred by a member of the Group on the disposal of any asset during that period and any loss on any revaluation of any asset during that period;
- (i) after deducting any transaction costs and expenses, one-off exceptional costs and any non-cash items in connection with any asset or entity acquisition (including any start-up costs relating to an acquisition of new equipment), debt reduction, debt or equity raising (including any refinancing costs or interest), incurred by any member of the Group during that period;
- (j) excluding unrealised exchange gains and losses and any unrealised gains or losses on derivative financial instruments;
- (k) after adding back any amortisation or depreciation in respect of that period; and
- (l) after adding back any rental expenses recognised under the GAAP in respect of the period and by deducting any rental expenses actually paid in cash during that period,

in each case, to the extent added, deducted or taken into account, as the case may be, in determining consolidated net profit of the Group and without double counting for any item.

Equity Conversion Amount	means the aggregate of: <ul style="list-style-type: none"> (a) the aggregate Face Value of the total number of Notes the subject of the relevant Equity Conversion Notice; plus (b) without double counting, such amount of the Interest accrued but unpaid on those Notes (as determined by the Issuer) on the Equity Conversion Date.
Equity Conversion Date	means the applicable date on which Shares will be issued to the Noteholder on conversion of the Notes being: <ul style="list-style-type: none"> (a) in the case of a Conversion under clause 5.3 - the first Monthly Conversion Date falling at least 10 Business Days after receipt of the relevant Equity Conversion Notice; (b) in the case of a Conversion under clause 5.5 - 10 Business Days following the date on which the mandatory Conversion conditions are deemed to have occurred; and (c) in the case of Conversion under clause 6.3(b)(ii) – <ul style="list-style-type: none"> (i) in respect of a Change of Control Event: <ul style="list-style-type: none"> (A) referred to in paragraph (a) of the Change of Control Event definition – at least 5 Business Days before the offer period (as extended) under the takeover bid closes; and (B) referred to in paragraph (b) and (c) of the Change of Control Event definition – at least 2 Business Days before the relevant ‘record date’ for the Change of Control Event or such other date which would entitle the Noteholder to participate pro-rata in the consideration proposed to be received by Shareholders in respect of the Change of Control Event or (ii) in respect of a Sale Event, the date of completion of the Sale Event.
Equity Conversion Notice	means a notice of conversion given in accordance with clauses 5.3 and 5.4.
Equity Conversion Right	has the meaning given to it in clause 5.1.
Event of Default	means each event of default specified in clause 11.
Excluded Subsidiary	means each of Freedom Foods (Shanghai) Co. Ltd., Freedom Foods Singapore Pte. Ltd. and Freedom Foods North America Inc., and each other Subsidiary incorporated in a jurisdiction outside of Australia.
Exit Event	means a Sale Event and/or a Change of Control Event.
Exit Notice	means a notice given by the Issuer to the Trustee (with a copy to the Registrar) under clause 6.3.

Face Value	means the nominal principal amount of each Note (which includes all principal amounts added to the outstanding Notes pursuant to clause 2.2, and for the avoidance of doubt shall include any increase to principal amounts in the nature of PIK Interest or Partial PIK Interest).
Fair Market Value	<p>means, on any date:</p> <ul style="list-style-type: none"> (a) in the case of a distribution which is to be paid or made in cash, the amount of such cash distribution; (b) in the case of any other cash amount, the amount of such cash; (c) in the case of Securities, options, warrants or other rights or assets which are publicly traded on a market of adequate liquidity (as determined by the Board (acting reasonably and in good faith)), the arithmetic mean of the daily VWAPs of such Securities, options, warrants or other rights or assets during the period of 10 trading days on the relevant market commencing on the first day the market is open following announcement to the ASX of all material terms relating to the relevant Change of Control Event, Exit Event and/or Distribution (as applicable); and (d) in the case of Securities, options, warrants or other rights (including, for the avoidance of doubt, any earn-out or deferred, contingent or conditional consideration) or assets which are not publicly traded on a market of adequate liquidity (as aforesaid), an amount determined in good faith by the Board (acting reasonably and in good faith), on the basis of a commonly accepted market valuation method and taking account of such factors as it considers appropriate, including the market price, distribution yield, volatility, prevailing interest rates and the terms of such Securities, options, warrants or other rights or assets (as applicable), including as to the expiry date and exercise price (if any) thereof. <p>In addition, in the case of paragraphs (a) and (b), the Fair Market Value shall be determined on a gross basis and disregarding any withholding or deduction required to be made for or on account of Taxes and disregarding any associated Tax credit.</p> <p>For the avoidance of doubt, the Fair Market Value of consideration payable for each Share under an Exit Event for the purposes of 4.1(a)(i) may be a combination of any, or all, of paragraphs (a), (b), (c) and/or (d) of the “Fair Market Value” definition above.</p>
Financial Indebtedness	<p>means any indebtedness for or in respect of:</p> <ul style="list-style-type: none"> (a) moneys borrowed and any debit balance at any financial institution;

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- (b) any amount raised under any acceptance credit, bill acceptance or bill endorsement facility or dematerialised equivalent;
 - (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
 - (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with Australian Accounting Standards, be treated as a balance sheet liability (other than any liability in respect of a lease or hire purchase contract which would, in accordance with Australian Accounting Standards in force prior to 1 January 2019, have been treated as an operating lease);
 - (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
 - (f) any redeemable shares where the holder has the right, or the right in certain conditions, to require redemption;
 - (g) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
 - (h) consideration for the acquisition of assets or services payable more than 90 days after acquisition;
 - (i) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the actual amount then due as a result of the termination or close-out of that derivative transaction shall be taken into account);
 - (j) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
 - (k) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above.

Financial Reports means the Issuer's Financial Reports prepared and lodged in accordance with Chapter 2M of the *Corporations Act 2001*.

GAAP means generally accepted accounting principles in Australia.

General Security Deeds	means: (a) the general security deeds, dated on or about the Issue Date between the Security Trustee and each of the Issuer and Australian Guarantors; and (b) each other general security deed granted by an Australian Guarantor in favour of the Security Trustee from time to time.
Government Agency	means the Crown, a government, a government department or a governmental, semi-governmental, statutory, administrative, parliamentary, provincial, public, municipal, local, judicial or quasi-judicial body.
Group	means the Issuer and each of its Subsidiaries together.
GST	has the meaning given to that term in the GST Act.
GST Act	means the Act known as <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Guarantee	means the guarantee provided by each of the Initial Guarantors pursuant to the Security Trust Deed in respect of the Issuer's obligations under the Trust Deed, these Note Terms and other Transaction Documents.
Guarantor	means each Subsidiary that has guaranteed the Issuer's obligations under the Trust Deed, these Note Terms and other Transaction Documents pursuant to the Guarantee.
Hedging Agreement	any master agreement, confirmation, schedule or other agreement or transaction entered into by a member of the Group for the purpose of hedging any direct or embedded exposures.
Hedging Policy	the hedging policy approved by the board of Directors of the Issuer prior to the Issue Date, as updated from time to time (provided that any material update to a Hedging Policy is approved by a Majority Noteholder Noteholders Resolution).
Initial Combination Interest	has the meaning given to it in clause 3.1(c)(iii).
Initial Face Value	means, in respect of a Note, the Face Value of that Note at its Issue Date, being \$1.00.
Initial Guarantor	means each entity set out in Schedule 1 to these Note Terms.
Initial Interest Term	means a term of 30 months from the Issue Date.

Insolvency Event

occurs means any one or more of the following events, in respect of an Obligor:

- (a) it is or is presumed or deemed to be unable or admits inability to pay its debts as they fall due;
 - (b) it suspends making payments on any of its debts;
 - (c) by reason of actual financial difficulties, it commences negotiations with one or more of its creditors (including the Senior Financiers and/or the Noteholders) with a view to rescheduling any of its indebtedness, excluding negotiation of the refinance (in whole) of indebtedness in the normal course of business prior to the maturity of that indebtedness;
 - (d) a moratorium is declared in respect of any of its indebtedness;
 - (e) any corporate action, legal proceedings or other procedure or step is taken in relation to a body corporate if:
 - (i) it is (or states that it is) insolvent (as defined in the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of an Obligor (other than a solvent liquidation or reorganisation of an Obligor to the extent permitted by the definition of Permitted Reorganisation) except an application made to a court for the purpose of winding up such a person which is disputed by an Obligor acting diligently and in good faith and dismissed within 10 Business Days;
 - (ii) a composition, compromise, assignment or arrangement with any creditor of an Obligor;
 - (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of an Obligor to the extent permitted by the definition of Permitted Reorganisation), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of an Obligor or any of its assets except on application made to a court for the purpose of appointing such a person which is disputed by an Obligor acting diligently and in good faith and dismissed within 10 Business Days; or
 - (iv) enforcement of any Security Interest over any assets of an Obligor,
or any analogous procedure or step is taken in any jurisdiction;
 - (f) it resolves or takes any action to wind up itself, or otherwise dissolve itself, or it is otherwise wound up or dissolved;
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- ~~(a)(g)~~ it is taken to have failed to comply with a statutory demand, within the meaning of section 459F of the Corporations Act); ~~or 2001 (Cth);~~
- ~~(b)(h)~~ it has a controller ~~(is deregistered as that term is defined in the Corporations Act) appointed, or is in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration or wound up or has had a receiver appointed to any~~ except as part of its property a Permitted Reorganisation; or
- ~~(c)~~ it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute, dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the creditors); or
- ~~(d)~~ an Application or order has been made (and, in the case of an Application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above; or
- ~~(e)~~ it is taken (under section 459(F)(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- ~~(f)~~ it is otherwise unable to pay its debts when they fall due; or
- ~~(i)~~ something having a substantially similar effect to (a) to (f) happens in connection with it under the law of any jurisdiction. it commits an act of bankruptcy, or becomes a bankrupt, within the meaning of the Bankruptcy Act 1966 (Cth).
- ~~(g)~~ in each case except for any Shareholder Scheme of Arrangement.

Intercreditor Deed	means the document entitled 'Intercreditor Deed' dated on or about the Issue Date between, among others, the Issuer, the Trustee, the Security Trustee and the Senior Financiers.
Interest	means the interest payable from time to time in respect of a Note, including interest payable under clause 3.4(a) and, as applicable, default interest payable under clause 3.4(c). It includes Cash Interest, PIK Interest, Initial Combination Interest, Partial Cash Interest and Partial PIK Interest.
Interest Payment Date	means, in respect of a Note: <ul style="list-style-type: none"> (a) each Quarter Date; (b) the Conversion Date (if the Issuer elects not to include the Interest accrued but unpaid on the Note in the Equity Conversion Amount); (c) the Maturity Date; and (d) any Redemption Date.

Interest Period	means, for a Note, each period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next Interest Payment Date. However: (a) the first Interest Period commences on (and includes) its Issue Date; and (b) the final Interest Period ends on (but excludes) the Maturity Date, Conversion Date or the Redemption Date.
Interest Rate	means, as applicable, each rate of interest specified in clause 3.2.
Issue Date	means, in respect of a Note, the date on which that Note is issued.
Issue Price	means the price that each Note will be issued by the Issuer at its Issue Date, being \$1.00.
Issuer	means Freedom Foods Group Limited (ACN 002 814 235).
Liability	means any loss, damage, cost, claim, demand, expense, fee, judgment, action, proceeding, or other liability whatsoever (including without limitation in respect of taxes, duties, levies, imposts and other charges) and properly incurred legal fees and expenses on a full indemnity basis.
Majority Noteholders	means, at any time, Noteholders holding at least 50% or more of the Face Value of the Notes at that time.

Majority Noteholders Resolution means:

- (a) a resolution passed at a meeting of the Noteholders duly called and held under the Meeting Provisions by:
- ~~(i) by at least 50% of the persons voting on a show of hands (unless paragraph (ii) below applies); or~~
 - ~~(iii)~~ (i) if a poll is duly demanded, then by a majority consisting of, at that time, there is no Substantial Noteholder, at least 50% of the votes cast (where the votes cast shall be determined by reference to the Face Value of the Notes held by the Noteholder's Noteholders present (in person or by proxy)); or
 - (ii) if, at that time, there is a Substantial Noteholder:
 - (A) subject to (a)(ii)(B), both of the following:
 - the Substantial Noteholder; and
 - in addition, such number of votes cast by other Noteholders (in person or by proxy), excluding the Substantial Noteholder, which represent at least 30% of the Face Value of all Notes held by all Noteholders excluding the Substantial Noteholder; or
 - (B) if the Substantial Noteholder holds more than 85% of the Face Value of the Notes, votes cast by the Substantial Noteholder only; or
- (b) a resolution passed by postal ballot or circular written resolution by Noteholders representing (in aggregate) at least:
- (i) if, at that time, there is no Substantial Noteholder, 50% of the Face Value of all of the Notes; or
 - (ii) if, at that time, there is a Substantial Noteholder:
 - (A) subject to (b)(ii)(B), both of the following:
 - the Substantial Noteholder; and
 - in addition, such number of Noteholders, excluding the Substantial Noteholder, which represent at least 30% of the Face Value of all Notes held by all Noteholders excluding the Substantial Noteholder; or
 - ~~(b)~~ (B) if the Substantial Noteholder holds more than 85% of the Face Value of the Notes, the Face Value of Notes held by the Substantial Noteholder only.

Makewhole Amount means, in relation to a Note, the applicable amount calculated in accordance with clause 6.6(a).

Material Adverse Effect	means a material adverse effect on: (a) the business, operation, property, condition (financial or otherwise) or prospects of the Group taken as a whole; or (b) the ability of the Issuer and Guarantors (taken as a whole) to perform their obligations under the Transaction Documents; or (c) the validity or enforceability of, or the effectiveness or ranking of any Collateral Security granted or purporting to be granted pursuant to any of, the Transaction Documents or the rights or remedies of the Trustee and/or the Security Trustee under any of the Transaction Documents (as applicable).
Maturity Date	means the date which is the sixth anniversary of the Issue Date.
MD Noteholders Resolution	means: (a) a resolution passed at a meeting of the Noteholders duly called and held under the Meeting Provisions: (i) by at least 25% of the persons voting on a show of hands (unless paragraph (ii) below applies); or (ii) if a poll is duly demanded, then by a majority Noteholders consisting of at least 25% of the votes cast (where the votes cast shall be determined by reference to the Face Value of the Notes held by the Noteholder's present (in person or by proxy)); or (b) a resolution passed by postal ballot or circular written resolution by Noteholders representing (in aggregate) at least 25% of the Face Value of all of the Notes.
Meeting Provisions	means the rules relating to meetings of Noteholders contained in Schedule 2 to the Trust Deed.
Member or Shareholder	means a person entered in the register of members as a member, for the time being, of the Issuer.
Monthly Conversion Date	the last Business Day of a calendar month.
Mortgage	has the meaning given to it in Schedule 2.
Mortgage of Lease	has the meaning given to it in Schedule 2.
Net Debt	means, on any date, the aggregate of the Group's consolidated Financial Indebtedness, including Financial Indebtedness in respect of the Notes and including amounts outstanding in respect of Permitted Full Recourse Debtor Financing but excluding all other off balance sheet financing, as at that date minus cash or cash equivalents as at that date.

Net Leverage	means, on a Calculation Date, the ratio of Net Debt as at the relevant Calculation Date to EBITDA for the Calculation Period ending on that Calculation Date.
Note	means a debt obligation denominated in Australian dollars and issued, or to be issued, by the Issuer which is constituted by, and owing under, the Trust Deed, the details of which are recorded in, and evidenced by, entry in the Register.
Note Terms	means, in relation to a Note, the terms and conditions of issue of that Note (as set out in Schedule 1 to the Trust Deed).
Noteholder	means, in respect of a Note, the person from time to time whose name is entered on the Register as the holder of that Note.
<u>Obligor</u>	<u>means the Issuer and each Guarantor.</u>
Officer's Certificate	means a certificate signed by two directors, or one director and one company secretary, or one director and the chief financial officer of the Issuer.
Original Financial Statements	means the financial statements for the financial year ending June 2020.
Pari Passu Debt	means secured Financial Indebtedness ranking pari passu to the Notes, including pursuant to further Note issuances.
Partial Cash Interest	has the meaning given to it in clause 3.1(d)(ii)(A).
Partial PIK Interest	has the meaning given to it in clause 3.1(d)(ii)(B).
Paying Agent	Global Loan Agency Services Australia Specialist Activities Pty Limited (ACN 635 992 308) or any other person appointed by the Issuer under an Agency and Registry Agreement to act as paying agent on the Issuer's behalf from time to time.
Permitted Asset Financing	means limited recourse asset or equipment financing (including loans, finance leases, hire purchase arrangements, operating leases, off balance sheet facilities and export credit agency or similar facilities) provided that the aggregate principal amount of Financial Indebtedness outstanding under all such facilities does not exceed, at any time \$100,000,000 or such higher amounts approved by a Special Resolution of Noteholders.

Permitted Debt

means:

- (a) Permitted Senior Debt;
- (b) transactional facilities (for the operational cash management requirements of the Group) including e-pay, encashment, credit card, settlement and merchant facilities provided no more than A\$7,000,000 of Financial Indebtedness is outstanding at any time (including all transactional facilities comprising Permitted Senior Debt);
- (c) Financial Indebtedness owing under any Hedging Agreement provided it has not been entered into for speculative purposes and which has been entered into in accordance with the Hedging Policy;
- (d) Permitted Asset Financing;
- (e) Permitted Debtor Financing;
- (f) the acquisition of goods and/or services on arm's length terms by an Obligor in the ordinary course of day-to-day business where payment is deferred for a period of not more than 90 days (other than under the BD Agreement or the Great View Packaging Supply Agreement, which may be deferred for a period of up to 150 days);

(g) Pari Passu Debt provided it:

(i) is approved by Majority Noteholders pursuant to a Majority Noteholders Resolution;

(ii) is offered to existing Noteholders in accordance with clause 9.2(f); and

(g)(iii) does not exceed \$100,000,000 (such cap excluding, where such Pari Passu Debt is a further issuance of Notes on substantially the same terms as these Note Terms, any interest, fees or makewhole payable in respect of that Pari Passu Debt); ~~and~~
Where such Pari Passu Debt is a further issuance of convertible notes it must be on substantially the same terms as these Note Terms (including in respect of tenure, interest, fees, the makewhole payable and all in costs);

- (h) the Shortfall Debt;
 - (i) any Financial Indebtedness that does not exceed A\$5,000,000 in aggregate at any time for Excluded Subsidiaries;
 - (j) Financial Indebtedness of any person that becomes a Group member after the date of this Agreement as a result of an acquisition of that Group member (to the extent permitted by this Agreement), but only Financial Indebtedness as existed at the time of that acquisition and was not incurred in contemplation of that acquisition, provided that such Financial Indebtedness shall, to the extent not otherwise permitted, be discharged within 90
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days from the date upon which such person becomes a Group member;

- (k) any unsecured deferred consideration or investment in connection with a Permitted Acquisition or Permitted Joint Venture (as the case may be) which is payable after completion of the relevant acquisition or investment as deferred consideration (whether or not contingent on any target or event);
- (l) any Financial Indebtedness not permitted by the preceding paragraphs provided that the amount of all such Financial Indebtedness outstanding under this paragraph at any time does not exceed A\$5,000,000 in aggregate; and
- (m) any other debt approved by a Special Resolution of Noteholders.

Permitted Debtor Financing	means each of the Permitted Full Recourse Debtor Financing and the Permitted Limited Recourse Debtor Financing.
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Permitted Full Recourse Debtor Financing	means receivables finance facilities, inventory financing facilities or supply chain financing provided on terms which permit the financier (or acquirer of such receivables, however described) to have recourse to the Group, provided that the aggregate principal amount of Financial Indebtedness outstanding at any time under all full recourse facilities does not exceed the greater of: <ul style="list-style-type: none">(a) A\$25,000,000 (or its equivalent); and(b) such higher amount approved by a Special Resolution of Noteholders.
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Permitted Limited Recourse Debtor Financing	means receivables finance facilities, inventory financing facilities or supply chain financing, provided on terms which are not guaranteed by any member of the Group and do not permit the financier (or acquirer of such receivables, however described) to have recourse to the Group (other than in limited circumstances), provided that the aggregate principal amount of Financial Indebtedness outstanding at any time under all limited recourse facilities does not exceed A\$65,000,000 (or its equivalent), or such higher amount to the extent it constitutes Permitted Senior Debt or as approved by a Special Resolution of Noteholders.
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Permitted Loans	means: <ul style="list-style-type: none"> (a) any trade credit extended by any Obligor to its customers on normal commercial terms and in the ordinary course of its ordinary business where payment is deferred for a period of not more than 90 days (other than under the BD Agreement or the Great View Packaging Supply Agreement, which may include trade credit extended for a period of up to 150 days) unless otherwise agreed pursuant to a Special Resolution of Noteholders; (b) a loan made by an Obligor to another Obligor; (c) any loan made by an Obligor to a member of the Group which is not an Obligor so long as the aggregate amount of the Financial Indebtedness under all such loans does not exceed A\$2,000,000 (or its equivalent) in aggregate at any time; and (d) any financial accommodation not permitted by the preceding paragraphs provided that the amount of all such financial accommodation does not exceed A\$5,000,000 in aggregate or such other amounts as approved by a Special Resolution of Noteholders.
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Permitted Reorganisation	the solvent liquidation or reorganisation of a Guarantor (other than the Issuer) so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to another Guarantor.
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Permitted Sale	means: <ul style="list-style-type: none"> (a) sales of assets in the ordinary course of a member of the Group's ordinary business; (b) a sale of the C&S Business to The Arnott's Group; (c) a sale of Seafood Business; (d) significant assets or assets worth more than 10% of the Group's gross assets per annum, subject to an aggregate cap of 25% of the Group's gross assets until all Notes have been Converted or Redeemed; and (e) any other sale consented to by <u>Majority Noteholders</u> <u>Special Resolution of Noteholders</u>.
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Permitted Security Interests

means:

- (a) each Collateral Security;
 - (b) any Security Interest which secures the Permitted Debt described in paragraphs (a) to (e), inclusive of that definition, provided that:
 - (i) such Security Interests are regulated by the terms of the Intercreditor Deed;
 - (ii) in respect of Security Interest granted under any Financial Indebtedness owing under any Hedging Agreement, the relevant Hedging Agreement was entered into in accordance with the Hedging Policy;
 - (iii) in respect of any Permitted Asset Financing, the Security Interests granted are limited recourse to the assets or equipment acquired financed (or otherwise rank in subsequent priority to the Notes and are regulated by the terms of the Intercreditor Deed); and
 - (iv) in respect of any Permitted Limited Recourse Debtor Financing, the Security Interests granted are limited recourse to the relevant receivables, inventory or accounts receivable acquired or financed (or otherwise rank in subsequent priority to the Notes and are regulated by the terms of the Intercreditor Deed);
 - (c) any Security Interest that secures Pari Passu Debt, provided that it ranks pari passu with the Collateral Securities;
 - (d) the Shortfall Security Interests;
 - (e) any Security Interest which secures any replacement, refinancing or extension of the maturity of the Permitted Debt described in paragraphs (a)-(e) inclusive of that definition, provided that the ranking and priority of such Security Interests are governed on materially the same terms as the Intercreditor Deed;
 - (f) any title retention arrangement entered into by any member of the Group in the ordinary course of trading on the supplier's usual terms of sale (or on terms more favourable to the members of the Group) so long as the debt it secures is paid when due or contested in good faith and sufficient reserves of liquid assets have been set aside to pay the debt if the contest is unsuccessful;
 - (g) any Security Interest, arrangement or transaction entered into under any Transaction Document;
 - (h) any payment or close out netting or set-off arrangement pursuant to any transactional banking facilities or any hedging transaction entered into by a member of the Group for the purpose of:
 - (i) hedging any risk to which any member of the Group is exposed in its ordinary course of trading; or
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- (ii) its interest rate or currency management operations which are carried out in the ordinary course of business and for non-speculative purposes only, excluding, in each case, any Security Interest, arrangement or transaction under a credit support arrangement in relation to a hedging transaction unless such Security Interest is permitted under paragraph (b) of this definition;
- (i) any lien arising by operation of law and in the ordinary course of trading so long as the debt it secures is paid when due or contested in good faith and appropriately provisioned;
- (j) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of Obligors and credit balances of members of the Group;~~and~~
- (k) any Security Interest, arrangement or transaction over or affecting any asset acquired by a member of the Group after the date of this Agreement if:
- (i) it was not created in contemplation of the acquisition of that asset by a member of the Group;
- (ii) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by a member of the Group; and
- ~~(+)(iii)~~ it is removed or discharged within 3 months of the date of acquisition of such asset; and
- ~~(+)(l)~~ any other Security Interest authorised by a Special Resolution of Noteholders.
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Permitted Senior Debt	<p>means term facilities, cash advance facilities and/or revolving credit facilities (however described), provided that the aggregate outstanding under such facilities does not exceed:</p> <p>(a) where the aggregate of all Notes <u>originally</u> issued and other Pari Passu Debt (excluding capitalised interest, fees and makewhole amounts):</p> <p>(i) does not exceed \$200<u>215</u>,000,000, <u>an amount greater than</u> \$100,000,000;</p> <p>(ii) equals or exceeds \$265<u>215</u>,000,000, \$65,000,000;</p> <p>(iii)<u>(ii)</u> <u>exceeds \$200,000,000 but and</u> is less than \$265<u>250</u>,000,000, an amount calculated as \$100,000,000 less \$1,000,000 for every \$1,000,000 of Notes <u>originally</u> issued or Pari Passu Debt incurred in aggregate above \$215,000,000 (, up to \$265<u>250</u>,000,000); and; or</p> <p><u>(iii) exceeds \$250,000,000, an amount greater than \$65,000,000; or</u></p> <p>(b) such other greater amount as the Noteholders may approve from time to time by a Special Resolution of Noteholders.</p>
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PIK Interest	has the meaning given to it in clause 3.1(c)(ii).
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Priority Permitted Debt	<p>means:</p> <p>(a) all Permitted Debt described in paragraphs (a), (b) and (c) of that definition which ranks in priority to the Notes pursuant to the Intercreditor Deed;</p> <p>(b) all Permitted Full Recourse Debtor Financing;</p> <p>(c) all Permitted Limited Recourse Debtor Financing provided that it is limited to the proceeds of the relevant receivables, inventory or accounts receivable acquired or financed;</p> <p>(d) all Permitted Asset Financing, provided that it is limited to the proceeds of the relevant equipment and/or assets financed; and</p> <p>(e) all other Permitted Debt (other than Permitted Debt described in paragraphs (a), (b) and (c) of that definition) which is secured (but excluding any Financial Indebtedness repaid from the proceeds of the Notes) by a Permitted Security Interest which the Noteholders, by Special Resolution, agree in writing ranks in priority to Notes and the Collateral Security.</p>
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For the avoidance of doubt, it does not include the Shortfall Debt.

Prospectus	means the prospectus to be <u>dated 19 May 2021</u> issued by the Issuer in connection with the issuance of the Notes and any replacement or supplementary prospectus.
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Quarter Date	means the last day of each calendar quarter.
Record Date	means, in relation to any payment to be made under or in respect of the Notes: <ul style="list-style-type: none"> (a) subject to sub-paragraphs (b) and (c), the date which is eight calendar days before the applicable due date for payment; or (b) such other date as is determined by the Issuer in its absolute discretion, and communicated to the Trustee not less than eight calendar days before the record date which would have been determined under paragraph (a) above; or (c) such other date as may be required by, or agreed with, the Trustee.
Redemption	means the redemption of a Note in accordance with clause 6 and the words Redeem , Redeemable and Redeemed bear their corresponding meanings.
Redemption Date	means, in respect of a Note, the date, other than the Maturity Date, on which the Note is Redeemed.
Redemption Notice	has the meaning given to it in clause 6.3(a)(iv).
Register	means the register of Noteholders maintained by the Registrar (established and maintained under clause 2.3 of the Trust Deed).
Registrar	means Global Loan Agency Services Australia Specialist Activities Pty Ltd (ACN 635 992 308) or any other person appointed by the Issuer (with such appointment notified to the Trustee) to maintain the Register and perform any payment and other duties as specified in that agreement.
Related Body Corporate	has the meaning given to that term by section 9 of the Corporations Act.
Relevant Disputes	has the meaning given to it in clause 6.6(b)(i).
Relevant Disputes Notice	has the meaning given to it in clause 6.6(b)(i).
Resignation Letter	means the resignation letter attached to the Security Trust Deed.
Sale Event	means where the Issuer has entered into, or agreed to enter into, an agreement or arrangement pursuant to which it will sell or transfer all, or substantially all, of: <ul style="list-style-type: none"> (a) the assets of the Issuer or the Group; or (b) the assets and brands of the Group's plant-based beverages segment in accordance with the Group's segment reporting.

Seafood Business	means the seafood business of the Group in accordance with the Group's segment reporting.
Secured Property	means all of the assets of any Group member which from time to time are the subject of the Collateral Securities.
Security Interest	means any mortgage, pledge, lien or charge or any security or preferential interest or arrangement of any kind or any other right of, or arrangement with, any creditor to have its claims satisfied in priority to other creditors with, or from the proceeds of, any asset, including any retention of title other than in the ordinary course of business and any charge or lien arising by operation of law.
Security Trust Deed	the security trust deed dated on or before the Issue Date and entitled FNP Convertible Note Security Trust Deed.
Security Trustee	Global Loan Agency Services Australia Specialist Activities Pty Limited (ACN 635 992 308).
<u>Senior Facility Agreement</u>	<u>has the meaning given to that term in the Intercreditor Deed.</u>
Senior Financiers	means: <ul style="list-style-type: none"> (a) National Australia Bank Ltd (ABN 12 004 044 937); (b) Hong Kong and Shanghai Banking Corporation Limited, Sydney Branch (ABN 63 117 925 970); and (c) HSBC Bank Australia Limited (ABN 48 006 434 162), and any of their permitted assigns, transferees or replacement lender(s).
<u>Shareholder Scheme of Arrangement</u>	<u>means any scheme of arrangement propounded to compromise shareholder class claimants provided that the Issuer may not fund the compromise amount from its own cash (other than insurance proceeds and contributions from third parties).</u>
Shares	means an ordinary share in the capital of the Issuer.
Shortfall Beneficiary	has the meaning given to that term in the Intercreditor Deed.
Shortfall Debt	means financial indebtedness owed by an Obligor to a Shortfall Beneficiary under the Shortfall Security Trust Deed.
Shortfall Security Interest	a Security Interest that secures the Shortfall Debt.
Shortfall Security Trust Deed	has the meaning given to that term in the Intercreditor Deed.

**Simple Majority
Noteholders
Resolution**

means:

- (a) a resolution passed at a meeting of the Noteholders duly called and held under the Meeting Provisions:
- (i) by at least 50% of the persons voting on a show of hands (unless paragraph (ii) below applies); or
 - (ii) if a poll is duly demanded, then by a majority consisting of at least 50% of the votes cast (where the votes cast shall be determined by reference to the Face Value of the Notes held by the Noteholder's present (in person or by proxy)); or
- (b) a resolution passed by postal ballot or circular written resolution by Noteholders representing (in aggregate) at least 50% of the Face Value of all of the Notes.
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Special Resolution means:

- (a) a resolution passed at a meeting of the Noteholders duly called and held under the Meeting Provisions by:
- ~~(i) by at least 66.67% of the persons voting on a show of hands (unless paragraph (b) below applies); and~~
 - ~~(ii) at least 3 Noteholders voting in favour of the resolution; or~~
- ~~(b) if a poll is duly demanded, then by:~~
- (i) a majority consisting of, at that time, there is no Substantial Noteholder, at least 66.67% of the votes cast (where the votes cast shall be determined by reference to the Face Value of the Notes held by the ~~Noteholder's~~Noteholders present (in person or by proxy)); ~~and~~; or
 - (ii) if, at least 3 that time, there is a Substantial Noteholder:
 - (A) subject to (a)(ii)(B), both of the following:
 - the Substantial Noteholder; and
 - ~~(ii) in addition, such number of votes cast by other Noteholders voting in favour of the resolution; (in person or by proxy), excluding the Substantial Noteholder, which represent at least 50% of the Face Value of all Notes held by all Noteholders excluding the Substantial Noteholder; or~~
 - (B) if the Substantial Noteholder holds more than 85% of the Face Value of the Notes, the votes cast by the Substantial Noteholder only; or
- ~~(c) a resolution passed by postal ballot or circular written resolution by:~~
- ~~(b) Noteholders representing (in aggregate) at least:~~
- (i) if, at that time, there is no Substantial Noteholder, 66.67% of the Face Value of all of the Notes; ~~and~~or
 - (ii) at least 3 Noteholders voting in favour of the resolution. if, at that time, there is a Substantial Noteholder,
 - (A) subject to (b)(ii)(B), both of the following:
 - the Substantial Noteholder; and
 - in addition, such number of Noteholders, excluding the Substantial Noteholder, which represent at least 50% of the Face Value of all Notes held by all Noteholders excluding the Substantial Noteholder; or
 - (B) if the Substantial Noteholder holds more than 85% of the Face Value of the Notes, the Face
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Value of the Notes held by the Substantial Noteholder only.

(ii)

Subsidiary

has the meaning given to it in the Corporations Act, but an entity will also be taken to be a Subsidiary of an entity if it is controlled by that entity (as defined in section 50AA of the Corporations Act) and, without limitation:

- (a) a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share; and
 - (b) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation.
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Substantial Noteholder

means a Noteholder who (either alone or together with its Related Bodies Corporate and Associates) holds Notes with a Face Value of more than 45% of the total Face Value of Notes then on issue. For the purposes of this definition, the Trustee may assume that a Noteholder is not a Related Body Corporate or Associate of any other Noteholder unless a Noteholder provides a certificate to the Trustee confirming that it is a Related Body Corporate or Associate of another Noteholder (and specifying such other Noteholder). The Trustee may rely on such certificate without further enquiry.

Super Resolution

means:

- (a) a resolution passed at a meeting of the Noteholders duly called and held under the Meeting Provisions:
 - (i) by at least ~~90~~95% of the persons voting on a show of hands (unless paragraph (ii) below applies); or
 - (ii) if a poll is duly demanded, then by a ~~majority~~Noteholders consisting of at least ~~90~~95% of the votes cast (where the votes cast shall be determined by reference to the Face Value of the Notes held by the Noteholder's present (in person or by proxy)); or
 - (b) a resolution passed by postal ballot or circular written resolution by Noteholders representing (in aggregate) at least ~~90~~95% of the Face Value of all of the Notes.
-

Tax

means any tax, levy, impost, charge, rate, withholding or duty (including stamp and transaction duties) levied or imposed by any Government Agency together with any related interest, penalties, fines and expenses in connection with them. It includes GST.

Total Assets

means the total assets of the Group as calculated in accordance with the Financial Reports.

Transaction Documents

means:

- (a) the Trust Deed (including these Note Terms);
 - (b) each Note;
 - (c) the Security Trust Deed;
 - (d) the Intercreditor Deed;
 - (e) the Agency and Registry Agreement; and
 - (f) each Collateral Security.
-

Trustee

means the person from time to time acting as the trustee of the trust constituted by the Trust Deed (acting in that capacity), initially being Global Loan Agency Services Australia Specialist Activities Pty Limited (ACN 635 992 308)

Trust Deed	means the trust deed entitled 'Trust Deed for the FNP Note Trust' between the Issuer and the Trustee and dated on or before the Issue Date.
VWAP	the volume-weighted average price of a Security.
Winding Up	means, in respect of a person, the appointment of a liquidator or provisional liquidator of that person, and where the appointment is made by a court, by a court of competent jurisdiction in Australia.

1.2 Words and expressions

In this document, unless expressly provided otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a gender includes all genders;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a clause, paragraph, schedule, exhibit, attachment, annexure or party is a reference to a clause or paragraph in, or a schedule, exhibit, attachment, annexure or party to, this document;
- (e) a reference to this document includes any schedules, exhibits, attachments or annexures to it (as applicable);
- (f) a reference to any document or agreement includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (g) a reference to "\$", "A\$", "AUD" or "dollar" is a reference to Australian currency;
- (h) a reference to a particular person includes that person's executors, administrators, successors, permitted substitutes and permitted assigns who take under an assignment or novation pursuant to the terms of this document;
- (i) a reference to writing includes any method of representing words, figures or symbols in a permanent and visible form;
- (j) the word "person" includes an individual as well as a body corporate, a partnership, an association, a firm, a joint venture, a trust, a government or governmental authority or governmental agency (whether or not incorporated or having a separate legal identity);
- (k) a reference to any legislation or to any provision of any legislation includes all delegated or subordinate legislation, including statutory instruments and regulations, issued or made under that legislation or provision, and all modifications, re-enactments, consolidations or replacements of any of them, from time to time;

- (l) the words “include”, “including”, “for example”, “such as” or other similar expressions (in any form) are not words of limitation and must be read as if they are followed by the words “without limitation”; and
- (m) a reference to a body or entity, other than a party to this document, whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) 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 Headings

Headings and sub-headings (including those in brackets at the beginning of a clause) are used for convenience only and do not affect the interpretation of this document.

1.4 Contra proferentem rule

No provision of this document is to be interpreted against the interests of a party (or to that party’s disadvantage) because that party (or that party’s representative) was responsible for the preparation of this document or that provision, or because that party seeks to rely on that provision.

1.5 Rights and powers subject to statute

The parties acknowledge that:

- (a) the exercise of a right or power under this document, including a right to terminate, may from time to time be subject to a statutory stay, limitation or restriction, including under Parts 5.1, 5.2 and/or 5.3A of the Corporations Act; and
- (b) they must make their own searches, investigations, enquiries and evaluations in relation to any exercise or proposed exercise of a right or power under this document.

1.6 Timing provisions

In this document, unless expressly provided otherwise:

- (a) **(Business Days)** if:
 - (i) the day on or by which any act, matter or thing is to be done is a day other than a Business Day, the act, matter or thing is to be done on the next Business Day; and
 - (ii) any money falls due for payment on a day other than a Business Day, that money is to be paid on the next Business Day (without interest or any other amount being payable in respect of the intervening period);
- (b) **(reference to “day”)** a reference to a day is to the period of time commencing at midnight and ending 24 hours later;

- (c) **(time in a particular jurisdiction)** a reference to a time of day is a reference to the time in Sydney, New South Wales, Australia;
- (d) **(period of time)** if a period of time is specified or calculated from a particular day, act or event, it is to be calculated exclusive of that day, or exclusive of the day of the act or event (as applicable); and
- (e) **(timing of event or act)** if an act or event must occur or be performed on or by a specified day, and it occurs or is performed after 5.00 pm on that day, it is taken to have occurred or been performed on the next day.

1.7 Other rules of interpretation

In this document, unless expressly provided otherwise:

- (a) **(method of payment)** any payment of money by one party to another must be in Australian currency and must be made by electronic funds transfer of cleared funds into a bank account specified in writing in advance by the recipient;
- (b) **(allocation of liabilities and rights)** a promise, representation or warranty given by or in favour of two or more persons under this document is given by them or for their benefit, as the case may be, jointly and severally;
- (c) **(reasonable or best endeavours)** an obligation on a party to use its endeavours (whether these be described as reasonable endeavours, all reasonable endeavours, best endeavours or however otherwise described) does not oblige that party to pay money (other than the payment of immaterial expenses or costs), provide consideration, or otherwise to undertake or agree to anything that is commercially onerous or unreasonable in the context of the terms of this document; and
- (d) **(inconsistency within document)** if a clause in the body of this document is inconsistent with a schedule, annexure or attachment of this document, the clause prevails to the extent of the inconsistency.

2 Convertible Notes – Terms of Issue

2.1 Form of the Notes

(a) **Form**

The Notes are redeemable convertible notes of the Issuer issued under the Trust Deed subject to these Note Terms. Noteholders are entitled to the benefit of and are bound by the provisions of the applicable Transaction Documents and these Note Terms.

(b) **Face Value and Issue Price**

- (i) The Notes are each issued fully paid with an Initial Face Value of \$1.00 (**Initial Face Value**).
- (ii) Each Note will be issued by the Issuer at an issue price of \$1.00 (**Issue Price**). The Issue Price must be paid in full on application.

(c) **Currency**

The Notes are denominated in Australian dollars.

(d) **No certificates**

No certificates will be issued to the Noteholders unless the Issuer determines that certificates should be available or are required by any applicable law.

(e) **Non-quotations of the Notes**

The Notes will not be quoted on ASX or other securities exchange.

(f) **No other rights**

The Notes confer no rights on a Noteholder:

- (i) to vote at any meeting of Members of the Issuer;
- (ii) to subscribe for or participate in any new issue of securities by the Issuer;
or
- (iii) to otherwise participate in the profits or property of the Issuer, except as set out in these Note Terms or the Transaction Documents.

2.2 Issue restrictions

- (a) Notes may only be transferred if the offer or invitation for the transfer, sale or purchase of the Notes is received by a person:
- (i) in Australia, only if the minimum aggregate consideration payable at the time of the transfer is at least A\$500,000 (or its equivalent in an alternative currency and, in each case, disregarding moneys lent by the transferor or its associates to the transferee) or the Notes are transferred in circumstances that do not otherwise require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act and the transfer complies with all applicable laws and directives; and
 - (ii) if, in a jurisdiction outside Australia, the transfer complies with all other applicable laws and directives in the jurisdiction in which the transfer takes place.

3 Interest

3.1 Interest

- (a) Each Note bears interest on its Face Value from (and including) its Issue Date to (but excluding) its Maturity Date, Conversion Date or Redemption Date at the applicable Interest Rate. The applicable Interest Rate will depend on the elections made by the Issuer pursuant to clauses 3.1(c) and 3.1(d).
- (b) Interest is payable in arrears or will capitalise (as applicable) on each Interest Payment Date.

- (c) For any Interest Period beginning in the Initial Interest Term, the Issuer must pay the interest, but may, at its option, elect to pay interest on the Notes in any of the following ways:
 - (i) entirely in cash (**Cash Interest**); or
 - (ii) entirely by increasing the principal amount of the outstanding Notes by an amount equal to interest for the applicable Interest Period (**PIK Interest**); or
 - (iii) by paying a proportion in cash and the balance of accrued interest by increasing the principal amount of the outstanding Notes by that amount (**Initial Combination Interest**).
- (d) For any Interest Period beginning after the Initial Interest Term, the Issuer must pay interest but may elect, at its option, to pay the interest on the Notes for that Interest Period either:
 - (i) entirely in cash (**Cash Interest**); or
 - (ii) by doing each of the following:
 - (A) pay an amount in cash which is equal to the Partial Cash Interest (as defined in clause 3.2(d)) for the applicable Interest Period ; and
 - (B) increasing the principal amount of the outstanding Notes by an amount equal to the Partial PIK Interest (as defined in clause 3.2(e)) for the applicable Interest Period.

3.2 Interest Rate

Subject to clause 3.3:

- (a) **Cash Interest** on the Notes will accrue at a rate of 7.00% per annum and be payable in cash in respect of the applicable Interest Period;
- (b) **PIK Interest** on the Notes will accrue at a rate of 8.5% per annum and be payable by increasing the principal amount of the Outstanding Notes by an amount equal to the PIK Interest for the applicable Interest Period;
- (c) **Initial Combination Interest** on the Notes will accrue at a rate of 8.5% per annum and may be paid in whatever proportion of cash and by increasing the principal outstanding as the Issuer elects (by notice to the Trustee with a copy to the Paying Agent in writing) for the applicable Interest Period;
- (d) **Partial Cash Interest** on the Notes will accrue at a rate of 5% per annum and be payable in cash in respect of the applicable Interest Period; and
- (e) **Partial PIK Interest** on the Notes will accrue at a rate of 3.50% per annum and be payable by increasing the principal amount of the outstanding Notes by an amount equal to the Partial PIK Interest for the applicable Interest Period.

3.3 Adjusted Interest Rate

If the Issuer has issued a Relevant Disputes Notice in accordance with clause 6.6(b)(i):

- (a) each of the Cash Interest, PIK Interest and Initial Combination Interest will reduce by 1.00% per annum; and
- (b) the Partial Cash Interest and Partial PIK Interest will (in aggregate) reduce by 1.00% per annum (and the Issuer will, by notice to the Trustee and the Paying Agent in writing, advise how the reduction in interest is to be allocated between the Partial Cash Interest and Partial PIK Interest),

in each case, on and from the date on which the Relevant Disputes Notice has been issued and in relation to those Notes which are, at the relevant time, Convertible into Shares. For the avoidance of doubt, a Cash Interest rate of 7.00% per annum will reduce to 6.00% per annum in accordance with the operation of this clause.

3.4 General provisions applicable to Interest

(a) Calculation of Interest Rate and Interest payable

- (i) The Issuer must, as soon as practicable in each Interest Period, calculate the amount of interest payable for that Interest Period in respect of the Face Value of each Note.
- (ii) The amount of interest payable on each Note for an Interest Period is calculated according to the following formula:

$$\text{Interest payable} = \frac{\text{Interest Rate} \times \text{Face Value} \times N}{365}$$

Where:

N means, in respect of:

- (A) the first Interest Payment Date of a Note, the number of days from (and including) its Issue Date to (but excluding) that first Interest Payment Date; and
 - (B) each subsequent Interest Payment Date, the number of days from (and including) the preceding Interest Payment Date to (but excluding) that Interest Payment Date or, in the case of the last Interest Period, the Maturity Date, Conversion Date or Redemption Date.
- (b) **Notification of Interest Rate, Interest payable and other items**
- (i) The Issuer must notify the Trustee and the Paying Agent of:
 - (1) for each Interest Period, the amount of interest payable; and
 - (2) any amendment to the amount referred to in subparagraph (1) arising from any extension or reduction in any Interest Period or Calculation Period.

- (ii) The Issuer must give notice under this clause 3.4 of the amount of interest on each Note for the Interest Period by no later than the fifth Business Day of that Interest Period.
- (iii) The Issuer may amend its calculation or determination of any amount, item or date (or make appropriate alternative arrangements by way of adjustment) as a result of the extension or reduction of the Interest Period or Calculation Period without prior notice but must notify the Trustee and the Paying Agent promptly after doing so.

(c) **Default Interest**

If an amount is not paid under these Note Terms on or before the due date, interest accrues on the unpaid amount at 2% per annum from (and including) the due date to (but excluding) the date on which payment is made to the Noteholder of the full unpaid amount.

(d) **Determination final**

The determination by the Issuer of all amounts, rates and dates falling to be calculated or determined by it under these Note Terms is, in the absence of manifest or proven error, final and binding on the Issuer, the Trustee, each Agent and each Noteholder.

(e) **Calculations**

For the purposes of any calculations required under these Note Terms:

- (i) all figures must be rounded to three decimal places (with 0.0005 being rounded up to 0.001); and
- (ii) all amounts that are due and payable must be rounded to the nearest one Australian cent (with 0.5 of a cent being rounded up to 1 cent).

(f) **Payment of Interest**

Notwithstanding any other provision of these Note Terms but subject to the Intercreditor Deed, the Issuer may (in its absolute discretion) elect at any time (upon 5 Business Days' notice to the Trustee and the Paying Agent) to pay in cash any interest that had previously been paid in kind (being PIK Interest and Partial PIK Interest). The payment of such interest will not constitute a partial voluntary redemption of the Notes.

(g) **Intercreditor Deed restrictions**

Without limiting the Issuer's obligations under clause 3.1, the actual payment of Cash Interest by the Issuer may, in some circumstances, be prohibited or otherwise restricted under the terms of the Intercreditor Deed. In such circumstances, the Issuer must comply with its obligations under the Intercreditor Deed (and must not pay the Cash Interest), but the Noteholders rights in respect of this clause 3 continue unless otherwise varied or waived by a Special Resolution of Noteholders.

4 Cash-settled Conversion

4.1 Notes are notionally Convertible until Shareholder Approvals obtained

Subject to these Note Terms, until the Shareholder Approvals are obtained in accordance with clause 5.2(a), the Noteholder has the right (**Cash-Settled Conversion Right**), in accordance with this clause 4, to notionally Convert the aggregate Face Value of all of its Notes which will be settled in cash on Conversion calculated as the number of Shares that would be issued to the Noteholder if its Notes were able to be Converted to Shares under clause 5 multiplied by a price per Share determined as follows:

- (a) in the case of a notional Conversion following receipt of a Cash-Settled Conversion Notice pursuant to clause 4.2(a) where the Exit Event relates to:
 - (i) a Change of Control Event – by reference to the Fair Market Value of the consideration payable for each Share under that Exit Event (plus the Fair Market Value of any distribution payable on each Share in connection with that Exit Event); or
 - (ii) a Sale Event – by reference to:
 - (A) where the Issuer makes a distribution and/or return of capital to Shareholders following the Sale Event – by reference to the aggregate of the:
 - (1) Fair Market Value of that distribution and/or return of capital payable on each Share; and
 - (2) the 10 trading day VWAP of the Shares calculated over the period commencing on the trading date that is one trading date after the date on which the Shares begin to trade on an ex-distribution or other entitlement basis in respect of that distribution and/or capital return; and
 - (B) in all other circumstances, the 10 trading day VWAP of the Shares calculated as at the date that is 5 Business Days after the date on which the Issuer has announced to the ASX all material terms relating to the sale;
- (b) in the case of a notional Conversion on the Maturity Date following receipt of a Cash-Settled Conversion Notice pursuant to clause 4.2(c), by reference to the 10 day VWAP of the Shares calculated immediately following the release of its full year financial results (Appendix 4E) or half year financial results (Appendix 4D) (as applicable); and/or
- (c) in all other cases, by reference to the 30 day VWAP of the Shares calculated as at the date that is 30 days after the date on which the Issuer has received a Cash-Settled Conversion Notice,

(provided that, if on any dates during the period in which a VWAP is calculated the VWAP is based on a price ex-Distribution or ex-any other entitlement, the VWAP shall be increased by an amount equal to the Fair Market Value of any such Distribution or other

entitlement per Share on those dates (determined on a gross basis and disregarding any Tax withholding or deduction)), (the **Cash Settlement Amount**).

4.2 Cash-Settled Conversion at the Noteholder's election

A Noteholder may elect to exercise its Cash-Settled Conversion Right in respect of all of its Notes by giving the Trustee (with a copy to the Registrar) notice in writing of its intention to Convert (**Cash-Settled Conversion Notice**) in the following circumstances only:

- (a) upon receipt of an Exit Notice in accordance with clause 6.3(a); or
- (b) upon receipt of an Early Redemption Notice issued by the Issuer in accordance with clause 6.2; or
- (c) in the 12 months prior to the Maturity Date, during the 45 day period on and from the date the Issuer releases whichever of the following is first provided to ASX in the 12 months prior to the Maturity Date:
 - (i) its full year financial results (Appendix 4E); or
 - (ii) half year financial results (Appendix 4D),

and provided, in each case, that the Shareholder Approvals have not been obtained in accordance with clause 5.2(a) prior to receipt by the Issuer of a Cash-Settled Conversion Notice by a Noteholder (**Cash Settlement Condition**).

4.3 Cash-Settled Conversion Notice (by Noteholder)

- (a) A Cash-Settled Conversion Notice must:
 - (i) be in writing (in such form as the Issuer may accept);
 - (ii) specify the number of Notes to be notionally Converted; and
 - (iii) be signed by the Noteholder or an authorised representative or officer of the Noteholder.
- (b) Once a Cash-Settled Conversion Notice has been given:
 - (i) the notice cannot be withdrawn without the written consent of the Issuer;
 - (ii) the Noteholder must not deal with, transfer, dispose or otherwise encumber any Notes the subject of the Cash-Settled Conversion Notice; and
 - (iii) the Noteholder must provide such evidence of title to the Notes the subject of the Cash-Settled Conversion Notice as may be reasonably required by the Issuer and the Registrar.
- (c) Despite receipt by a Noteholder of an Early Redemption Notice under clause 6.2 or Exit Notice under clause 6.3, a Noteholder may still give a Cash-Settled Conversion Notice (for some or all of its Notes) provided the notice is given not less than 5 Business Days before the Redemption Date specified in the Early Redemption Notice or Exit Notice (as applicable).

- (d) A Cash-Settled Conversion Notice will not be effective if it is given by no later than when permitted under clause 4.2(c).

4.4 Effect of Cash-Settled Conversion

On the Cash-Settled Conversion Date:

- (a) the Noteholder's Note will be taken to have been Redeemed;
- (b) the Issuer must pay the Cash Settlement Amount to the Noteholder in accordance with clause 15; and
- (c) upon payment of the Cash Settlement Amount, all other rights conferred or restrictions imposed by the Note under these Note Terms will no longer have effect.

4.5 Adjustments to Conversion Price for pro rata issues or bonus issues

- (a) Subject to clauses 4.5(b) and 4.5(c), if the Issuer or Subsidiary makes a pro rata issue (as defined under the ASX Listing Rules) or bonus issue (as defined under the ASX Listing Rules) to holders of Shares generally to subscribe for or purchase Shares, options, warrants or other securities or rights which are convertible into, or have a right to acquire, Shares, the Conversion Price will be adjusted immediately under the following formula:

$$CP = CPo \times \frac{1}{P} \times \frac{(RD \times P) + (RN \times A)}{(RD + RN)}$$

Where:

CP means the Conversion Price applying immediately after the application of this formula;

CPo means the Conversion Price applying immediately before the application of this formula;

P means the VWAP of one Share during the period from (and including) the first Business Day after the announcement of the pro rata issue or bonus issue to ASX up to (and including) the last Business Day of trading cum rights or bonus issue (or if there is no period of cum pro rata issue or bonus issue trading, an amount reasonably determined by the Issuer's Directors as representing the value of a Share cum the pro rata issue or bonus issue);

RD means the number of Shares on issue immediately before the issue of new Shares under the pro rata issue or bonus issue;

RN means the number of Shares issued, or to be issued, under the pro rata issue or bonus issue or as the case may be, the maximum number of Shares which may be issued upon exercise of such options, warrants, securities or other rights calculated as at the date of issue of such options, warrants, securities or rights upon conversion or exchange or exercise of rights of subscription or purchase or rights in respect thereof at the initial conversion, exchange, subscription or purchase price or rate; and

A means the subscription price per Share for a pro rata issue (and is zero in the case of a bonus issue).

- (b) No adjustment to the Conversion Price will occur if **A** exceeds **P**.
- (c) Clause 4.5(a) does not apply to:
 - (i) Shares, options, warrants or other securities or rights which are convertible or exchangeable into, or have a right to acquire, Shares issued as part of a bonus share plan, employee or executive share plan, executive option plan, share top up plan, share purchase plan or a dividend reinvestment plan; or
 - (ii) any proposed issuance of options announced by the Issuer on or prior to the date on which the Notes are issued.
- (d) For the purpose of this clause 4.5, an issue will be regarded as a pro rata issue notwithstanding that the Issuer does not make offers to some or all the Issuer's holders of Shares with registered addresses outside Australia, provided that in so doing the Issuer is not in contravention of the ASX Listing Rules.

4.6 Adjustments to Conversion Price for off market buy-backs

- (a) Subject to clause 4.6(b), if the Issuer undertakes an off market buy-back under a buy-back scheme which but for any applicable restrictions on transfer would be generally available to holders of Shares (or otherwise cancels Shares for consideration), the Conversion Price will be adjusted immediately using the following formula:

$$CP = CPo \times 1/P \times \frac{(BD \times P) - (BN \times A)}{(BD - BN)}$$

Where:

CP means the Conversion Price applying immediately after the application of this formula;

CPo means the Conversion Price applying immediately before the application of this formula;

P means the VWAP of one Share during the 20 Business Days before the announcement to ASX of the buy-back (or cancellation);

BD means the number of Shares on issue immediately before the buy-back (or cancellation);

BN means the number of Shares bought back (or cancelled); and

A means the buy-back (or cancellation) price per Share.

- (b) No adjustment to the Conversion Price will occur if **P** exceeds **A**.

4.7 Adjustment to Conversion Price for dividends and return of capital

If at any time the Issuer makes a pro rata return of capital to holders of Shares without cancellation of any Shares (a **Relevant Distribution**) the Conversion Price will be adjusted under the following formula:

$$CP = CPo \times \frac{P - RD}{P}$$

Where:

CP means the Conversion Price applying immediately after the application of this formula;

CPo means the Conversion Price applying immediately before the application of this formula;

P means the VWAP of one Share during the period from (and including) the first Business Day after the announcement to ASX of the Relevant Distribution up to and including the last Business Day of trading cum the Relevant Distribution (or if there is no period of cum Relevant Distribution trading, an amount reasonably determined by the Issuer's Directors as representing the value of a Share cum the Relevant Distribution); and

RD means with respect to the Relevant Distribution, the amount of the cash and/or the value (as reasonably determined by the Issuer's Directors) of any other property distributed to holders of Shares per Share (or such lesser amount such that the difference between P and RD is greater than zero).

4.8 Adjustments to Conversion Price for reconstructions, etc

Subject to the ASX Listing Rules, where the Shares are reconstructed, consolidated, divided or reclassified into a lesser or greater number of securities, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such reconstruction, consolidation, division or reclassification by the following fraction:

$$CP = CPo \times \frac{A}{B}$$

Where:

CP means the Conversion Price applying immediately after the application of this formula;

CPo means the Conversion Price applying immediately before the application of this formula;

A means the aggregate number of Shares in issue immediately before such reconstruction, consolidation, division or reclassification, as the case may be; and

B means the aggregate number of Shares in issue immediately after, and as a result of, such reconstruction, consolidation, division or reclassification, as the case may be.

4.9 Other adjustments to Conversion Price

Despite the provisions of clauses 4.5 to 4.8, where:

- (a) the effect of any of the adjustment provisions set out in clauses 4.5 to 4.8 is not, in the opinion of the Issuer, appropriate in any particular circumstances (including because more than one adjustment provision applies); or
- (b) any other event occurs in relation to the Issuer that in the Issuer's opinion may have a dilutive or concentrative effect on the value of the Shares,

and, in the opinion of the Issuer, such occurrence would affect the relative values of Notes and the Shares, the Issuer may make such adjustment to the Conversion Price as it considers appropriate or necessary to maintain that relativity and so that the Noteholder will not receive a benefit that Shareholders do not receive and so that Shareholders will

not receive a benefit that the Noteholder does not receive, provided that the Issuer will act reasonably and in good faith in determining whether this clause applies in any particular circumstance or event and (if so) in determining what (if any) action should be taken.

4.10 Determination and notification of adjustments

- (a) The Issuer must promptly determine all adjustments to the Conversion Price required under this clause 4 and must promptly notify the Trustee and the Noteholders of that determination.
- (b) The Issuer shall promptly send the Trustee a certificate setting out particulars relating to each adjustment of the Conversion Price under this clause 4.
- (c) The Issuer's determination is, in the absence of manifest error, final and binding on the Trustee and each Noteholder.
- (d) Neither the Trustee nor the Agents shall be under any duty to monitor or ascertain whether any event or circumstance has happened or exists which may require an adjustment to be made to the Conversion Price or to make any calculation (or verification thereof) in connection with the Conversion Price, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed in making the same and will not be responsible to Noteholders for any loss arising from any failure by them to do so and may assume unless notified in writing to the contrary that no such event or circumstance has occurred.
- (e) Neither the Trustee nor the Agents shall be responsible for the issuance or delivery or registration or payment of, or any failure of the Issuer to pay any cash which are deliverable or payable upon or at any time in connection with Conversion of any Notes under this clause 4, or shall be accountable for the sufficiency, validity or value of any amount of cash.
- (f) Neither the Trustee nor the Agents shall be under any duty to calculate or verify any amounts stated in or the content of a Cash-Settled Conversion Notice or payable in connection with any Conversion.

4.11 Cash-Settled Conversion Right where Shareholder Approvals expire

- (a) In circumstances where:
 - (i) the Shareholder Approvals are obtained in accordance with clause 5.2(a);
 - (ii) the Shareholder Approvals are determined by a Court or regulator to have expired or no longer be in effect, or have otherwise expired or lapsed (including because any waiver or relief pursuant to which a Shareholder Approval was able to be relied on by a Noteholder has expired or lapsed); and
 - (iii) the expiry of the Shareholder Approvals was not caused by the actions or inactions of a Noteholder,

any Noteholder who had been entitled to the benefit of the Shareholder Approvals (that is, had, until such Shareholder Approvals had lapsed or expired, the right to convert) will be entitled to notionally Convert such number of Notes

which are not capable of being Converted to Shares, and the provisions under clauses 4.1 to 4.10 will apply with respect to those Notes.

- (b) In circumstances where:
- (i) the Shareholder Approvals are obtained in accordance with clause 5.2(a); and
 - (ii) as a result of a reconstruction of the Issuer's capital (including consolidation, subdivision, buy-back, reduction or return) the Current Majority Shareholder (as Noteholder) is unable to Convert some or all of its Notes which were otherwise approved by shareholders to be Converted to Shares pursuant to item 7 of section 611 of the Corporation Act,

the Current Majority Shareholder (as Noteholder) will be entitled to notionally Convert such number of Notes which are not capable of being Converted to Shares, and the provisions under clauses 4.1 to 4.10 will apply with respect to those Notes.

5 Equity Conversion

5.1 Notes are Convertible to Shares

Subject to the Shareholder Approvals being obtained in accordance with clause 5.2(a) and these Note Terms, a Noteholder has the right (**Equity Conversion Right**), in accordance with this clause 5, to Convert some or all of its Notes into a number of Shares determined by application of the following formula:

$$\frac{A}{B} \quad \text{where:}$$

A = the Equity Conversion Amount; and

B = the Conversion Price.

5.2 Shareholder Approvals

- (a) Conversion of any Notes into Shares is subject to the Issuer obtaining all necessary shareholder approvals (as determined by the Issuer, acting reasonably) to enable Conversion into Shares by the Noteholders including, as applicable:
- (i) shareholder approvals under ASX Listing Rules 7.1 and 10.11 (or only Listing Rule 10.11 where Exception 14 of Listing Rule 7.2 applies); and
 - (ii) in the case of the Current Majority Shareholder (as Noteholder) only, shareholder approval under item 7 of section 611 of the Corporations Act,

(collectively, the **Shareholder Approvals**).

- (b) Subject to clause 5.2(c), the Issuer must use its best endeavours to obtain the Shareholder Approvals and do all things reasonably required in connection with seeking such approvals (provided that the Issuer may determine that some or all of the Shareholder Approvals are inter-conditional), including:
 - (i) convening a shareholders meeting, preparing a notice of meeting and explanatory memorandum and providing all reasonable assistance and information to an independent expert commissioned by the Issuer to prepare any required independent expert's report); and
 - (ii) ensure that any explanatory memorandum issued to shareholders in connection with seeking the Shareholder Approval includes a statement to the effect that each Director of the Issuer (other than conflicted directors) recommends that shareholders vote in favour of the Shareholder Approvals.
- (c) If shareholders do not vote in favour of the Shareholder Approvals prior to the issuance of the Notes, the ~~Majority~~ Noteholders holding at least 50% of the Face Value of the Notes may require that the Issuer use its best endeavours to seek to obtain such Shareholder Approvals again at further shareholders' meetings (including multiple times, where such Shareholder Approvals are either not obtained or have lapsed), provided that the Issuer may not be required to seek such Shareholder Approvals more than once in any financial year. For the avoidance of doubt, if shareholders do not vote in favour of the Shareholder Approvals prior to the issuance of the Notes, the Issuer's obligations under clause 5.2(b) only apply if the Issuer is required to seek the Shareholder Approvals under this clause 5.2(c).

5.3 Conversion at the Noteholder's election

- (a) Subject to paragraphs 5.3(b) and 5.4, a Noteholder may elect in its absolute discretion to Convert some or all of its Notes into Shares by giving the Trustee (with a copy to the Registrar) notice in writing of its intention to Convert some or all of its Notes into Shares (**Equity Conversion Notice**).
- (b) The Face Value of the Notes the subject of an Equity Conversion Right must be at least the lesser of \$2,000 or the balance of the Noteholder's holding of the Notes.

5.4 Equity Conversion Notice (by Noteholder)

- (a) An Equity Conversion Notice must:
 - (i) be in writing (in such form as the Issuer may accept);
 - (ii) specify the number of Notes to be Converted into Shares; and
 - (iii) be signed by the Noteholder or an authorised representative or officer of the Noteholder.
- (b) Once an Equity Conversion Notice has been given:
 - (i) the notice cannot be withdrawn without the written consent of the Issuer;

- (ii) the Noteholder must not deal with, transfer, dispose or otherwise encumber any Notes the subject of the Equity Conversion Notice; and
 - (iii) the Noteholder must provide such evidence of title to the Notes the subject of the Equity Conversion Notice as may be reasonably required by the Issuer and the Registrar.
- (c) Despite receipt by a Noteholder of an Early Redemption Notice under clause 6.2 or Exit Notice under clause 6.3, a Noteholder may still give an Equity Conversion Notice (for some or all of its Notes) provided the notice is given not less than 5 Business Days before the Redemption Date specified in the Early Redemption Notice or Exit Notice (as applicable).
- (d) An Equity Conversion Notice will not be effective if it is given less than 10 Business Days before the Maturity Date.

5.5 Mandatory Conversion

If, at any time, the aggregate of (without double counting):

- (a) the number of Notes that have Converted into Shares; and
- (b) the number of Notes that Noteholders have elected to Convert into Shares on the Equity Conversion Date,

equals or exceeds ~~75% or more of the number of all Notes issued by the Issuer:~~

- (c) if there is no Substantial Noteholder – 75% or more of the number of all Notes issued by the Issuer (calculated by reference to the aggregate Face Value of all Notes issued by the Issuer); or
- (d) in all other circumstances – 84% or more of the number of all Notes issued by the Issuer (calculated by reference to the aggregate Face Value of all Notes issued by the Issuer).

and provided the VWAP of one Share during the 20 Business Days prior to Conversion is no less than the Conversion Price then:

- ~~(c)~~(e) the remaining Notes will automatically ~~convert~~Convert into Shares; and
- ~~(d)~~(f) each relevant Noteholder will be deemed to have provided to the Trustee and the Issuer an Equity Conversion Notice specifying that all of its remaining Notes are to be Converted into Shares at an Equity Conversion Date specified by the Issuer in accordance with clause 5.6.

5.6 Effect of Conversion into Shares

On the Equity Conversion Date:

- (a) the Noteholder's Note will be taken to have been Redeemed, and the Noteholder will be taken to have agreed to pay the Equity Conversion Amount to the Issuer by way of subscription for new Shares (**Conversion Shares**) at an issue price per Conversion Share that is equal to the Conversion Price;

- (b) the Issuer will be taken to have issued to the Noteholder, and must register the Noteholder as the holder of, the Conversion Shares;
- (c) the Noteholder agrees to be registered as the holder of the Conversion Shares in the register of Members;
- (d) a holding notice in respect of the Conversion Shares is to be sent to the Noteholder at its registered address in respect of the relevant Notes;
- (e) the Issuer must use all reasonable endeavours to procure and maintain quotation of Conversion Shares on ASX; and
- (f) upon issue of the Conversion Shares, all other rights conferred or restrictions imposed by the Note under these Note Terms will no longer have effect.

5.7 Ranking of Shares

Shares issued on Conversion will be fully paid and will in all respects rank pari passu with all other fully paid Shares on issue on the relevant Equity Conversion Date, except that they will not be entitled to any dividend or any other distribution or entitlement that has not been paid as at the Equity Conversion Date but for which the record date was prior to the Equity Conversion Date.

5.8 No fractional shares

No fractional Shares will be issued on Conversion. If the calculation under this clause results in an entitlement to a number of Shares which includes a fraction of a Share, the fraction will be disregarded.

5.9 Adjustments to Conversion Price for pro rata issues or bonus issues

- (a) Subject to clauses 5.9(b) and 5.9(c), if the Issuer or Subsidiary makes a pro rata issue (as defined under the ASX Listing Rules) or bonus issue (as defined under the ASX Listing Rules) to holders of Shares generally to subscribe for or purchase Shares, options, warrants or other securities or rights which are convertible into, or have a right to acquire, Shares, the Conversion Price will be adjusted immediately under the following formula:

$$CP = CPo \times \frac{1}{P} \times \frac{(RD \times P) + (RN \times A)}{(RD + RN)}$$

Where:

CP means the Conversion Price applying immediately after the application of this formula;

CPo means the Conversion Price applying immediately before the application of this formula;

P means the VWAP of one Share during the period from (and including) the first Business Day after the announcement of the pro rata issue or bonus issue to ASX up to (and including) the last Business Day of trading cum rights or bonus issue (or if there is no period of cum pro rata issue or bonus issue trading, an amount reasonably determined by the Issuer's Directors as representing the value of a Share cum the pro rata issue or bonus issue);

RD means the number of Shares on issue immediately before the issue of new Shares under the pro rata issue or bonus issue;

RN means the number of Shares issued, or to be issued, under the pro rata issue or bonus issue or as the case may be, the maximum number of Shares which may be issued upon exercise of such options, warrants, securities or other rights calculated as at the date of issue of such options, warrants, securities or rights upon conversion or exchange or exercise of rights of subscription or purchase or rights in respect thereof at the initial conversion, exchange, subscription or purchase price or rate; and

A means the subscription price per Share for a pro rata issue (and is zero in the case of a bonus issue).

- (b) No adjustment to the Conversion Price will occur if **A** exceeds **P**.
- (c) Clause 5.9(a) does not apply to:
 - (i) Shares, options, warrants or other securities or rights which are convertible or exchangeable into, or have a right to acquire, Shares issued as part of a bonus share plan, employee or executive share plan, executive option plan, share top up plan, share purchase plan or a dividend reinvestment plan; or
 - (ii) any proposed issuance of options announced by the Issuer on or prior to the date on which the Notes are issued.
- (d) For the purpose of this clause 5.9, an issue will be regarded as a pro rata issue notwithstanding that the Issuer does not make offers to some or all the Issuer's holders of Shares with registered addresses outside Australia, provided that in so doing the Issuer is not in contravention of the ASX Listing Rules.

5.10 Adjustments to Conversion Price for off market buy-backs

- (a) Subject to clause 5.10(b), if the Issuer undertakes an off market buy-back under a buy-back scheme which but for any applicable restrictions on transfer would be generally available to holders of Shares (or otherwise cancels Shares for consideration), the Conversion Price will be adjusted immediately using the following formula:

$$CP = CPo \times 1/P \times \frac{(BD \times P) - (BN \times A)}{(BD - BN)}$$

Where:

CP means the Conversion Price applying immediately after the application of this formula;

CPo means the Conversion Price applying immediately before the application of this formula;

P means the VWAP of one Share during the 20 Business Days before the announcement to ASX of the buy-back (or cancellation);

BD means the number of Shares on issue immediately before the buy-back (or cancellation);

BN means the number of Shares bought back (or cancelled); and

A means the buy-back (or cancellation) price per Share.

(b) No adjustment to the Conversion Price will occur if P exceeds A.

5.11 Adjustment to Conversion Price for dividends and return of capital

If at any time the Issuer makes a pro rata return of capital to holders of Shares without cancellation of any Shares (a **Relevant Distribution**) the Conversion Price will be adjusted under the following formula:

$$CP = CPo \times \frac{P - RD}{P}$$

Where:

CP means the Conversion Price applying immediately after the application of this formula;

CPo means the Conversion Price applying immediately before the application of this formula;

P means the VWAP of one Share during the period from (and including) the first Business Day after the announcement to ASX of the Relevant Distribution up to and including the last Business Day of trading cum the Relevant Distribution (or if there is no period of cum Relevant Distribution trading, an amount reasonably determined by the Issuer's Directors as representing the value of a Share cum the Relevant Distribution); and

RD means with respect to the Relevant Distribution, the amount of the cash and/or the value (as reasonably determined by the Issuer's Directors) of any other property distributed to holders of Shares per Share (or such lesser amount such that the difference between P and RD is greater than zero).

5.12 Adjustments to Conversion Price for reconstructions, etc

Subject to the ASX Listing Rules, where the Shares are reconstructed, consolidated, divided or reclassified into a lesser or greater number of securities, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such reconstruction, consolidation, division or reclassification by the following fraction:

$$CP = CPo \times \frac{A}{B}$$

Where:

CP means the Conversion Price applying immediately after the application of this formula;

CPo means the Conversion Price applying immediately before the application of this formula;

A means the aggregate number of Shares in issue immediately before such reconstruction, consolidation, division or reclassification, as the case may be; and

B means the aggregate number of Shares in issue immediately after, and as a result of, such reconstruction, consolidation, division or reclassification, as the case may be.

5.13 Other adjustments to Conversion Price

Despite the provisions of clauses 5.9 to 5.12, where:

- (a) the effect of any of the adjustment provisions set out in clauses 5.9 to 5.12 is not, in the opinion of the Issuer, appropriate in any particular circumstances (including because more than one adjustment provision applies); or
- (b) any other event occurs in relation to the Issuer that in the Issuer's opinion may have a dilutive or concentrative effect on the value of the Shares,

and, in the opinion of the Issuer, such occurrence would affect the relative values of Notes and the Shares, the Issuer may make such adjustment to the Conversion Price as it considers appropriate or necessary to maintain that relativity and so that the Noteholder will not receive a benefit that Shareholders do not receive and so that Shareholders will not receive a benefit that the Noteholder does not receive, provided that the Issuer will act reasonably and in good faith in determining whether this clause applies in any particular circumstance or event and (if so) in determining what (if any) action should be taken.

5.14 Determination and notification of adjustments

- (a) The Issuer must promptly determine all adjustments to the Conversion Price required under this clause 5 and must promptly notify the Trustee and the Noteholders of that determination.
- (b) The Issuer shall promptly send the Trustee and the Noteholders a certificate setting out particulars relating to each adjustment of the Conversion Price under this clause 5.
- (c) The Issuer's determination is, in the absence of manifest error, final and binding on the Trustee and each Noteholder.
- (d) Neither the Trustee nor the Agents shall be under any duty to monitor or ascertain whether any event or circumstance has happened or exists which may require an adjustment to be made to the Conversion Price or to make any calculation (or verification thereof) in connection with the Conversion Price, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed in making the same and will not be responsible to Noteholders for any loss arising from any failure by them to do so and may assume unless notified in writing to the contrary that no such event or circumstance has occurred.
- (e) Neither the Trustee nor the Agents shall be responsible for the issuance or delivery or registration or payment of, or any failure of the Issuer to issue or deliver or register or pay, any Shares or other securities or property or cash which are deliverable or payable upon or at any time in connection with Conversion of any Notes under this clause 5, or shall be accountable for the sufficiency, validity or value (or the kind) of any such Shares or other securities or property or the amount of cash.
- (f) Neither the Trustee nor the Agents shall be under any duty to calculate or verify any amounts stated in or the content of an Equity Conversion Notice or payable in connection with any Conversion.

6 Redemption

6.1 Scheduled redemption on Maturity Date

- (a) Subject to clause 6.1(b), each Note is Redeemable by the Issuer on the Maturity Date for the Makewhole Amount unless:
 - (i) the Note has been previously Converted;
 - (ii) the Note has been previously Redeemed; or
 - (iii) the Note has been purchased by the Issuer and cancelled.
- (b) If a Noteholder has issued a Cash-Settled Conversion Notice in respect of the Note in accordance with clause 4.2(c) (and to avoid doubt, the Cash Settlement Condition was satisfied at the time the Cash-Settled Conversion Notice was received by the Issuer), the Issuer must pay to that Noteholder in respect of the Note the Cash Settlement Amount in lieu of redemption.

6.2 Early Redemption by the Issuer

- (a) Where permitted under the Intercreditor Deed and subject to clause 6.3(e), compliance with any applicable law and the ASX Listing Rules, the Issuer may Redeem some or all of the Notes before their Maturity Date at the applicable Makewhole Amount, provided that the Issuer has given not less than 10 Business Days' notice in writing to the Trustee, each Agent and the Noteholders of the intention of the Issuer to Redeem the Notes (**Early Redemption Notice**).
- (b) Subject to clause 6.3(e), if an Early Redemption Notice is given by the Issuer under clause 6.2(a), the notice will be effective (and Redemption will occur) on the Redemption Date as specified by the Issuer in the Early Redemption Notice (which must be no less than 10 Business Days after the date of the Early Redemption Notice).
- (c) If, no later than 5 Business Days prior to Redemption of the Notes taking place pursuant to an Early Redemption Notice, a Noteholder delivers a Cash-Settled Conversion Notice for all of its Notes or Equity Conversion Notice for some or all of its Notes, the Cash-Settled Conversion Notice or Equity Conversion Notice (as applicable) will prevail for the Notes that are the subject of the Cash-Settled Conversion Notice or Equity Conversion Notice (as applicable).

6.3 Early Redemption – Exit Event Put

- (a) On a Sale Event (and where possible, subject to confidentiality obligations, at least 20 Business Days prior to the proposed Sale Event) or a Change of Control Event Trigger, the Issuer must give notice in writing to the Trustee, each Agent and the Noteholders (**Exit Notice**):
 - (i) specifying the occurrence, or proposed occurrence, of the Exit Event;
 - (ii) specifying the date on which the Exit Event occurred or is proposed to occur;
 - (iii) notifying that each Noteholder may elect to either:

- (A) Redeem all of the Noteholder's Notes on the Redemption Date specified in the Exit Notice (which must be no later than immediately prior to the Exit Event), at the applicable Makewhole Amount;
 - (B) if clause 4 applies – exercise its Cash-Settled Conversion Right; or
 - (C) if clause 5 applies – exercise its Equity Conversion Right;
- (iv) enclosing the form of the notice required to be given by a Noteholder if it elects to notify the Issuer that it wishes to have its Notes redeemed on the Redemption Date specified in the Exit Notice (**Redemption Notice**); and
- (v) such other information relating to the Exit Event as the Trustee may reasonably require to be given to the Noteholders.
- (b) Each Noteholder may, upon receipt of an Exit Notice:
- (i) if clause 4 applies - exercise its Cash-Settled Conversion Right by delivering a Cash-Settled Conversion Notice for all of its Notes in accordance with clause 4.2, and in which case the Issuer must pay the Cash Settlement Amount on the applicable Cash-Settled Conversion Date;
 - (ii) if clause 5 applies - exercise its Equity Conversion Right by delivering an Equity Conversion Notice for some or all of its Notes in accordance with clause 5.3 at least 5 Business Days before the applicable Equity Conversion Date, and in which case the Conversion of the Notes to Shares will occur on the applicable Equity Conversion Date; or
 - (iii) notify the Issuer that it wishes to have its Notes redeemed on the Redemption Date specified in the Exit Notice by delivering a Redemption Notice, and in which case the Issuer must pay the applicable Makewhole Amount on that date.
- (c) A Cash-Settled Conversion Notice, Equity Conversion Notice or Redemption Notice received by the Issuer prior to the occurrence of an Exit Event will:
- (i) be of no force or effect unless and until such Exit Event occurs, at which time it will have immediate effect; and
 - (ii) will immediately lapse if the Exit Event the subject of the Exit Notice does not occur,
- unless such Notes have already been Redeemed or Converted in accordance with the relevant notice, as the case may be.
- (d) Subject to clause 6.3(e), if an Exit Notice is given by the Issuer under clause 6.3(a), the notice will be effective (and, where requested by a Noteholder, Redemption will occur) on the Redemption Date as specified by the Issuer in the Exit Notice (which must be no later than immediately prior to the Exit Event) in respect of any Notes that are the subject of a Redemption Notice.

- (e) If a Noteholder delivers:
 - (i) a Cash-Settled Conversion Notice for all of its Notes or Equity Settled Conversion Notice for some or all of its Notes, the Cash-Settled Conversion Notice or Equity Settled Conversion Notice will prevail for the Notes that are the subject of the Cash-Settled Conversion Notice or Equity Settled Conversion Notice (as applicable); or
 - (ii) a Redemption Notice for some or all of its Notes, the Redemption Notice will prevail for the Notes that are the subject of the Redemption Notice and those Notes will be redeemed by the Issuer on the Redemption Date at the applicable Makewhole Amount.

6.4 Effect of Noteholder Redemption Notice

Once given by a Noteholder, a Noteholder Redemption Notice cannot be withdrawn without the written consent of the Issuer.

- (a) A Noteholder Redemption Notice must be accompanied by evidence of title for the Notes the subject of the Notice as may reasonably be required by the Issuer and the Registrar.
- (b) A Noteholder must not deal with, transfer, dispose of or encumber any Notes the subject of a Noteholder Redemption Notice once that Notice has been given.

6.5 Purchase

Subject to compliance with any applicable law or requirement of ASX:

- (a) the Issuer and any of its Related Bodies Corporate (or any third party nominated by the Issuer) may, at any time, purchase Notes in the open market or otherwise and at any price agreed with one or more Noteholders;
- (b) if purchases are made by tender for the Notes by the Issuer or any of its Related Bodies Corporate, tenders must be available to all Noteholders alike; and
- (c) Notes purchased under this clause 6.5 may be held, resold or cancelled at the discretion of the purchaser (and, if the Notes are to be cancelled, the Issuer).

6.6 Makewhole Amount

(a) Makewhole Amount payable on Redemption of Notes

Subject to clause 6.6(b), where the Redemption of Notes occurs at any time on or prior to the Maturity Date for any reason, the Issuer must pay to the relevant Noteholders on the relevant Redemption Date, an amount calculated so that the total amount payable by the Issuer on Redemption is equal to the applicable percentage in the table below corresponding to the period in which the Redemption Date occurs multiplied by the aggregate Initial Face Value of the Notes being redeemed, less the amount of all interest paid (but not capitalised) prior to the Redemption Date (if any) (the **Makewhole Amount**):

Period following issuance of the Note in which Redemption occurs	Applicable Makewhole Percentage	Reduced Makewhole Percentage
--	---------------------------------	------------------------------

Years 1 & 2	175%	165%
Year 3 +4	185%	175%
Year 5	220%	210%
Year 6 (including the Maturity Date)	230%	220%

(b) **Exceptions**

- (i) Where the Issuer holds a reasonable belief (acting on legal advice provided by any legal or other professional adviser engaged or appointed by it) that all issues (including any actual or threatened litigation or other proceedings) associated with or arising from the matters the subject of the Disputes Undertaking (**Relevant Disputes**) have been fully and finally resolved, the Issuer may issue a notice (**Relevant Disputes Notice**) to the Trustee, each Agent and the Noteholders.
- (ii) If:
- (A) the Issuer has issued a Relevant Disputes Notice in accordance with clause 6.6(b)(i); and
 - (B) the Issuer elects to Redeem the Notes at any time during the period commencing from the date which is 12 months following the date on which the Relevant Disputes Notice has been issued to the Trustee, each Agent and the Noteholders,

then, subject to clause 6.6(b)(iii), the Applicable Makewhole Percentage (as set out in column 2 of the table in clause 6.6(a)) which applies to the Makewhole Amount on the Redemption will reduce by 10% (as set out in column 3 of the table in clause 6.6(a)) (**Reduced Makewhole Amount**).

- (iii) If:
- (A) the Issuer (acting reasonably and in good faith) has sought ~~Majority~~ Noteholders' consent to a bona fide proposed final and complete resolution, settlement and/or payment in relation to a Relevant Dispute which the board of the Issuer has determined to approve (subject to obtaining ~~Majority~~ Noteholders' consent by a Majority Noteholders Resolution);
 - (B) the ~~Majority~~requisite Noteholders have not provided such consent within 60 days of request; and
 - (C) the Issuer elects to Redeem the Notes at any time within the first 36 months following the date on which the initial Notes have been issued,

the amount payable upon Redemption is ~~an amount calculated as:~~

~~(D)~~ — 165% multiplied by the aggregate Initial Face Value of the Notes;
plus

~~(E)~~ — being redeemed, less the greater of:

(1) — an amount equal to 12 months' Interest on the Initial Face Value of Notes to be Redeemed (calculated at 8.5% per annum); and

(2) — an amount calculated as follows:

A — B

Where:

A = — an amount equal to 36 months' Interest on the Initial Face Value of Notes to be Redeemed (calculated at 8.5% per annum); and

B = — the value amount of all Cash Interest interest paid in respect of these Notes to be Redeemed, including Cash Interest to be paid on (but not capitalised) prior to the Redemption Date. (if any).

7 Status, security and ranking

7.1 Status

- (a) The Notes at all times constitute direct and secured debt obligations of the Issuer.
- (b) Pursuant to the Guarantee, each of the Guarantors has agreed to guarantee to the Trustee and the Noteholders the Issuer's obligations under the Trust Deed and the Note Terms in respect of the Notes.

7.2 Security

- (a) The Notes are secured by the security interests granted by the Issuer and the Australian Guarantors to the Security Trustee under the Collateral Securities.
- (b) The Security Trustee holds the rights under the Collateral Securities on trust for the benefit of itself, the Trustee and the Noteholders in accordance with the terms of the applicable Transaction Documents.

7.3 Ranking of Notes

- (a) Each Note ranks for payment in a Winding Up of the Issuer:
 - (i) after all Priority Permitted Debt;
 - (ii) equally with each other Note, and any other Permitted Debt which the Noteholders by Majority Noteholders Resolution agree ranks equally with the Notes;
 - (iii) ahead of all Shortfall Debt;

- (iv) ahead of all other Permitted Debt not otherwise covered in clauses 7.3(a)(i) to 7.3(a)(iii) (inclusive) above;
 - (v) ahead of all present and future unsubordinated and unsecured debt obligations of the Issuer, subject to the laws and principles of equity affecting creditor rights or obligations preferred by mandatory provisions of applicable law; and
 - (vi) ahead of all Shares.
- (b) In order to give effect to the ranking specified in clause 7.3(a), in any Winding Up of the Issuer, the claims of Noteholders are limited to the extent necessary to ensure that:
- (i) all holders of Priority Permitted Debt which is governed by the terms of the Intercreditor Deed receive payment in accordance with the Intercreditor Deed; and
 - (ii) Noteholders of the Notes receive payments on a pro-rata basis.
- (c) Neither the Trustee nor any Noteholder has any right to prove in a Winding Up of the Issuer in respect of the Notes, except on the basis set out in clauses 7.3(a) and 7.3(b), and in accordance (where applicable) with the Intercreditor Deed.
- (d) Neither the Trustee nor any Noteholder may exercise voting rights as a creditor in respect of the Notes in a Winding Up of the Issuer to defeat the subordination in this clause.
- (e) The ranking of the Notes is not affected by the date of registration of any Noteholder in the Register.

8 Representations and warranties

For so long as any of the Notes remain outstanding, the Issuer makes the following representations and warranties to the Trustee and each Noteholder on the Issuer's and each Guarantor's behalf.

8.1 Status

- (a) It is a corporation, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- (b) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

8.2 Binding obligations

- (a) The obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations.
- (b) Without limiting the generality of paragraph (a) above, each Collateral Security to which it is a party creates the security interest which that Collateral Security purports to create and that security is (subject to any necessary Authorisations

and registration requirements, equitable principles and laws generally affecting creditors' rights) valid and effective.

8.3 Non-conflict with other obligations

- (a) Its entry into and performance of the Transaction Documents and the transactions contemplated by those Transaction Documents (including the granting of the Collateral Security) do not and will not conflict with:
 - (i) any law or regulation applicable to it;
 - (ii) its or any of its Subsidiaries' constitutional documents; or
 - (iii) any material agreement or instrument binding upon it or any of its Subsidiaries or any of its or any of its Subsidiaries' assets.

8.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents to which it is a party and the transactions contemplated by those Transaction Documents.

8.5 Governing law and enforcement

- (a) The choice of law referred to in clause 18.6 (*Governing Law and Jurisdiction*) as the governing law of the Transaction Documents will be recognised and enforced in its jurisdiction of incorporation.
- (b) Any judgment obtained against it in any jurisdiction referred to clause 18.6 (*Governing Law and Jurisdiction*) in relation to a Transaction Document will be recognised and enforced in its jurisdiction of incorporation.

8.6 Insolvency

No Insolvency Event has occurred or been taken in relation to a member of the Group.

8.7 No default

- (a) No Event of Default is continuing or might reasonably be expected to result from the making of any utilisation or the entry into, the performance of, or any transaction contemplated by, any Transaction Document.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which might have a Material Adverse Effect.

8.8 No misleading information

- (a) Any factual information provided by or on behalf of the Issuer or a Guarantor or any other member of the Group in or for the purposes of the Prospectus (excluding projections) was true and accurate in all material respects and not

misleading as at the date it was provided or as at the date (if any) at which it is stated.

- (b) Any financial projections provided by or on behalf of the Issuer or a Guarantor or any other member of the Group contained in the Prospectus have been prepared on the bases of recent historical information and reasonable assumptions.
- (c) Nothing has occurred or been omitted from the Prospectus and no information has been given or withheld that results in the information contained in the Prospectus being untrue or misleading in any material respect.

8.9 Financial statements

- (a) Except as disclosed in the Original Financial Statements, its Original Financial Statements were prepared in accordance with GAAP.
- (b) Except as disclosed in the Original Financial Statements, its Original Financial Statements give a true and fair view and fairly represent its financial condition as at the end of the relevant financial year and operations during the relevant financial year (consolidated, in the case of the Issuer).
- (c) Except as disclosed, its most recent financial statements delivered pursuant to clause 9.4(a) (*Financial statements*):
 - (i) have been prepared in accordance with GAAP; and
 - (ii) give a true and fair view of its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate (consolidated in the case of the Issuer).

8.10 Trustee

It does not enter into any Transaction Document or hold any property as trustee.

8.11 Ranking

The Collateral Security has or will have the ranking in priority which it is expressed to have in the Transaction Documents (if any) and it is not subject to any prior ranking or *pari passu* ranking Security Interests other than Permitted Security Interests.

8.12 Good title to assets

- (a) It and each of its Subsidiaries has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.
- (b) It is the sole legal and beneficial owner of the Secured Property subject to the Collateral Securities granted by it, free and clear of all Security Interests other than Permitted Security Interests.

8.13 Tax Consolidation

Each Obligor is a member of a Tax Consolidated Group for which the Head Company (as defined in the *Income Tax Assessment Act 1997*) is the Issuer.

9 Undertakings

9.1 General undertakings

For so long as any of the Notes remain outstanding, the Issuer must and must procure that the Guarantors (unless the Noteholders have otherwise approved pursuant to a Majority Noteholders Resolution):

- (a) **(Authorisations)** ensure that the Issuer and each Guarantor shall promptly:
 - (i) obtain, comply with and do all that is necessary to maintain in full force and effect; and
 - (ii) supply certified copies to the Trustee,

of any Authorisation required to perform its obligations under the Transaction Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Transaction Document, and, to the extent that failure by it to obtain or maintain any such Authorisation is reasonably likely to have a Material Adverse Effect, any material Authorisation required for it to carry on its business;
- (b) **(compliance with laws)** comply in all respects with all laws to which it may be subject, if failure so to comply has or is reasonably likely to have a Material Adverse Effect;
- (c) **(corporate existence)** will do everything necessary to maintain its corporate existence and all rights and franchises relating to its corporate powers or existence including, but not limited to:
 - (i) not transferring the jurisdiction of incorporation;
 - (ii) not entering into any merger or consolidation;
 - (iii) not being in default in a material respect in complying with the provisions of the Corporations Act or any other applicable law as the context requires, the breach of which would cause it to lose its corporate existence; or
 - (iv) not entering into or effecting any other scheme under which it ceases to exist or under which the assets or liabilities or both of itself are vested in or assumed by any other person.

Clause 9.1(c) does not apply to a solvent merger, amalgamation, reconstruction or consolidation which has been consented to by the Trustee acting on the instructions of the [Majority](#) Noteholders pursuant to a Majority Noteholders Resolution;

- (d) **(merger)** shall not enter into any amalgamation, demerger, merger or corporate reconstruction other than a Permitted Reorganisation;
- (e) **(taxation)** ensure that the Issuer and each Guarantor pays and discharges all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

- (i) such payment is being contested in good faith;
 - (ii) adequate reserves are being maintained for those Taxes; and
 - (iii) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect;
- (f) **(insurance)** ensure that the Group takes out and maintains insurances with a reputable insurer in the manner and to the extent which is in accordance with prudent business practice having regard to the nature of the business and assets of the Group (including all insurance required by applicable law);
- (g) **(Shareholder matters)** seek the Noteholders' consent (via a Noteholders' Resolution) to any resolution or matter where Shareholder consent is sought under the ASX Listing Rules or Corporations Act;
- (h) **(customer and supplier agreements)** use reasonable endeavours to ensure that any customer or supplier agreements entered into, or renewed, by the Issuer or any Group member do not include provisions under which a Group member has an uncapped liability to indemnify the counterparty or any other person for losses associated with either the performance of the agreement or the products and services the subject of the agreement; and
- (i) **(Preservation of assets)** maintain in good working order and condition (ordinary wear and tear excepted) all of its material assets necessary or desirable in the conduct of its business, and pay all outgoings when due.

9.2 Negative covenants (Special Resolution)

For so long as any of the Notes remain outstanding, the Issuer must not and must procure that the Guarantors must not, without the approval of a Special Resolution:

- (a) **(sale of assets)** conduct or agree to conduct any transaction or series of related transactions in respect of a sale or disposition of assets where:
- (i) Shareholder consent is required under the ASX Listing Rules and/or the Corporations Act in connection with that sale or disposition; or
 - (ii) other than pursuant to a Permitted Sale, an entity in the Group sells or agrees to sell significant assets or assets worth more than 10% of the Group's gross assets per annum, subject to an aggregate cap of 25% of the Group's gross assets until all Notes have been Converted or Redeemed;
- (b) **(Distributions)** declare or pay any Distributions to Shareholders where any of the following apply:
- (i) any PIK Interest or Partial PIK Interest remains outstanding on the Notes;
 - (ii) an Event of Default is subsisting (or would result from any such dividend being made);
 - (iii) the Net Leverage, as calculated on the most recent Calculation Date, is greater than 4.0x,

and provided that the aggregate amount of all Distributions in a financial year may not exceed 50% of net profit after tax of the Group;

- (c) **(capital reduction)** other than in respect of the Notes, redeem, purchase, cancel, reduce, return capital on or otherwise acquire any share or other securities issued by a Member of the Group for repayment or return of capital in a Winding Up;
- (d) **(financial accommodation)** provide any financial accommodation or guarantees to any third party, other than:
 - (i) in the ordinary course of its ordinary business; and/or
 - (ii) in respect of Permitted Loans;
- (e) **(new debt)** incur any Financial Indebtedness or agree to do so, except Permitted Debt;
- (f) **(Pari Passu Debt pre-emptive right)** the Issuer may not issue any Pari Passu Debt (excluding for the avoidance of doubt any Notes issued pursuant to the Prospectus up to an aggregate Initial Face Value of \$265,000,000) unless it is Permitted Debt and unless each existing Noteholder is entitled to participate pro rata in the issuance of that Pari Passu Debt; or
- (g) **(Security Interests):**
 - (i) create or permit to exist a Security Interest over any of its assets or attempt or agree to do so except a Permitted Security Interest.
 - (ii) if the creation of a Security Interest cannot by law be restricted, create such a Security Interest over any of its assets without the holder of the Security Interest first entering into a deed of priority in a form acceptable to the Trustee.

9.3 Negative covenants (Majority Noteholders Resolution)

For so long as any of the Notes remain outstanding, the Issuer must not and must procure that the Guarantors must not, without the approval of a Majority Noteholders Resolution:

- (a) **(acquisitions)** make an acquisition of any asset or business where such acquisition requires shareholder consent under the ASX Listing Rules and/or the Corporations Act;
- (b) **(change of business)**: substantially change the general nature of the business of the Issuer or the Group from that carried on at the Issue Date; or
- (c) **(Hedging Policy)** enter into any Hedging Agreement other than in accordance with its Hedging Policy;
- (d) **(Disputes Undertaking)**: agree or consent to:
 - (i) any settlement or resolution of:

- (A) *Nicholas Gehrke v Freedom Foods Group Limited & Deloitte Touche Tomatsu*, Supreme Court proceeding no. S ECI 2020 4505, filed on 7 December 2020;
- (B) *Lester Buch v Freedom Foods Group Limited & Deloitte Touche Tomatsu*, Supreme Court proceeding no. S ECI 2021 00431, filed on 19 February 2021; or
- (C) any same or similar shareholder class actions brought or threatened against the Issuer in respect of the same facts, matters or circumstances arising prior to the Issue Date,

where the Issuer and/or any other Group member are required to contribute to payment of a settlement sum (other than where funded by contributions from third parties permitted under the Transaction Documents and/or insurance); or

- (ii) any settlement agreement with, or any settlement or damages payment, to, Blue Diamond Growers or any variation to or replacement of the existing BD Agreement; or

9.4 Information undertakings

(a) Financial statements

- (i) The Issuer shall provide to the Trustee, in the forms and times required by the ASX Listing Rules and the Corporations Act:
 - (A) copies of its audited consolidated financial statements for each financial year;
 - (B) copies of its reviewed consolidated financial statements for each financial half-year; and
 - (C) all documents dispatched by the Issuer to its shareholders (or any class of them) or its creditors generally (or any class of them) at the same time as they are dispatched.
- (ii) The Issuer will be taken to have complied with its obligations under clause 9.4(a) where it has lodged its financial statements or other documents (as applicable) with ASX.

(b) Miscellaneous information

- (i) The Issuer shall provide to the Trustee:
 - (A) the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group where such information is required to be disclosed to the market in accordance with the Listing Rules (and the Issuer will be taken to have complied with its obligations under this clause 9.4(b)(i)(A) where it has lodged disclosure of such information with the ASX);

- (B) promptly, such information as the Trustee may reasonably require about property the subject of a Collateral Security and compliance of the Issuer and Guarantors with the terms of any Collateral Security;
- (C) notice of any Event of Default (specifying details of it and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence but in any event no later than 2 Business Days after the Event of Default occurs;
- (D) notice of any Redemption Event, promptly upon becoming aware of its occurrence; and
- (E) promptly, copies of any real property valuations provided to any Senior Financier (or any agent acting on their behalf).

(c) Private side undertakings

- (i) A Noteholder may, by election in writing to the Issuer, request, from time to time, that the Issuer supply that Noteholder with the same information that the Issuer provides to its Senior Financiers pursuant to information undertakings under the Senior Facility Agreement agreed on or about the date of the first Issue Date, at the same time that it provides it to its Senior Financiers.
- (ii) Upon such election by a Noteholder, the Issuer must:
 - (A) provide details of the information undertakings to that Noteholder (**Further Information Undertakings**); and
 - (B) provide the Noteholder with the information specified in those Further Information Undertakings in the form and by the time required under the Senior Facility Agreement.
- (iii) A Noteholder may request that it cease to be provided with the information contained in the Further Information Undertakings by notice in writing to the Issuer (and at which time, in respect of such Noteholder, the Issuer's obligations under this clause 9.4(c) are of no further force or effect).
- (iv) Each Noteholder acknowledges that, should it elect to receive the information provided to it under the Further Information Undertakings, it may be precluded from acquiring or disposing of any of the Issuer's securities (including the Notes) whilst such information remains current.

10 Guarantor coverage

10.1 Guarantor Coverage

The Issuer must ensure that at all times the Guarantor Group will comprise:

- (a) the Initial Guarantors, unless released with the consent of the [Majority](#) Noteholders provided pursuant to a Majority Noteholders Resolution;

- (b) any wholly owned member of the Group (other than an Excluded Subsidiary) which has EBITDA representing 5% or more of the EBITDA of the Relevant Group as shown in the most recent Financial Reports;
- (c) any wholly owned member of the Group (other than an Excluded Subsidiary) which has Total Assets representing 5% or more of the Total Assets of the Relevant Group as shown in the most recent Financial Reports;
- (d) wholly owned entities whose aggregate EBITDA represents at least 90% of the EBITDA of the Relevant Group as shown in the most recent Financial Reports;
- (e) wholly owned entities whose aggregate Total Assets represents at least 90% of the Total Assets of the Relevant Group as shown in the most recent Financial Reports;
- (f) any wholly owned member of the Group that holds material intellectual property;
- (g) any wholly owned member of the Group that has guaranteed the Permitted Senior Debt;
- (h) any member of the Group that is required to provide, or has provided, a Mortgage or Mortgage of Lease; and
- (i) any member of the Group that holds shares in a member of the Group that must be an obligor under any of paragraphs (a) through to (g) above (other than the Issuer),

in each case the figures for the individual members of the Group will be calculated on an unconsolidated basis and exclude all intra-Group items and investments in Subsidiaries, and all figures for the Group will be calculated on a consolidated basis.

10.2 Relevant Group

For the purposes of this clause 10, **Relevant Group** means the Group other than each Excluded Subsidiary.

11 Events of Default

11.1 Events of Default

An Event of Default occurs in relation to the Notes if:

- (a) **(non-issue of Shares)** the Issuer fails to issue Shares on Conversion in accordance with these Note Terms within 10 Business Days after the date on which such issue is to be made;
- (b) **(non-payment)** the Issuer fails to pay any amount payable by it under the Note Terms within 5 Business Days after the date on which it is due and, where the sole reason for the default is a technical or administrative difficulty within the banking system being used to effect payment, such default is not remedied within 2 Business Days;

- (c) **(breach of Negative Covenants)** a member of the Group fails to comply with clause 9.2 and such failure remains unremedied for a period of 10 Business Days;
- (d) **(breach of Distribution Undertaking, or Disputes Undertaking)** a member of the Group fails to comply with the Distribution Undertaking or Disputes Undertaking;
- (e) **(breach of other obligations)** the Issuer fails to materially comply with any of its other obligations under the Note Terms or the Transaction Documents and such failure remains unremedied for a period of 15 Business Days after the earlier of:
 - (i) the Issuer receiving written notice from the Trustee in respect of the failure to comply; and
 - (ii) the Issuer becoming aware of the failure to comply;
- (f) **(insolvency)**
 - (i) in respect of any member of the Group, it has a controller (as defined in the Corporations Act) appointed, or is in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration or wound up or has had a receiver appointed to any part of its property; or
 - (ii) any other Insolvency Event occurs in respect of a member of the Group (but excluding any Winding Up of a dormant entity and/or winding up of an entity in connection with a Permitted Reorganisation);
- (g) **(litigation)** a final judgment or determination (including any injunctive relief or order for specific performance being granted or made) is received in relation to any litigation, arbitration, administrative, governmental against any member of the Group or its assets which have, or has or is reasonably likely to have a Material Adverse Effect;
- (h) **(cross default)**
 - (i) any financial indebtedness in an amount exceeding \$10,000,000 of the Group (or any member of the Group) is not paid when due nor within any applicable grace period; or
 - (ii) any financial indebtedness in an amount exceeding \$10,000,000 of the Group (or any member of the Group) is declared to be due and payable prior to its specified maturity as a result of an event of default (however described);
- (i) **(delisting)** a Delisting Event occurs in respect of the Issuer;
- (j) **(Security Interest)** any Security Interest over an asset of the Group member with a value greater than \$10,000,000 is enforced;
- (k) **(cessation of business)** an Obligor ceases or suspends (or threatens to cease or suspend) the conduct of all of its business or a substantial part of its business (other than as a part of a solvent re-organisation of the Group that is a Permitted Reorganisation);

- (l) **(unlawfulness)** at any time, it is unlawful for the Issuer to perform any of its payment obligations under the Notes;
- (m) **(Government Agency)** all or substantially all of the assets of the Group is resumed or compulsory acquired by any Government Agency; or
- (n) **(vitiation)** all or any rights or obligations of the Issuer, Noteholders, the Trustee or the Security Trustee under the Transaction Documents are terminated or are or become void, illegal, invalid, unenforceable or of limited force and effect.

11.2 Notification

If an Event of Default occurs, the Issuer must, promptly after becoming aware of it but in any event no later than 2 Business Days after the Event of Default occurs, notify the Trustee of the occurrence of the Event of Default (specifying details of it and the steps, if any, being taken to remedy it). The Trustee is taken not to have knowledge of the occurrence of an Event of Default unless the Trustee has received written notice from the Issuer, a Guarantor or a Noteholder stating that an Event of Default has occurred and describing it.

11.3 Consequences of an Event of Default

- (a) If an Event of Default occurs and is continuing in relation to the Notes, the Trustee may, at its discretion:
 - (i) declare by notice to the Issuer (with a copy to the Noteholders and each Agent) that all the Notes are to be Redeemed for the Makewhole Amount (but not earlier than 5 Business Days after the date the Trustee gives notice under this clause) or on such other date specified in that notice; and
 - (ii) take enforcement action against, or direct the Security Trustee to take enforcement action against, the Issuer and the relevant Group member (as applicable) in relation to the Event of Default in accordance with the Transaction Documents.
- (b) The Trustee must not take the action referred to in paragraph (a) above to enforce the obligations of the Issuer and/or the relevant Obligor (as applicable) in respect of the Trust Deed or the Notes or any other proceedings or action pursuant to or in connection with the Transaction Documents unless:

(i) in respect of an Event of Default under clauses 11.1(a) or 11.1(b) or 11.1(f)(i) ~~—~~, either:

(A) it shall have been so directed by an MD Noteholders Resolution of the Noteholders of the relevant Notes; (and, for the avoidance of doubt, the Trustee must take such action as directed by an MD Noteholders Resolution of the Noteholders notwithstanding any contrary directions (including a MD Noteholders Resolution directing otherwise)); or

(B) if:

(1) the Trustee has not received any direction by Noteholders in accordance with clause 11.3(b)(i)(A)

within 5 Business Days of the Trustee notifying Noteholders of the occurrence of the relevant Event of Default; and

(2) provided no Noteholder holds Notes with a Face Value of more than 85% of the total Face Value of Notes then on issue,

then it shall have been so directed by such number of Noteholders (excluding the Substantial Noteholder) which represent at least 75% of the Face Value of all Notes held by Noteholders excluding the Substantial Noteholder; or

(ii) in respect of an Event of Default under clauses 11.1(c), 11.1(d), 11.1(e), 11.1(f)(ii), 11.1(g), 11.1(h), 11.1(i), 11.1(j), 11.1(k), 11.1(l), 11.1(m) or 11.1(n) ~~it shall have been so directed by a Majority Noteholders Resolution of the Noteholders of the relevant Notes,~~ either:

(A) it shall have been so directed by a Simple Majority Noteholders Resolution of the Noteholders of the relevant Notes; or

(B) if:

(1) the Trustee has not received any direction by Noteholders in accordance with clause 11.3(b)(ii)(A) within 20 Business Days of the Trustee notifying Noteholders of the occurrence of the relevant Event of Default; and

(2) no Noteholder holds Notes with a Face Value of more than 85% of the total Face Value of Notes then on issue,

then it shall have been so directed by such number of Noteholders (excluding the Substantial Noteholder) which represent at least 75% of the Face Value of all Notes held by Noteholders excluding the Substantial Noteholder.

(c) The Trustee shall not be bound to take the action referred to in paragraph (a) or (b) above to enforce the obligations of the Issuer and/or the relevant Obligor (as applicable) in respect of the Trust Deed or the Notes or any other proceedings or action pursuant to or in connection with the Transaction Documents unless:

- (i) it is indemnified and/or secured and/or prefunded, to its satisfaction, against all Liabilities which may be incurred by it (including legal costs on a solicitor and own client basis) in connection with that action;
- (ii) it is first placed in funds sufficient to cover the Liabilities that it may incur as a result of doing so; and
- (iii) it is not restricted or prohibited from taking such action by any order of any competent court or any applicable law.

If the Trustee forms the view (acting reasonably) that such action is or could be inconsistent with these Note Terms, the Transaction Documents or the Corporations Act or any applicable law, it must take steps to seek (and, if the

court so determines, to obtain) as soon as reasonably practicable a court direction or order to set aside or vary the direction given by ~~a Majority Noteholders Resolution or MD Noteholders Resolution (as applicable), in accordance with clause~~ 11.3(b), and, while those steps are underway, the Trustee is not obliged to take any action or proceedings it has been directed to take by ~~Majority Noteholders Resolution or MD Noteholders Resolution (as applicable), in accordance with clause~~ 11.3(b).

11.4 No enforcement by Noteholders

Unless the Trustee, having become obliged to take action to enforce the rights of the Noteholders under the Transaction Documents and these Note Terms, fails to do so within 20 Business Days of being obliged to do so and such failure is continuing, the rights of each Noteholder to enforce the obligations of the Issuer under the Notes are limited to the exercise of its rights to enforce and seek due administration by the Trustee of the Trust Deed. In particular, unless the Trustee, having become obliged to take action to enforce the rights of the Noteholders under the Transaction Documents and these Note Terms, fails to do so within 20 Business Days of being obliged to do so and such failure is continuing, no Noteholder may, with respect to payment of any amount due under the Notes held by it:

- (a) sue the Issuer;
- (b) obtain judgment against the Issuer; or
- (c) apply for or seek Winding Up of the Issuer.

12 Changes to Guarantors

12.1 Additional Guarantors

- (a) The Issuer may request that any of its wholly owned Subsidiaries become an additional Guarantor. That Subsidiary shall become an additional Guarantor on the later of:
 - (i) the date the Issuer delivers to the Trustee a duly completed and executed Accession Letter to the Guarantee; and
 - (ii) the date the Trustee confirms it has satisfied all required *know your customer* checks in relation to that Subsidiary.

12.2 Resignation of Guarantors

- (a) The Issuer may request that a Guarantor (other than the Issuer) ceases to be a Guarantor by delivering to the Trustee a Resignation Letter.
- (b) The Trustee must accept a Resignation Letter (upon which the Trustee shall be entitled to rely without further enquiry and without liability to any person) and notify the Issuer and the Noteholders of its acceptance if:
 - (i) the Issuer has provided an Officer's Certificate confirming in writing that no default is continuing or would result from the acceptance of the Resignation Letter; and

- (ii) where the relevant Guarantor also guarantees the Permitted Senior Debt, the Issuer has provided an Officer's Certificate confirming in writing that the relevant Guarantor is to be released from its guarantee of the Permitted Senior Debt at the same time,

whereupon the Trustee must release the relevant Guarantor from the Guarantee and that company shall cease to be a Guarantor and shall have no further rights or obligations under or in connection with the Notes as a Guarantor.

13 Title and transfer of Notes

13.1 Title

Title to a Note is evidenced by, and a transfer of the Notes may only be effected through, registration in the Register.

13.2 Effect of entries in Register

Each entry in the Register in respect of a Note constitutes:

- (a) an unconditional and irrevocable undertaking by the Issuer to the Noteholder to pay principal, interest and any other amount in accordance with these Note Terms; and
- (b) an entitlement to the other benefits given to Noteholders under these Note Terms and the Transaction Documents in respect of the Note.

For the avoidance of doubt, an entry in the Register does not make the Noteholder a Member of the Issuer or confer rights on a Noteholder to attend or vote at meetings of Members of the Issuer.

13.3 Register conclusive as to ownership

Entries in the Register in relation to a Note constitute conclusive evidence that the person so entered is the absolute owner of the Note subject to correction for fraud or manifest error.

13.4 Non-recognition of interests

Except as required by law, the Issuer, the Trustee and each Agent must treat the person whose name is entered in the Register as the holder of a Note as the absolute owner of that Note. This clause 13.4 applies whether or not a Note is overdue and despite any notice of ownership, trust or interest in the Note.

13.5 Joint holders

Where two or more persons are entered in the Register as the joint holders of a Note then they are taken to hold the Note as joint tenants with rights of survivorship, but the Registrar is not bound to register more than four persons as joint holders of any Note.

13.6 Transfers in whole

The Notes may be transferred in whole but not in part.

13.7 Transfer

- (a) A Noteholder may, subject to this clause 13.7, transfer any Notes by delivery of any Note certificate issued in respect of that Note, together with the form of transfer duly completed and signed by the Noteholder or such Noteholder's attorney duly authorised in writing, to the specified office of the Registrar (with a copy to the Issuer and the Trustee).
- (b) The form of transfer is set out in Schedule 4.
- (c) No transfer of a Note will be valid unless and until entered on the Register. A Note may be registered only in the name of, and transferred only to, a named person (or persons). The Issuer must not charge any fee on the transfer of a Note.
- (d) A Noteholder must not transfer, assign or novate rights in connection with the Notes to a person whom officers of the relevant existing Noteholder know to be an Offshore Associate of the Issuer.
- (e) Other than where an Event of Default is subsisting, a Noteholder must not transfer, assign or novate any Notes to a ~~hedge fund, vulture fund, a distressed debt fund~~ competitor, strategic partner or ~~any other entity which principally invests in distressed debt~~ material supplier (or any subsidiary or associate of such ~~a fund or entity~~) of the Issuer.
- (f) Notes may only be transferred if the offer or invitation for the transfer, sale or purchase of the Notes is received by a person:
 - (i) in Australia, only if the minimum aggregate consideration payable at the time of the transfer is at least A\$500,000 (or its equivalent in an alternative currency and, in each case, disregarding moneys lent by the transferor or its associates to the transferee) or the Notes are transferred in circumstances that do not otherwise require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act and the transfer complies with all applicable laws and directives; and
 - (ii) if, in a jurisdiction outside Australia, the transfer complies with all other applicable laws and directives in the jurisdiction in which the transfer takes place.

13.8 Issuer obligations

The Issuer must comply with all Applicable Regulations and any other relevant obligations imposed on it in relation to the transfer of a Note.

13.9 Delivery of instrument

If an instrument is used to transfer the Notes according to clause 13.7, it must be delivered to the Registrar, together with such evidence (if any) as the Issuer and/or the

Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Notes.

13.10 Refusal to register

- (a) The Issuer and/or Registrar must not register, or cause to be registered, a transfer of any Notes until the Trustee and Security Trustee have carried out any necessary “know your customer” or other similar checks in relation to the person and have confirmed to the Issuer that those checks are satisfactory.
- (b) Subject to clause 13.10(a), the Issuer and/or Registrar may only refuse to register a transfer of any Notes if such registration would contravene or is forbidden by Applicable Regulations or the Note Terms.
- (c) If the Issuer/Registrar refuses to register a transfer, the Issuer must use best endeavours to give the lodging party notice of the refusal and the reasons for it within 5 Business Days after the date on which the transfer was delivered to the Registrar.

13.11 Transferor to remain Noteholder until registration

A transferor of a Note remains the Noteholder in respect of that Note until the transfer is registered and the name of the transferee is entered in the Register.

13.12 Effect of transfer

Upon registration and entry of the transferee in the Register the transferor ceases to be entitled to future benefits under the Transaction Documents and the Note Terms in respect of the transferred Notes and the transferee becomes so entitled in accordance with clause 13.2.

13.13 Estates

A person becoming entitled to a Note as a consequence of the death or bankruptcy of a Noteholder or of a vesting order or a person administering the estate of a Noteholder may, upon producing such evidence as to that entitlement or status as the Registrar considers sufficient, transfer the Note or, if so entitled, become registered as the holder of the Note.

13.14 Transfer of unidentified Notes

Where the transferor executes a transfer of less than all the Notes registered in its name, and the specific Notes to be transferred are not identified, the Registrar may register the transfer in respect of such of the Notes registered in the name of the transferor as the Registrar thinks fit, provided the aggregate of the Face Value of all the Notes registered as having been transferred equals the aggregate of the Face Value of all the Notes expressed to be transferred in the transfer.

14 Meetings of Noteholders

The Issuer or Trustee may call a meeting of Noteholders in the manner as provided in the Meeting Provisions. Meetings of Noteholders must be conducted in accordance with the Meeting Provisions.

15 Payments

15.1 Summary of payment provisions

Payments in respect of the Notes will be made in accordance with this clause 15.

15.2 Record Date

All payments under or in respect of a Note will be made only to those persons registered as the holder of that Note at the nominated time on the relevant Record Date.

15.3 Payments subject to law

All payments are subject to applicable law, but without prejudice to the provisions of clause 16.

15.4 Payments on Business Days

If a payment:

- (a) is due on a Note on a day which is not a Business Day then the due date for payment will be postponed to the first following day that is a Business Day; or
- (b) is to be made to an account on a Business Day on which banks are not open for general banking business in the place in which the account is located, then the due date for payment will be the first following day on which banks are open for general banking business in that place, and, in either case, the Noteholder is not entitled to any additional payment in respect of that delay.

15.5 Payments to accounts

Moneys payable by the Issuer to a Noteholder may be paid in any manner the Issuer decides, including by direct credit into a nominated account of the Noteholder at an Australian branch of a financial institution.

15.6 Payments by cheque

- (a) The Issuer may decide that payments in respect of the Notes will be made by cheque sent by prepaid post on the payment date to the Noteholder (or to the first named joint holder of the Notes) at its address appearing in the Register.
- (b) Cheques sent to the nominated address of a Noteholder will be at the risk of the registered Noteholder and will be taken to have been received by the Noteholder on the payment date and, no further amount will be payable by the Issuer in

respect of the Notes as a result of the Noteholder not receiving payment on the due date.

15.7 Unsuccessful attempts to pay

Subject to applicable law and the ASX Listing Rules, where the Issuer:

- (a) decides that an amount is to be paid to a Noteholder by a method of direct credit and the Noteholder has not nominated an account to which amounts are to be paid by that method;
- (b) attempts to pay an amount to a Noteholder by direct credit, electronic transfer of funds or any other means and the transfer is unsuccessful;
- (c) has made reasonable efforts to locate a Noteholder but is unable to do so; or
- (d) has issued a cheque which has not been presented within six months of its date and, as a consequence, the Issuer has cancelled such cheque,

then, in each case:

- (e) the amount will be taken to have been duly paid to the Noteholder and will not bear Interest; and
- (f) the amount will be held by the Issuer for the Noteholder in a non-interest bearing deposit with a bank selected by the Issuer until the Noteholder (or any legal personal representative of the Noteholder) nominates an account for payment or otherwise claims the amount or the amount is paid by the Issuer according to the legislation relating to unclaimed moneys.

15.8 Payment to joint Noteholders

A payment to any one of the joint Noteholders of a Note will discharge the Issuer's liability in respect of the payment.

16 Deductions

16.1 No set-off, counterclaim or deductions

All payments in respect of the Notes must be made in full without set-off or counterclaim, and without any withholding or deduction for or in respect of Taxes, unless such withholding or deduction is required by law.

16.2 Withholding and other taxes

- (a) The Issuer may withhold or deduct from any amount payable to a Noteholder in respect of the Notes an amount in respect of any Tax which a qualified legal or taxation advisor advises that it is required by law to withhold or deduct from that payment.
- (b) The Issuer must pay the full amount required to be withheld or deducted to the relevant revenue authority within the time allowed for such payment (without incurring penalty under the applicable law) and must, if required by a Noteholder,

deliver to that Noteholder a copy of the relevant receipt issued by the relevant revenue authority without unreasonable delay after it is received by the Issuer.

- (c) If an amount is deducted or withheld under clause 16.2 from a payment to a Noteholder in respect of any Tax, the Issuer will have no obligation to pay any additional amount to the Noteholder such that the Noteholder, at the time the payment is due, receives the same amount it would have received if no deductions or withholdings had been required to be made.

16.3 Information

Each Noteholder will provide to the Issuer when reasonably requested by the Issuer any factual information in its possession or which is reasonably able to provide to assist the Issuer to demonstrate that the requirements under s128F of the Tax Act in respect of the issuance of the Notes has been satisfied (and which, in Noteholder's reasonable opinion will not cause the Noteholder to breach any law, regulation or duty of confidence).

17 Amendment of the Note Terms

17.1 Amendment without the approval of the Noteholders

At any time, and from time to time, but subject to clause 18.1 of the Trust Deed, the Note Terms (which, for the avoidance of doubt, includes this clause 17) may be modified, altered, cancelled, amended or added to (collectively **Modified**), without the consent of the Noteholders, if such modification, alteration, cancellation, amendment or addition (collectively **Modification**) is, in the opinion of the Trustee:

- (a) of a formal or technical nature or made to cure any ambiguity or correct any manifest error;
- (b) necessary to cure any ambiguity or correct or supplement any defective or inconsistent provision; or
- (c) necessary or expedient to comply with the provisions of any law or regulation or the requirements of any statutory authority,

provided that, in each case, in the opinion of the Trustee, such amendment is not materially prejudicial to the interests of the Noteholders as a whole.

17.2 Reliance on legal opinions

In respect of a Modification sought by a party in reliance on any one of clauses 17.1(a) to 17.1(c) above, the Trustee may (without limiting its general rights under the Trust Deed) obtain an opinion from legal, taxation or accountancy advisers of recognised standing in New South Wales, which opinion is in a form satisfactory to the Trustee (acting reasonably) and is addressed to or is otherwise able to be relied on by the Trustee, to the effect that such Modification (taken as a whole and in conjunction with all other Modifications) is:

- (a) a Modification within the scope of any one or more of clauses 17.1(a) to 17.1(c); and

- (b) not materially prejudicial to the interests of Noteholders of the Notes (taken as a whole).

17.3 Amendment with the approval of the Noteholders

- (a) At any time, and from time to time, but subject to clauses 17.3(b) and 17.3(c) of the Note Terms and clause 18.2 of the Trust Deed, the Note Terms (which, for the avoidance of doubt, includes this clause 17) may be Modified if such Modification is authorised by a Majority Noteholders Resolution.
- (b) If the Trustee considers in its absolute discretion the Modification will be materially prejudicial to the interests of Noteholders of the Notes (taken as a whole) (including any approvals of acquisitions and dispositions), then the Modification must be authorised by a Special Resolution.

(c) If the Modification:

(i) extends the Maturity Date;

(ii) reduces the payment amounts in respect of the Notes;

(iii) amends the Conversion terms in respect of the Notes;

(iv) amends clause 11.3; or

(v) amends this clause 17.3(c),

(e) then the Modification must be authorised by a Super Resolution.

(d) If a clause in the Note Terms provides for Noteholders to give a direction to the Trustee by a Special Resolution, then that clause may only be Modified if such Modification is authorised by a Special Resolution.

(e) If a clause in the Note Terms provides for Noteholders to give a direction to the Trustee by a Super Resolution, then that clause may only be Modified if such Modification is authorised by a Super Resolution.

18 General

18.1 Reporting

In addition to any requirements of the Corporations Act and the ASX Listing Rules, each Noteholder (if requested by that Noteholder) will be provided with e-copies of all annual and half-yearly reports and financial statements provided to holders of Shares.

18.2 Time limit for claims

A claim against the Issuer for a payment under a Note is void unless made within 5 years from the date on which payment first became due.

18.3 Voting

The Trust Deed contains provisions for convening meetings of the Noteholders to consider any matter affecting their interests including certain variations of these Note Terms which require the consent of the Noteholders.

18.4 Notices

The Trust Deed contains provisions for the giving of notices.

18.5 Further documents

The Issuer may require the Trustee to execute, on behalf of all Noteholders, such documents as the Issuer considers necessary or desirable (provided that the Trustee is indemnified and/or secured and/or prefunded to its satisfaction, against any Liabilities (including solicitor and client as well as party and party costs) which it may suffer or incur as a result of doing so, and provided that the Trustee will only be required to execute such documents if the Noteholders give a Direction to the Trustee by a Special Resolution passed in favour of such execution to do so).

18.6 Governing law and jurisdiction

- (a) These Note Terms and the Notes are governed by the laws of New South Wales.
- (b) The Issuer and each Noteholder submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales in connection with matters concerning the Notes or these Note Terms.
- (c) The Issuer and each Noteholder waives any right they have to object to an action being brought in those courts, or to claim that the action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

Schedule 1 Initial Guarantors

Freedom Foods Group Limited ACN 002 814 235

Freedom Foods Group Financing Pty Ltd ACN 127 100 387

Freedom Foods Group Trading Pty Ltd ACN 614 863 286

Freedom Foods Group Operations Pty Ltd ACN 089 982 392

Freedom Foods Group IP Pty Ltd ACN 109 854 373

Pactum Dairy Group Pty. Ltd. ACN 158 174 442

Freedom Foods Pty Ltd ACN 068 972 181

Freedom Foods Group Ingleburn Pty Ltd ACN 600 569 382

Paramount Seafoods Pty Ltd ACN 070 130 120

Freedom Foods Group Dandenong Pty Ltd ACN 007 362 263

Pactum Australia Pty Ltd ACN 112 913 336

Freedom Foods Group Nutritionals Pty Ltd ACN 618 227 759

Freedom Foods China Pty Ltd ACN 129 132 234

Pactum Dairy Holdings Pty Limited ACN 600 569 373

Freedom Foods Group Shepparton Nutritionals Pty Ltd ACN 628 620 977

Address:

80 Box Road

Taren Point NSW 2229

Email:

companysecretary@ffgl.com.au

Schedule 2 Collateral Securities

- A. Mortgage, means each real property mortgage over each of the following properties:
- a. the property located at 160 Doyles Road, Shepparton VIC 3630 with title reference volume 10280 folio 701 owned by Pactum Australia Pty Ltd ACN 112 913 336; and
 - b. any other real property acquired by the Group from time to time.
- B. Mortgage of Lease, means each registrable mortgage of lease over the following leases
- (a) the lease between Pactum Dairy Holdings Pty Limited ACN 600 569 373 and Perich Property Pty Limited ACN 001 253 587 as trustee for the Perich Property Unit Trust ABN 74 413 146 214 over the Ingleburn Property;
 - (b) the lease between Pactum Dairy Holdings Pty Ltd ACN 600 569 373 and Perich Property Holdings Pty Ltd ACN 106 560 034 over the property located at 102 Old Dookie Road, Shepparton Victoria with title reference volume 11978 Folio 040 (over the parts formerly in title reference volume 11220 folio 216 and volume 11462 folio 811);
 - (c) the lease between Pactum Dairy Group Pty Ltd ACN 158 174 442 and Perich Property Holdings Pty Ltd ACN 106 560 034 over the property located at 102 Old Dookie Road, Shepparton Victoria with title reference volume 11978 Folio 040 (over the parts formerly in title reference volume 11462 folio 810);
 - (d) the lease between Perich Property Holdings Pty Ltd ACN 106 560 034 and [Pactum Australia Freedom Foods Group Operations Pty Ltd ACN 112 913 336 089 982 392](#) over the property located at 80 Box Road, Taren Point NSW 2229 with title reference Lot 1 in Strata Plan 31555, being that property described within folio identifiers 1/SP31555;
 - (e) the lease between [Greg George](#) Votsikas and Nickie Votsikas (together, the Marrickville Landlord) and Freedom Foods Group Operations Pty Ltd [ACN 089 982 392](#) dated 1 May 2020 over the property located at 51-55 Carrington Road, Marrickville NSW 2204 (~~Marrickville Lease~~) [with title reference 1/578393](#); and
 - a. any other lease the Issuer agrees should be subject to a Mortgage of Lease from time to time.
- C. Landlord right of entry deeds in relation to each Mortgage of Lease (provided that the obligation to provide a Landlord right of entry for the [Marrickville Merickville](#) Lease will be limited to the Issuer using its reasonable endeavours to procure a landlord right of [entry reentry](#)).

Schedule 3 Accession Letter

FORM OF ACCESSION DEED FOR NEW OBLIGORS

To: [] as Security Trustee and all present and future Beneficiaries under the Security Trust deed referred to below

From: [Name] (the "New Obligor")

Dated:

[Company] – [] Security Trust Deed

dated [] (the "Security Trust Deed")

1. We refer to the Security Trust Deed. This is an Accession Deed. Terms defined in the Security Trust Deed have the same meaning in this Accession Deed unless given a different meaning in this Accession Deed. This Accession Deed is a Security Trustee Document and (without limitation) Clause 3 (Role of the Security Trustee) of the Security Trust Deed applies to it accordingly.

2. With effect from and including the [date of this Deed] the New Obligor assumes the obligations and acquires the rights of an Obligor under the Security Trust Deed.

3. The New Obligor is a company duly incorporated under the laws of New South Wales.

4. The New Obligor's administrative details are as follows:

Address:

Fax No:

Attention:

5. This Accession Deed is governed by the law of the State of New South Wales.

Executed as a deed poll.

[Sealing wording for Subsidiary]

This Accession Deed is accepted by the Security Trustee

[Name of Security Trustee]

By:

Schedule 4 Form of transfer of Notes

To: [] as Registrar

From: [*The Existing Noteholder*] (the "**Existing Noteholder**") and [*The New Noteholder*] (the "**New Noteholder**")

Dated:

[Company] –Convertible Notes

1. We refer to the Notes Trust Deed (annexing the Convertible Notes Terms of Issue) dated on or about [] (the **Trust Deed**) executed by Freedom Foods Group Limited (the **Issuer**) and [Global Loan Agency Services Australia Specialist Activities Pty Limited (ACN 635 992 308)] (the **Trustee**) and to the related Security Trust Deed dated [] (the **Security Trust Deed**) executed by [Global Loan Agency Services Australia Specialist Activities Pty Limited (ACN 635 992 308)] (the **Security Trustee**) and others. This is a Transfer Certificate for the purpose of the Security Trust Deed and the form of transfer of Notes referred to in Clause 13.7 (Transfer) of the Note Terms. Terms defined in the Trust Deed have the same meaning in this document unless given a different meaning in this document.
2. We refer to Clause 13.7 (*Transfer*) of the Note Terms:
 - (a) The Existing Noteholder and the New Noteholder agree to the Existing Noteholder with effect from and including the Transfer Date in accordance with Clause 13.7 (*Transfer*) of the Note Terms transferring to the New Noteholder that number of Notes specified in the Schedule, and all of the Existing Noteholder's rights and obligations under the Trust Deed (including the Note Terms) and the other Transaction Documents.
 - (b) The proposed Transfer Date is [].
 - (c) The address and attention details for notices of the New Noteholder are set out in the Schedule.
3. The New Noteholder confirms that it is not an Offshore Associate of the Issuer.
4. In this paragraph, terms defined in the Security Trust Deed have the same meaning. If the New Noteholder is not already a Beneficiary under the Security Trust Deed, each of the Issuer, each Guarantor, and the Security Trustee (on behalf of itself and all other Beneficiaries) agrees, that on and from the New Noteholder being registered as a Noteholder in the Register, it is a Beneficiary under the Security Trust Deed. In consideration for that acknowledgment and agreement, the New Noteholder agrees that upon becoming a Noteholder it is bound by the Trust Deed, the Note Terms and by the terms set out in the Security Trust Deed. This document does not impose any other obligation or constitute any other conduct by the Note Trustee, Security Trustee or other Beneficiaries.
5. Notwithstanding anything to the contrary in this document, the Existing Noteholder, the New Noteholder, the Trustee and the Security Trustee acknowledge and agree that title to a Note is evidenced by, and a transfer of a Note may only be effected through, registration in

the Register, and that in the event of any inconsistency between this document and the Note Terms, the Note Terms prevail.

6. This document is a Security Trustee Document and (without limitation) Clause 3 of the Security Trust Deed applies to it accordingly.
7. This document may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this document.
8. This document and any non-contractual obligations arising out of or in connection with it is governed by New South Wales law.
9. This document has been entered into on the date stated at the beginning of this document.
10. *[Where the transferee is a trustee of a fund under Australian law, this certificate may if the Trustee and the Security Trustee agree contain a provision limiting its liability under the Secured Documents to fund assets except to the extent its right to apply the fund assets towards satisfaction of that liability is impaired because of a breach of trust or other impropriety, such provision to be in the following form or as otherwise agreed by the Trustee. and the Security Trustee. Each of the Trustee's and the Security Trustee's decision is its own. It need not consult or obtain instructions and is not bound by instructions.*
 - (a) **[Name of trustee](Trustee)** enters into and performs this document and the Trust Deed and the transactions they contemplate only as trustee of the **[insert name of trust] (Trust)**, except where expressly stated otherwise. This applies also in respect of any past and future conduct (including omissions) relating to this document and Trust Deed or those transactions.
 - (b) Under and in connection with this document and the Trust Deed and those transactions and conduct:
 - (i) Trustee's liability (including for negligence) is limited to the extent it can be satisfied out of the assets of the Trust. Trustee need not pay any such liability out of other assets;
 - (ii) another party may only do the following (but any resulting liability remains subject to this Clause):
 - (A) prove and participate in, and otherwise benefit from, any form of insolvency administration of Trustee but only with respect to Trust assets;
 - (B) exercise rights and remedies with respect to Trust assets, including set-off;
 - (C) enforce its security (if any) and exercise contractual rights; and
 - (D) bring any other proceedings against Trustee, seeking relief or orders that are not inconsistent with the limitations in this Clause and may not otherwise:
 - (E) bring proceedings against Trustee;

- (F) take any steps to have Trustee placed into any form of insolvency administration (but this does not prevent the appointment of a receiver, or a receiver and manager, in respect of Trust assets); or
 - (G) seek by any means (including set-off) to have a liability of Trustee to that party (including for negligence) satisfied out of any assets of Trustee other than Trust assets.
- (c) Paragraphs (a) and (b) apply despite any other provision in this document but do not apply with respect to any liability of Trustee to another party (including for negligence) to the extent that Trustee has no right or power to have Trust assets applied towards satisfaction of that liability, or its right or power to do so is subject to a deduction, reduction, limit or requirement to make good, in any case because Trustee has acted beyond power or improperly in relation to the Trust.
- (d) The limitation in paragraph (b)(i) is to be disregarded for the purposes (but only for the purposes) of the rights and remedies described in paragraph (b)(ii), and interpreting this document and the Trust Deed and any security for it, including determining the following:
- (i) whether amounts are to be regarded as payable (and for this purpose damages or other amounts will be regarded as a payable if they would have been owed had a suit or action barred under paragraph (b)(ii) been brought);
 - (ii) the calculation of amounts owing; or
 - (iii) whether a breach or default has occurred,
 - (iv) but any resulting liability will be subject to the limitations in this Clause.]

THE SCHEDULE

Notes to be transferred
[insert relevant details]

[address and attention details for notices and account details for payments,]

[Existing Noteholder]

[New Noteholder]

By:

By:

[insert execution blocks for both Existing Noteholder and New Noteholder]

This document is executed as a deed and for the purposes of paragraph 4 [and 8] only, is accepted by the Security Trustee.

The Transfer Date is confirmed as [].

[Security Trustee]

By:

