

Information Memorandum



IMF Bentham Limited

(ABN 45 067 298 088)

Issue of Australian dollar Notes

The Notes have the benefit of the security and are unconditionally and irrevocably guaranteed on a joint and several basis by certain subsidiaries of IMF Bentham Limited, each as described in this Information Memorandum

Lead Manager and Initial Subscriber

FIIG Securities Limited

(ABN 68 085 661 632)

17 December 2019

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Important Notice

Introduction

This Information Memorandum relates to an issue of Australian dollar notes (“**Notes**”) by IMF Bentham Limited (ABN 45 067 298 088) (“**Issuer**”).

The Notes are unconditionally and irrevocably guaranteed on a joint and several basis by the Wholly Owned Subsidiaries (other than the Excluded Wholly Owned Subsidiaries) (together, the “**Initial Guarantors**”) pursuant to the guarantee deed poll dated 17 December 2019 made by each Initial Guarantor (“**Guarantee**”). The Guarantee provides that in certain circumstances additional entities may accede to the Guarantee to become additional guarantors (such entities together with the Initial Guarantors, the “**Guarantors**”) or, if the entity ceases to be a Wholly Owned Subsidiary or becomes an Excluded Wholly Owned Subsidiary, obtain a release of the guarantee provided by such Guarantor (and such released entity shall no longer be a Guarantor).

The Notes will have the benefit of each Security. Each Noteholder’s ability to receive payment owing to it under the Notes is subject to the terms of the Priority Deed. See the section entitled “Security Arrangements” below for a summary of these arrangements.

Terms used in this Information Memorandum but not otherwise defined have the meaning given to them in the Conditions (as defined below).

References to “**Information Memorandum**” are to this Information Memorandum together with any other document incorporated by reference and to any of them individually.

Prospective investors should read this Information Memorandum carefully prior to making any decision in relation to purchasing, subscribing for or investing in the Notes.

EACH RECIPIENT OF THIS INFORMATION MEMORANDUM AND EACH INVESTOR OR POTENTIAL INVESTOR SUBSCRIBING FOR, PURCHASING OR OTHERWISE DEALING IN ANY NOTES IS DEEMED TO HAVE REPRESENTED AND WARRANTED TO THE ISSUER, THE LEAD MANAGER AND INITIAL SUBSCRIBER, THE NOTE TRUSTEE, THE SECURITY TRUSTEE AND THE AGENTS THAT IT IS A PERSON TO WHOM IT IS LAWFUL TO MAKE ANY OFFER OF NOTES AND IT IS A PERSON TO WHOM AN OFFER OF NOTES FOR ISSUE OR SALE MAY BE MADE WITHOUT DISCLOSURE UNDER PART 6D.2 OR CHAPTER 7 OF THE CORPORATIONS ACT.

Issuer’s responsibility

This Information Memorandum has been prepared and issued by the Issuer. The Issuer accepts responsibility for the information contained in this Information Memorandum other than information provided by the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee and the Agents (each as defined in the section entitled “Summary of the Notes” below) in relation to their respective details in the sections entitled “Summary of the Notes” and “Directory” below.

Place of issuance

Subject to applicable laws and directives, the Issuer may issue the Notes in any country including Australia and countries in Europe and Asia but not in the United States of America unless an exemption from the registration requirements under the United States Securities Act of 1933 (as amended) (“**Securities Act**”) is available.

Terms and conditions of issue

EACH NOTEHOLDER’S ABILITY TO RECEIVE PAYMENT OF AMOUNTS OWING TO IT UNDER THE NOTES IS SUBJECT TO THE TERMS OF THE PRIORITY DEED.

The Notes will be issued in a single series under the Note Trust Deed. The series may comprise one or more tranches (each a “**Tranche**”) having one or more issue dates and on conditions that are otherwise identical (other than, to the extent relevant, in respect of the issue price and date of the first payment of interest).

A pricing supplement (“**Pricing Supplement**”) will be issued for each Tranche of Notes. A Pricing Supplement will contain details of the initial aggregate principal amount, issue price, issue date, maturity date, details of interest payable (if any) together with any other terms and conditions not set out in the section entitled “Conditions” below that may be applicable to that series of Notes. The terms and conditions (“**Conditions**”) applicable to each series of Notes are included in this Information Memorandum and may be supplemented, amended, modified or replaced by the Pricing Supplement applicable to those Notes.

A Pricing Supplement or another supplement to this Information Memorandum may also supplement, amend, modify or replace any statement or information incorporated by reference in this Information Memorandum or a supplement to this Information Memorandum.

To the extent that there is an inconsistency between the Conditions contained in this Information Memorandum and the Pricing Supplement, the Pricing Supplement will prevail.

Documents incorporated by reference

This Information Memorandum is to be read in conjunction with all documents which are deemed to be incorporated into it by reference as set out below. This Information Memorandum shall, unless otherwise expressly stated, be read and construed on the basis that such documents are so incorporated and form part of this Information Memorandum. Investors should review, amongst other things, the documents which are deemed to be incorporated in this Information Memorandum by reference when deciding whether to purchase any Notes.

The following documents are incorporated in, and taken to form part of, this Information Memorandum:

- the Note Trust Deed;
- the Guarantee;
- the Security Trust Deed;
- each Security;
- the Priority Deed;
- the most recent audited consolidated financial statements and unaudited semi-annual financial statements (if any) of the Group which are available on its website at www.imf.com.au;
- all announcements made by the Issuer to the ASX, electronic copies of which are available free of charge at www.asx.com.au (ASX:IMF);
- all amendments and supplements to this Information Memorandum prepared by the Issuer from time to time and all documents stated herein or therein to be incorporated in this Information Memorandum;
- all other documents issued by the Issuer and stated to be incorporated by reference in this Information Memorandum; and
- the Pricing Supplement and all documents stated therein to be incorporated in this Information Memorandum.

Any statement contained in this Information Memorandum or in any of the documents incorporated by reference in, and forming part of, this Information Memorandum shall be modified or superseded in this

Information Memorandum to the extent that a statement contained in any document subsequently incorporated by reference into this Information Memorandum modifies or supersedes such statement (including whether expressly or by implication).

Copies of the Note Trust Deed, the Guarantee, the Security Trust Deed, each Security, the Priority Deed, each Pricing Supplement and any other documents incorporated by reference in this Information Memorandum may be obtained from the office of the Issuer, the Note Trustee or such other person specified in the Pricing Supplement.

Except as provided above, no other information, including any document incorporated by reference in any of the documents described above, is incorporated by reference into this Information Memorandum.

Any internet site addresses provided in this Information Memorandum are for reference only and other than as expressly incorporated by reference, the content of any such internet site is not incorporated by reference into, and does not form part of, this Information Memorandum.

Disclosing entity

The Issuer is a “disclosing entity” (as defined in section 111AC of the Corporations Act) for the purposes of the Corporations Act and its securities are enhanced disclosure securities quoted on ASX and, as such, the Issuer is subject to regular reporting and disclosure obligations under the Corporations Act and the listing rules of ASX (“**ASX Listing Rules**”). Specifically, the Issuer is required to notify ASX of information about specific events and matters as they arise for the purposes of ASX making that information available to the securities markets conducted by ASX. In particular, the Issuer has an obligation under the ASX Listing Rules (subject to certain exceptions) to notify the ASX immediately of any information of which it is or becomes aware which a reasonable person would expect to have a material effect on the price or value of its securities.

This Information Memorandum should be read in conjunction with the publicly available information in relation to the Issuer which has been notified to ASX.

All announcements made by the Issuer are available from its website: www.imf.com.au or the ASX website: www.asx.com.au.

No independent verification

The only role of the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee and the Agents in the preparation of this Information Memorandum has been to confirm to the Issuer that their respective details in the sections entitled “Summary of the Notes” and “Directory” below are accurate as at the Preparation Date (as defined below).

Apart from the foregoing, none of the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee and the Agents has independently verified the information contained in this Information Memorandum. Accordingly, no representation, warranty or undertaking, express or implied, is made, and no responsibility is accepted, by any of them, as to the accuracy or completeness of, or any errors or omissions in, this Information Memorandum or any further information supplied by the Issuer in connection with the Notes.

The Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee and the Agents expressly do not undertake to any Noteholder to review the financial condition or affairs of the Issuer, any Guarantor or any of their respective affiliates at any time or to advise any Noteholder of any information coming to their attention with respect to the Issuer or a Guarantor or any of their affiliates and make no representations as to the ability of the Issuer or a Guarantor to comply with their respective obligations in respect of the Notes or the Guarantee.

Forward looking statements

To the extent that any forward looking statements are made in this Information Memorandum, those statements reflect the views of the Issuer as at the Preparation Date. Such statements involve known and unknown risks, uncertainties, assumptions and other important factors that could cause the actual

results, performance or achievements of the Issuer to differ materially from the results, performance or achievements expressed, implied or projected in this Information Memorandum.

None of the Issuer, the Guarantors or any of their officers or any other party associated with the preparation of this Information Memorandum makes any representation or warranty (either express or implied) as to the accuracy or likelihood of any forward looking statement or any events or results expressed or implied in any forward looking statement. None of the Issuer, the Guarantors or any of their officers or any other party associated with the preparation of this Information Memorandum guarantee that any specific objective of the Issuer, a Guarantor or the Group will be achieved.

Intending purchasers to make independent investment decision and obtain tax advice

This Information Memorandum contains only summary information concerning the Issuer, the Initial Guarantors and the Notes and should be read in conjunction with all of the documents which are deemed to be incorporated by reference herein. See also the information under the paragraph entitled "Disclosing entity" of this "Important Notice" section. The information contained in this Information Memorandum is not intended to provide the basis of any credit or other evaluation in respect of the Issuer, any Guarantor or any Notes and should not be considered or relied on as a recommendation or a statement of opinion (or a representation or report of either of those things) by any of the Issuer, a Guarantor, the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee or the Agents that any recipient of this Information Memorandum should subscribe for, purchase or otherwise deal in any Notes or any rights in respect of any Notes.

Each investor contemplating subscribing for, purchasing or otherwise dealing in any Notes or any rights in respect of any Notes should:

- make and rely upon (and shall be taken to have made and relied upon) its own independent investigation of the financial condition and affairs of, and its own appraisal of the creditworthiness of, the Issuer, the Guarantors and the Notes;
- determine for themselves the relevance of the information contained in this Information Memorandum, and must base their investment decision solely upon their independent assessment and such investigations as they consider necessary; and
- consult their own tax advisers concerning the application of any tax (including stamp duty) laws applicable to their particular situation.

No advice is given and no recommendation is made in respect of an investment in the Notes, the legal or taxation treatment of investors or purchasers in connection with an investment in any Notes or rights in respect of them or any other matter. No financial product advice is provided in this Information Memorandum and nothing in it should be taken to constitute a recommendation or statement of opinion that is intended to influence a person or persons in making a financial product decision and each investor should consult their own professional adviser.

Investing in the Notes entails a number of risks as more fully described in the section entitled "Risks" below. However, this Information Memorandum does not describe all of the risks associated with the Group's business, those associated with an investment in any Notes or the market generally. Prospective investors should consult their own professional, financial, legal and tax advisers about risks associated with an investment in any Notes and the suitability of investing in the Notes in light of their particular circumstances.

No offer

This Information Memorandum does not, and is not intended to, constitute an offer or invitation by or on behalf of the Issuer, any Guarantor, the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee or the Agents (or, without limitation, their respective shareholders, subsidiaries, affiliates, related entities, officers, employees, representatives or advisers) to any person to subscribe for, purchase or otherwise deal in any Notes.

Selling restrictions and no disclosure

The distribution and use of this Information Memorandum, including any Pricing Supplement, advertisement or other offering material, and the offer or sale of Notes may be restricted by law or directive in certain jurisdictions and intending purchasers and other investors should inform themselves about them and observe any such restrictions. In particular, no action has been taken by any of the Issuer, the Guarantors, the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee or the Agents which would permit a public offering of any Notes or distribution of this Information Memorandum in any jurisdiction where action for that purpose is required.

Neither this Information Memorandum nor any other disclosure document in relation to the Notes has been lodged with the Australian Securities and Investments Commission (“**ASIC**”). A person may not make or invite an offer of the Notes for issue or sale in Australia (including an offer or invitation which is received by a person in Australia) or distribute or publish this Information Memorandum or any other offering material or advertisement relating to the Notes in Australia unless the minimum aggregate consideration payable by each offeree is at least A\$500,000 (or its equivalent in another currency, in each case disregarding moneys lent by the offeror or its associates) or the offer or invitation otherwise does not require disclosure to investors in accordance with Part 6D.2 or Chapter 7 of the Corporations Act and such action complies with all applicable laws and directives.

This Information Memorandum is not a prospectus or other disclosure document for the purposes of the Corporations Act.

For a description of certain restrictions on offers, sales and deliveries of the Notes, and on distribution of this Information Memorandum, any Pricing Supplement or other offering material relating to the Notes, see the section entitled “Selling Restrictions” below.

A person may not (directly or indirectly) offer for subscription or purchase or issue an invitation to subscribe for or buy Notes, nor distribute or publish this Information Memorandum or any other offering material or advertisement relating to the Notes except if the offer or invitation complies with all applicable laws and directives.

No authorisation

No person has been authorised to give any information or make any representations not contained in or consistent with this Information Memorandum in connection with the Issuer, the Guarantors or the issue or sale of the Notes and, if given or made, such information or representation must not be relied on as having been authorised by the Issuer, the Guarantors, the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee or the Agents.

No registration in the United States

Neither the Notes nor the Guarantee have been, and will not be, registered under the Securities Act. Neither the Notes nor the Guarantee may be offered, sold, delivered or transferred, at any time, within the United States of America, its territories or possessions or to, or for the account or benefit of, U.S. Persons (as defined in Regulation S under the Securities Act (“**Regulation S**”)) except in a transaction exempt from, or not subject to, the registration requirements of the Securities Act.

Agency and distribution arrangements

The Issuer has agreed or may agree to pay fees to the Note Trustee, the Security Trustee and the Agents for undertaking their respective roles and reimburse them for certain expenses properly incurred in connection with the Notes.

The Issuer will also pay a fee to the Lead Manager and Initial Subscriber in respect of the placement of the Notes, and has agreed to reimburse the Lead Manager and Initial Subscriber for certain expenses properly incurred in connection with the Notes and will indemnify the Lead Manager and Initial Subscriber against certain liabilities in connection with the offer and sale of Notes.

The Issuer, the Guarantors, the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee and the Agents, and their respective related entities, affiliates, directors, officers and employees may have pecuniary or other interests in the Notes and may also have interests pursuant to other arrangements and may receive fees, brokerage and commissions and may act as a principal in dealing in any Notes.

The distribution and use of this Information Memorandum, including any Pricing Supplement, advertisement or other offering material, and the offer or sale of Notes may be restricted by law in certain jurisdictions and intending purchasers and other investors should inform themselves about them and observe any such restrictions. In particular, no action has been taken by any of the Issuer, the Guarantors, the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee or any Agents which would permit a public offering of any Notes or distribution of this Information Memorandum or any such document in any jurisdiction where action for that purpose is required.

Currency

In this Information Memorandum, references to “\$”, “A\$” or “**Australian dollars**” are to the lawful currency of the Commonwealth of Australia.

Currency of information

The information contained in this Information Memorandum is prepared as of its Preparation Date. Neither the delivery of this Information Memorandum nor any offer, issue or sale made in connection with this Information Memorandum at any time implies that the information contained in it is correct, that any other information supplied in connection with the Notes is correct or that there has not been any change (adverse or otherwise) in the financial conditions or affairs of the Issuer or any Guarantor at any time subsequent to the Preparation Date. In particular, none of the Issuer, any Guarantor or any other person is under any obligation to any person to update this Information Memorandum at any time after an issue of Notes.

In this Information Memorandum, “**Preparation Date**” means:

- in relation to this Information Memorandum, the date indicated on its face or, if this Information Memorandum has been amended, or supplemented, the date indicated on the face of that amendment or supplement;
- in relation to any annual reports and financial statements incorporated in this Information Memorandum, the date up to, or as at, the date on which such annual reports and financial statements relate; and
- in relation to any other item of information which is to be read in conjunction with this Information Memorandum, the date indicated on its face as being its date of release or effectiveness.

Summary of the Notes

The following is a brief summary only and should be read in conjunction with the rest of this Information Memorandum and, in relation to any Notes, the Note Trust Deed, the Security Trust Deed, each Security, the Priority Deed, the applicable Conditions and any relevant Pricing Supplement. A term used below but not otherwise defined has the meaning given to it in the Conditions. A reference to a "Pricing Supplement" does not limit provisions or features which may be supplemented, amended, modified or replaced by a Pricing Supplement in relation to an issue of Notes.

Issuer: IMF Bentham Limited (ABN 45 067 298 088).

Further information (which information is not incorporated by reference in this Information Memorandum) regarding the Issuer can be obtained from the Issuer's website at www.imf.com.au or from the documents which are specifically incorporated by reference in this Information Memorandum.

Initial Guarantors and Guarantee:

- (a) Bentham Holdings Inc;
- (b) Bentham IMF Holdings 1 LLC;
- (c) Bentham Capital LLC;
- (d) Bentham Capital Management LLC;
- (e) Bentham IMF Capital Limited;
- (f) IMF Bentham Pte Limited;
- (g) IMF Litigation Funding Services Limited;
- (h) IMF Bentham GPA 5 Pty Ltd (ABN 88 633 952 342);
- (i) IMF Bentham Holdings Pty Ltd (ABN 30 636 484 163); and
- (j) IMF Bentham Cayman Advisory Services Limited.

As more fully described in the section entitled "Guarantee and Security Arrangements" below, the Notes will have the benefit of the Guarantee, and the payment of principal and interest in respect of the Notes will be unconditionally and irrevocably guaranteed on a joint and several basis by the Guarantors as more fully set out in the Guarantee.

As described in Condition 5.2(a)(ii) ("Wholly Owned Subsidiary negative pledge"), the Issuer must ensure that each Wholly Owned Subsidiary (other than an Excluded Wholly Owned Subsidiary) which is not an Initial Guarantor accedes to the Guarantee as an additional Guarantor (or provides some other guarantee of all amounts owing on the Notes) if such Wholly Owned Subsidiary:

- (a) provides a guarantee of any Financial Indebtedness;
- (b) incurs any unsecured Financial Indebtedness; or
- (c) holds cash on its balance sheet in an amount which at any time exceeds the Subsidiary Cash Limit.

The Issuer and the Note Trustee may also obtain a release of a Wholly Owned Subsidiary from the Guarantee or other guarantee (such entities from time to time appointed as a guarantor which has not been released, and together with the Initial Guarantors, the "**Guarantors**"). The obligations of each Wholly Owned Subsidiary under any other guarantee provided by it in satisfaction of the above requirements must rank equally with, or in priority to, its obligations in relation to any other unsecured or guaranteed Financial Indebtedness of the relevant Wholly Owned Subsidiary.

- Lead Manager and Initial Subscriber:** FIIG Securities Limited (ABN 68 085 661 632).
- Registrar:** Sargon CT Pty Ltd (formerly AET Structured Finance Services Pty Ltd) (ABN 12 106 424 088) or such other person appointed by the Issuer under an Agency Agreement to perform registry functions and establish and maintain the Register (as defined below) on the Issuer's behalf from time to time ("**Registrar**").
- Issuing & Paying Agent:** Sargon CT Pty Ltd (ABN 12 106 424 088) or any other person appointed by the Issuer under an Agency Agreement to act as issuing or paying agent on the Issuer's behalf from time to time ("**Issuing & Paying Agent**").
- Calculation Agent:** Sargon CT Pty Ltd (ABN 12 106 424 088) or any other person appointed by the Issuer under an Agency Agreement to act as calculation agent on the Issuer's behalf from time to time ("**Calculation Agent**").
- Agents:** Each of the Registrar, Issuing & Paying Agent, Calculation Agent and any other person appointed by the Issuer to perform other agency functions with respect to any Tranche or series of Notes (each an "**Agent**" and, together, the "**Agents**").
- Note Trustee:** Australian Executor Trustees Limited (ABN 84 007 869 794) or such other person appointed under the Note Trust Deed as trustee of the IMF Bentham OTC Note Trust from time to time ("**Note Trustee**").
- Security Trustee:** Sargon CT Pty Ltd (ABN 12 106 424 088) or such other person appointed under the Security Trust Deed as trustee of the IMF Bentham OTC Security Trust from time to time ("**Security Trustee**").
- Form of Notes:** Notes will be issued in registered form and will be debt obligations of the Issuer which are constituted by, and owing under, the Note Trust Deed.
- Notes take the form of entries in a register ("**Register**") maintained by the Registrar.
- Certificates in respect of any Notes will not be issued unless the Issuer determines that certificates should be available or if certificates are required by any applicable law or directive.
- Negative pledge:** Notes will have the benefit of a negative pledge, as described in Condition 5.1 ("Issuer negative pledge") and Condition 5.2 ("Wholly Owned Subsidiary negative pledge").
- Financial Undertakings:** Notes will have the benefit of certain financial undertakings as described in Condition 5.1 ("Issuer negative pledge"), Condition 5.2 ("Wholly Owned Subsidiary negative pledge") and Condition 5.4 ("Limit on the incurrence of secured Financial Indebtedness").

Status and ranking of the Notes:	Notes will constitute direct and unconditional obligations of the Issuer which are secured in the manner described in the Security and will at all times rank <i>pari passu</i> and without preference or priority among themselves and with any Permitted Secured Finance Arrangements but subject to any prior ranking Permitted Security Interest and obligations mandatorily preferred by statute or applicable law.
Status of the Guarantee:	The obligations of the Guarantors under the Guarantee are direct, and unconditional, unsubordinated and (subject to the provisions of Condition 5.2 (“Wholly Owned Subsidiary negative pledge”)) unsecured obligations of the Guarantors and (save for certain obligations required to be preferred by law) rank equally with all other unsecured obligations (other than subordinated obligations, if any) of the Guarantors, from time to time outstanding).
Security:	Notes will have the benefit of the Security as more fully described in the section entitled “Guarantee and Security Arrangements” below.
Issue restrictions:	<p>Notes may only be offered for issue in accordance with the Conditions.</p> <p>In particular, the Notes may only be offered (directly or indirectly) for issue, or applications invited for the issue of Notes, if:</p> <ul style="list-style-type: none"> (a) where the offer or invitation is made in, or into Australia: <ul style="list-style-type: none"> (i) the aggregate consideration payable by each offeree is at least A\$500,000 (or its equivalent in an alternative currency and, in each case, disregarding moneys lent by the offeror or its associates to the offeree or its associates) or if the offer or invitation (including any resulting issue) otherwise does not require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act; (ii) the offer or invitation (including any resulting issue) does not constitute an offer to a “retail client” as defined for the purposes of section 761G of the Corporations Act; and (iii) such action does not require any document to be lodged with ASIC; and (b) at all times, the offer or invitation (including any resulting issue) complies with all other applicable laws and directives in the jurisdiction in which the offer, invitation or issue takes place.
Interest:	<p>Each Note bears interest on its outstanding principal amount from (and including) its Interest Commencement Date to (but excluding) its Maturity Date (unless redeemed earlier) at the Interest Rate.</p> <p>Interest is payable in arrear on each Interest Payment Date or such other date on which a Note is redeemed, and adjusted, if necessary, in accordance with the Business Day Convention.</p> <p>All such information will be set out in the relevant Pricing Supplement.</p>
Denomination:	Notes will be issued in the single denomination of A\$1,000.

Minimum parcel size on initial issue: A\$50,000.

Clearing System: Notes may be transacted either within or outside a clearing system.

The Issuer intends to apply to Austraclear Ltd (ABN 94 002 060 773) ("**Austraclear**") for approval for Notes to be traded on the clearing and settlement system operated by Austraclear ("**Austraclear System**"). Upon approval by Austraclear, the Notes will be traded through Austraclear in accordance with the rules and regulations of the Austraclear System ("**Austraclear Regulations**"). Such approval by Austraclear is not a recommendation or endorsement by Austraclear of such Notes.

Transactions relating to interests in the Notes may also be carried out through the settlement system operated by Euroclear Bank SA/NV ("**Euroclear**") or the settlement system operated by Clearstream Banking S.A. ("**Clearstream**").

Interests in the Notes traded in the Austraclear System may be held for the benefit of Euroclear or Clearstream. In these circumstances, entitlements in respect of holdings of interests in Notes in Euroclear would be held in the Austraclear System by a nominee of Euroclear (currently HSBC Custody Nominees (Australia) Limited) while entitlements in respect of holdings of interests in Notes in Clearstream would be held in the Austraclear System by a nominee of J.P. Morgan Chase Bank, N.A. as custodian for Clearstream.

The rights of a holder of interests in a Note held through Euroclear or Clearstream are subject to the respective rules and regulations for accountholders of Euroclear and Clearstream, the terms and conditions of agreements between Euroclear and Clearstream and their respective nominee and the rules and regulations of the Austraclear System. In addition, any transfer of interests in a Note, which is held through Euroclear or Clearstream will, to the extent such transfer will be recorded on the Austraclear System, be subject to the Corporations Act and the requirements for minimum consideration as set out in the Conditions.

None of the Issuer, any Guarantor, the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee or any Agent will be responsible for the operation of the clearing arrangements which is a matter for the clearing institutions, their nominees, their participants and the investors.

Title: Entry of the name of the person in the Register in respect of Notes in the registered form constitutes the obtaining or passing of title and is conclusive evidence that the person so entered is the registered holder of that Note subject to correction for fraud or error.

Title to Notes which are held in the Austraclear System will be determined in accordance with the Austraclear Regulations.

Notes which are held in the Austraclear System will be registered in the name of Austraclear.

Payments: Payments to persons who hold Notes through the Austraclear System will be made in accordance with the Austraclear Regulations.

Payment Date: A Payment Date for a Note is the Maturity Date, an Interest Payment Date or any other relevant date on which a payment in respect of that

Note is due, adjusted in accordance with the applicable Business Day Convention.

Record Date: The Record Date is the close of business (in the place where the Register is maintained) on the eighth day before the Payment Date.

Maturity and redemption: Subject to compliance with all relevant laws and directives, each Note will be redeemed on its Maturity Date at its then outstanding principal amount, unless the Note has been previously redeemed or purchased and cancelled.

Notes are also redeemable at their then outstanding principal amount prior to the Maturity Date:

- at the option of the Issuer on certain Optional Redemption Dates;
- at the option of the Issuer if a Tax Event occurs or pursuant to a clean-up call; or
- at the option of a Noteholder following the occurrence of a Change of Control or a Delisting Event,

in each case, on the terms as more fully set out in the Conditions and the relevant Pricing Supplement.

Notes entered in the Austraclear System will be redeemed through the Austraclear System in a manner that is consistent with the Austraclear Regulations.

Selling restrictions: The offer, sale and delivery of Notes and the distribution of this Information Memorandum and other material in relation to any Notes are subject to such restrictions as may apply in any country in which the offer and sale of the Notes is undertaken. In particular, restrictions on the offer, sale or delivery of Notes in Australia and Singapore are set out in the section entitled "Selling Restrictions" below.

Transfer procedure: Notes may only be transferred in whole and in accordance with the Conditions.

In particular, the Notes may only be transferred if the offer or invitation for the sale or purchase of Notes is received by a person:

- (a) 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
- (b) 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.

Transfers of Notes held in the Austraclear System will be made in accordance with the Austraclear Regulations.

Investors to obtain independent advice with respect to investment and other risks:

Investing in the Notes entails a number of risks as more fully described in the section entitled “Risks” below. However, this Information Memorandum does not describe all of the risks associated with the Group’s business, those associated with an investment in any Notes or the market generally.

As such, prospective investors or purchasers should consult their own professional, financial, legal and tax advisers about risks associated with an investment in any Notes and the suitability of investing in the Notes in light of their particular circumstances.

Taxes, withholdings and deductions:

All payments in respect of the Notes must be made without any withholding or deduction in respect of taxes, unless such withholding or deduction is required by law.

In the event that any such withholding or deduction is made, the Issuer or the relevant Guarantor will, save in certain limited circumstances, be required to pay additional amounts to cover the amounts so deducted or withheld.

Noteholders who do not provide their Tax File Number (“TFN”), (in certain circumstances) an Australian Business Number (“ABN”) or proof of an exemption (as appropriate) may have tax withheld or deducted from payments at the highest marginal rate plus the Medicare levy. No additional amounts will be payable by the Issuer or a Guarantor in respect of any such withholding or deduction.

A brief overview of the Australian taxation treatment of payment of interest on Notes is set out in the section entitled “Australian Taxation” below.

Investors should obtain their own taxation and other applicable advice regarding the taxation and other fiscal status of investing in any Notes and none of the Issuer, the Guarantors, the Lead Manager and Initial Subscriber, the Note Trustee, the Security Trustee or any Agent makes any representation regarding the taxation treatment of the Notes for any particular investor.

FATCA and CRS:

Financial institutions through which payments on Notes are made may be required to withhold United States of America (“U.S.”) tax pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (“FATCA”) or similar laws implementing an inter-governmental approach on FATCA.

In addition, the OECD Common Reporting Standard for Automatic Exchange of Financial Account Information (“CRS”) requires certain financial institutions to report information regarding certain accounts (which may include the Notes) to their local tax authority and follow related due diligence procedures.

A brief overview of the impact of FATCA and CRS on a holding of Notes is set out in the section entitled “U.S. Foreign Account Tax Compliance Act and OECD Common Reporting Standard” below.

Investors should obtain their own taxation and other applicable advice regarding the implications of FATCA and CRS for investing in any Notes and none of the Issuer, the Guarantors, the Lead Manager and Initial Subscriber, the Note Trustee, the Security

Trustee or any Agent makes any representation regarding such implications for any particular investor.

- Listing:** It is not intended that the Notes be listed or quoted on any stock or securities exchange.
- Rating:** Neither the Issuer nor the Notes have been, nor is it intended that they will be, rated by any credit ratings agency.
- Governing law:** The Notes, the Guarantee and all related documentation will be governed by the laws of New South Wales, Australia.
- Use of proceeds:** The Issuer intends to use the proceeds from the issue of the Notes to fully redeem its existing 7.40% Fixed Rate Notes due 30 June 2020 (ISIN: AU3CB0236735), including any costs or expenses associated with such redemption, and for the general corporate purposes of the Group.

Guarantee and Security Arrangements

*This section contains a summary of the Security Trust Deed dated 6 April 2016 between, among others, the Issuer and Sargon CT Pty Ltd (ABN 12 106 424 088) (“**Security Trustee**”) (“**Security Trust Deed**”) and the Securities (as defined in the Security Trust Deed). This summary is qualified in its entirety by reference to the provisions of the Notes, the Security Trust Deed, the Securities, the Priority Deed and the other underlying documents described below and elsewhere in this Information Memorandum.*

Capitalised terms used in this section have the meaning given to them in the Security Trust Deed, unless otherwise defined.

Overview

The Security described in this section will rank equally with the security that has been granted in favour of the trustee of the IMF Bentham Bonds Trust established and governed by the terms of the trust deed dated 7 April 2014 between the Issuer and the trustee of that trust (as amended) and the holders of the IMF Bentham ASX Bonds (as defined in the Conditions).

The Security is comprised of Collateral Security (which includes the Guarantee), any future security interest granted in favour of the Security Trustee which secures the Notes or other secured money and a general security agreement (“**General Security Agreement**”) over all of the Issuer’s present (and after-acquired) property (excluding the Co-Funding Arrangements (as defined in the Conditions)), and includes anything in respect of which the Issuer has at any time a sufficient right, interest or power to grant a security interest, governed by the law of New South Wales, Australia.

The assets over which the security interest in the General Security Agreement is granted include assets that are located outside of Australia, and include shares in Subsidiaries, and other assets that the Issuer may hold outside of Australia from time to time during the term of the Notes. The General Security Agreement has been registered in Australia and perfected in accordance with applicable Australian law but has not been registered in, and neither have steps been taken, to perfect such security over assets of the Issuer in any other jurisdiction. As a result, it is possible that the General Security Agreement may not be enforceable over assets of the Issuer located outside of Australia or may be subject to prior ranking security created either by law or otherwise in those jurisdictions outside Australia where such assets are located. As a result, Noteholders should not rely upon the ability to enforce the General Security Agreement in respect of any assets of the Issuer located outside of Australia and may rank as unsecured creditors in the winding-up of the Issuer with respect to such assets.

The Security described in this section has been granted in favour of the Security Trustee, to hold on trust for the Beneficiaries (as defined in the Security Trust Deed) in accordance with the terms of the Security Trust Deed.

Beneficiaries under the Security Trust Deed

As at the date of this Information Memorandum, the Beneficiaries include the Security Trustee, the Note Trustee, each Agent and the Noteholders. New Beneficiaries may be added in the future, as provided for in clause 13 of the Security Trust Deed.

Beneficiaries may also comprise “Lenders” and their “Representatives” (if any) and “Swap Counterparties”. Lenders will need to meet certain conditions, including that the Security Provider is not in breach of the Transaction Documents (which includes the Conditions of the Notes) as a result of incurring the “Loan” provided by the relevant Lender. As at the date of this Information Memorandum there are no Lenders or Swap Counterparties and the only Representative is the Note Trustee as trustee for the Noteholders.

At the time of issue of each new Tranche or Series of Notes under the Note Trust Deed, each new Noteholder will automatically be a Beneficiary without the need for any further action to be taken.

Instructions by Beneficiaries under the Security Trust Deed

The rights under the Securities are granted in favour of the Security Trustee. The Security Trust Deed provides that, in the exercise of all such rights, the Security Trustee shall act in accordance with the instructions of any Instructing Group. This is subject to the matters set out in the sections entitled "Instructions from 90% of Beneficiaries under the Security Trust Deed" below. In the absence of such instructions, the Security Trustee need not act.

Under the Security Trust Deed, an "Instructing Group" means instructions from Beneficiaries whose total Exposures are at least 90% of the total Exposure of all Beneficiaries or from the Majority Beneficiaries (being those Beneficiaries whose total Exposures are at least 75% of the total Exposure of all Beneficiaries).

Instructions from 90% of Beneficiaries under the Security Trust Deed

Under the Security Trust Deed, there are certain circumstances in which the Security Trustee must only act on the instructions from Beneficiaries whose total Exposures are at least 90% of the total Exposure of all Beneficiaries (with the Note Trustee acting as the representative for all Noteholders). These include:

- (a) a change to certain definitions in the Security Trust Deed;
- (b) an exercise of any discretion in distribution of moneys received or recovered by the Security Trustee from enforcement proceeds;
- (c) a change to the clauses which govern the ability of the Beneficiaries to instruct the Security Trustee and the order of distribution of moneys received or recovered by the Security Trustee from enforcement proceeds; and
- (d) the release of (either in whole or part) any Security Interest, other than to permit a transaction which complies with the Transaction Documents (as defined in the Security Trust Deed and which includes the Notes).

Procedures for seeking instructions

Under the Security Trust Deed, when seeking instructions from the Beneficiaries, the Security Trustee may specify in writing a period within which instructions are to be provided. The period will be not more than 10 Business Days or any longer period agreed by the Beneficiaries.

If a Beneficiary does not provide instructions in writing within the period specified it will be disregarded for the purpose only of determining whether instructions have been given by a specified majority of, or by all, Beneficiaries.

Under the Note Trust Deed, if the Security Trustee requests instructions from the Note Trustee for the taking of any action which requires a direction, approval, consent or determination of the Beneficiaries under the Security Trust Deed (or any class of them), the Note Trustee will:

- (a) notify each Noteholder and seek directions and instructions;
- (b) calculate the aggregate Exposure of Noteholders directing in favour or and against the approval, consent, determination or direction;
- (c) notify the Security Trustee of the aggregate Exposure of Noteholders directing in favour for and against the approval, consent, determination or direction; and
- (d) subject to the Security Trust Deed and the Note Trust Deed, take any other action required to be taken by it in accordance with the direction of the Noteholders.

Distribution of recovered moneys

Under the Security Trust Deed, the Security Trustee will apply all money received or recovered by it which is available for distribution to the Beneficiaries in the following order of priority:

- (a) **First:** to the extent it represents the proceeds of enforcement of a Secured Property, to any person with a prior ranking claim to the extent the person is entitled to those proceeds;
- (b) **Second:** to any Receiver appointed to the Secured Property for its costs and remuneration in connection with exercising, enforcing or preserving rights, powers or remedies (or considering or attempting to do so) under or in connection with the Transaction Documents;
- (c) **Third:** *pari passu* and rateably to pay each of the Note Trustee (or other Representative) and the Security Trustee for its costs and all other amounts due to it personally in connection with performing its role as note trustee, representative or security trustee (as the case may be) (but not on behalf of, or as trustee for, any other Beneficiary);
- (d) **Fourth:** *pari passu* and rateably to pay each Agent for any amounts due to it personally in connection with performing its role as agent;
- (e) **Fifth:** *pari passu* and rateably to pay each Beneficiary (other than the Security Trustee, the Note Trustee (or other Representative) or an Agent) towards satisfaction of its Secured Moneys in the proportion that its Secured Money at that time bears to the total of the Secured Money of all Beneficiaries (other than the Security Trustee, a Representative or an Agent) at that time or in any other manner agreed by the Security Trustee and those Beneficiaries;
- (f) **Sixth:** to each other person to whom the Security Trustee is obliged to pay in priority to any Security Provider; and
- (g) **Seventh:** the balance, if any, to the relevant Security Provider,

unless otherwise instructed by Beneficiaries whose total Exposures are at least 90% of the total Exposure of all Beneficiaries.

Notwithstanding the above, amounts distributed in accordance with the Security Trust Deed to the extent payable in respect of Notes will be paid to the Note Trustee (as required by clause 5.4 of the Note Trust Deed) and distributed by it in the order described in clause 2.3 of the Note Trust Deed.

Release of security

As described above in the section entitled "Instructions from 90% of Beneficiaries under the Security Trust Deed", the Security Trustee must not release any Security Interest existing for the benefit of a Beneficiary, without instructions from Beneficiaries whose Exposures are at least 90% of the total Exposures of all Beneficiaries (other than to permit a transaction which complies with the Transaction Documents).

Indemnity to Security Trustee

Under the Security Trust Deed, the Security Trustee has the benefit of an indemnity (including out of the Security Trust Fund (as defined in the Security Trust Deed) and from the Issuer and each Security Provider) against any liability or loss arising from, and any costs incurred as the Security Trustee other than in the case of fraud, gross negligence or wilful misconduct.

Limitation of liability of Security Trustee

Under the Security Trust Deed, the Security Trustee and its directors, officers, employees, agents, attorneys, Related Entities or successors are not liable or responsible to the Beneficiaries for a broad range of matters other than in the case of fraud, gross negligence or wilful misconduct. This includes any action taken or not taken by it or them under any Transaction Document.

Corporate Profile – Issuer and Initial Guarantors

The information in this section is a brief summary only of the Issuer and the corporate structure showing the Initial Guarantors and does not purport to be, nor is it, complete.

When deciding whether to purchase any Notes, prospective investors should review, amongst other things, this Information Memorandum and all of the documents which are deemed to be incorporated in this Information Memorandum by reference. The documents incorporated by reference include all announcements made by the Issuer to the ASX, electronic copies of which are available free of charge at www.asx.com.au (ASX: IMF).

*Investing in the Notes entails a number of risks as more fully described in the section entitled “Risks” below. However, this Information Memorandum does not describe all of the risks associated with the Group’s business, those associated with an investment in any Notes or the market generally. **Prospective investors should consult their own professional, financial, legal and tax advisers about risks associated with an investment in any Notes and the suitability of investing in the Notes in light of their particular circumstances.***

Company overview

The Issuer, IMF Bentham Limited (“**IMF**”), operates in one industry, being investing in dispute resolution. The Group is a major diversified global dispute resolution funding platform across common law and civil law jurisdictions in both developed and emerging markets. The Group provides an end-to-end solution for clients in the pre- and post-judgement space, supported by a global team. IMF’s business began in Australia, but it now offers services in the three largest litigation markets - the US, Europe and Asia.

IMF is listed on the Australian Securities Exchange (ASX: IMF) and has a market capitalisation of approximately A\$1.01 billion (as at close of trading on 16 December 2019). IMF’s dispute resolution investments are split between an on-balance sheet portfolio and investments made by funds advised or managed by members of the Group. Investments post the inception of IMF’s investment funds in 2017 have been made via the funds. IMF reports as a consolidated group.

The Group’s wholly owned subsidiaries serve as regional holding and operating companies and provide investment management advisory and administration services to the Group’s fund structures in the following locations:

- Australia;
- United States;
- Canada;
- Asia; and
- EMEA (Europe, Middle East, Africa).

The Group’s fund structures include:

- Fund 1 – this fund invests in litigation investments in the United States;
- Funds 2 & 3 – these funds invest jointly in litigation investments outside the United States;
- Fund 4 – this structure invests in litigation investments in the United States following the closing of Fund 1’s investment period; and
- Fund 5 - invest in litigation investments outside the United States following the closing of Fund 2 & 3’s investment period.

On 8 November 2019, IMF completed the acquisition of Omni Bridgeway Holding B.V. (“**Omni Bridgeway**”). Omni Bridgeway is a leading provider of funding and specialised skills for litigation / arbitration and enforcement proceedings, and for the work-out and monetisation of claims and non-performing loans. Omni Bridgeway has global operations with employees across Amsterdam, Cologne, Geneva, Dubai and Singapore. This is a strategically important merger that satisfies a number of IMF’s key growth objectives and accelerates its development as a diversified fund manager with a truly global reach. Omni Bridgeway operations include two investment funds – OB Capital Coop and Omni Bridgeway DARP Coop that fund all Omni Bridgeway investments and operating costs.

Initial Guarantors

The Initial Guarantors are certain Wholly Owned Subsidiaries of IMF whose group function is detailed in the table below. The Wholly Owned Subsidiaries which are not Initial Guarantors are as identified below.

Wholly Owned Subsidiary	Country of incorporation	Function	Initial Guarantor
Bentham Holdings Inc	United States	United States holding company	YES
Bentham IMF Holdings 1 LLC	United States	Holds IMF’s interest in Fund 1	YES
Bentham Capital LLC	United States	United States operating company providing management services	YES
Bentham Capital Management LLC	United States	Registered Investment Adviser with the Securities Exchange Commission	YES
Bentham IMF Capital Limited	Canada	Canadian operating company	YES
IMF Bentham Pte Limited	Singapore	Singapore operating company	YES
IMF Litigation Funding Services Limited	United Kingdom	UK operating company	YES
IMF Bentham GPA 5 Pty Ltd	Australia	Holds IMF’s participation interests in Fund 5	YES
IMF Bentham Holdings Pty Ltd	Australia	Holding company of the Omni Bridgeway group	YES
IMF Bentham Cayman Advisory Services Limited	Cayman Islands	The appointed Investment Adviser to Fund 5	YES
Bentham Capital GP LLC	USA	Fund 4 general partner	NO
Security Finance LLC	USA	Holds security for Fund 1	NO
Security Finance 2 LLC	USA	Holds security for Fund 4	NO
Lien Finance Canada Limited	Canada	Holds security on Canadian investments	NO

Board of Directors

Details on IMF's Directors is detailed below.

Michael Kay – Non-Executive Director and Chairman



Michael Kay has been IMF Bentham's Non-Executive Chairman since 1 July 2015. He brings a wealth of commercial experience, with a sound track record of building successful businesses. Most recently he was Chief Executive Officer and Managing Director of salary packaging company McMillan Shakespeare Limited. He was previously Chief Executive Officer of national insurer AAMI and before that spent 12 years in private legal practice.

Mr Kay is Non-Executive Director of RAC Insurance Pty Limited, and Chairman and Non-Executive Director of City Chic Collective Limited. He retired as Chairman and Non-Executive Director of Lovisa Holdings Limited in October 2018, and as Chairman and Non-Executive Director of ApplyDirect Limited in March 2019.

Mr Kay is a member of the Audit and Risk Committee, Remuneration Committee, Corporate Governance Committee and Nomination Committee. During the past three years he has not served as a Director of any listed company other than IMF Bentham Limited, Quintis Limited, Lovisa Holdings Limited, ApplyDirect Limited and City Chic Collective Limited.

Mr Kay holds a Bachelor of Laws (University of Sydney, Australia).

Andrew Saker – Managing Director and CEO



Andrew Saker was appointed Managing Director and Chief Executive Officer on 5 January 2015. Since then, he has led a transformational strategy of geographic expansion, production diversification, and migrating IMF Bentham's business model from capital management to fund management.

Mr Saker began his career at Ferrier Hodgson, a leading provider of corporate recovery, insolvency management and restructuring services throughout Australia and Asia. Appointed partner in 1998, he went on to establish the firm's Indonesian practice in Jakarta. In his 26 years at Ferrier Hodgson, he was involved in over 500 corporate insolvencies and restructurings in Australia, Asia, North and South America. He speaks regularly at industry conferences and is frequently cited in the media and trade publications regarding dispute financing, insolvency and restructuring.

During the past three years he has not served as a Director of any listed company other than IMF Bentham Limited.

Mr Saker holds a Bachelor of Commerce in Accounting and Finance (University of Western Australia). He is a Member of the Institute of Chartered Accountants. Until his appointment to IMF Bentham, he was an Official Liquidator of the Supreme and Federal Courts.

Hugh McLernon - Executive Director



Hugh McLernon is one of the founders and pioneers of the contemporary dispute resolution funding industry. He has been an Executive Director and member of IMF Bentham's Investment Committee since 2001.

Mr McLernon is a lawyer by training. In 1988, he retired after 20 years of legal practice to commence the litigation funding industry in Australia through McLernon Group Limited. In 1990 he introduced the secondary life insurance market into Australia through the Capital Life Exchange. From 1996 to 2001, he was also the Managing Director of the Hill Group of companies which operates in the finance, mining, property, insurance and general investment arenas of Australia. In 2001, Mr McLernon listed IMF Bentham on the ASX. He was the inaugural Managing Director from 2001 to 2004, and then 2009 to 2015.

Previously, Mr McLernon worked as a Crown Prosecutor and then barrister at the independent bar, before joining Clayton Utz for three years as a litigation partner.

During the past three years he has not served as a Director of any listed company other than IMF Bentham Limited.

Mr McLernon holds a Bachelor of Laws degree (University of Western Australia).

Michael Bowen - Non-Executive Director



Michael Bowen was a founding partner of the Perth law firm Hardy Bowen and became a partner of global law firm DLA Piper in 2015. He practices primarily corporate, commercial and securities law with an emphasis on mergers, acquisitions, capital raisings and resources. Mr Bowen assists the Managing Director on matters concerning corporations law.

Mr Bowen was appointed to the Board as a Non-Executive Director in December 2001. He is Chair of the Remuneration Committee, was Chair of the Audit and Risk Committee until 4 April 2019 and is a member of the Corporate Governance Committee and Nomination Committee. Mr Bowen is also a Non-Executive Director of Trek Metals Limited (appointed 22 February 2017).

During the past three years he has not served as a Director of any listed company other than IMF Bentham Limited and Trek Metals Limited.

Mr Bowen holds Bachelors of Law, Jurisprudence and Commerce (University of Western Australia). He has been admitted as a barrister and solicitor of the Supreme Court of Western Australia since 1979, and is also admitted as a solicitor of the High Court of Australia. He is a Certified Public Accountant and a member of the Australian Society of Accountants.

Karen Phin – Non-Executive Director



Karen Phin has over 20 years' experience analysing and advising Australian listed companies in the retail, banking, industrial and natural resources sectors on capital management, capital raisings and mergers and acquisitions. Until 2014, she was a Managing Director and Head of Capital Advisory at Citigroup in Australia and New Zealand. Prior to joining Citigroup, she spent 12 months at ASIC as a Senior Specialist in the Corporations group. From 1996 to 2009, Ms Phin was a Managing Director at UBS AG, where she established and led the Capital Management Group.

Ms Phin is a member of IMF Bentham's Audit and Risk Committee, Remuneration Committee, Nomination Committee and current Chair of the Corporate Governance

Committee. She has been a Non-Executive Director of Magellan Financial Group Limited since 2014 and a member of the Takeovers Panel since 2015, and a Non-Executive Director of ARB Corporation Limited since June 2019. During the past three years, she has not served as a Director of any company other than IMF Bentham, Magellan Financial Group Limited and ARB Corporation Limited.

Ms Phin holds a Bachelor of Arts and Bachelor of Laws (Honours) (University of Sydney, Australia) and is a graduate of the Australian Institute of Company Directors.

Christine Feldmanis – Non-Executive Director



Christine Feldmanis is a qualified accountant, investment, governance and risk management specialist with over 30 years' experience in the finance and investment industry. She was previously Managing Director of an ASX-listed boutique funds management incubator business and Chief Finance Officer of the NSW Treasury Corporation.

As a professional Non-Executive Director and experienced Board Committee Chair, Ms Feldmanis' current Non-Executive Director roles include Perpetual Equity Investment Company Limited, FIIG Securities Limited, Bell Asset Management Limited and not-for-profit organisation, Foodbank NSW.

Ms Feldmanis was appointed to the Board as a Non-Executive Director from November 2018 and Chair of the Audit and Risk Committee from 4 April 2019.

During the past three years she has not served as a Director of any listed company other than IMF Bentham Limited and Perpetual Equity Investment Company Limited.

Ms Feldmanis holds a Bachelor of Commerce (University of New South Wales, Australia) and Master of Applied Finance (Macquarie University, Australia). She is a Fellow of the Australian Institute of Company Directors, Trustee Fellow of the Association of Superannuation Funds of Australia, Senior Fellow of the Financial Services Institute of Australasia and a Certified Practising Accountant of Australasia (FINSIA) and a Certified Practising Accountant.

Disclosure of information to Noteholders

Noteholders may view the most recent audited consolidated annual Financial Statements and unaudited semi-annual Financial Statements of the Group via the Issuer's website: www.imf.com.au.

If the Issuer is no longer listed on a major stock exchange, the Issuer must provide to the Note Trustee the following information and reports by publishing them on the Issuer's website (via a password-protected section of the Issuer's website or otherwise), or by such other means as the Issuer and the Note Trustee agree from time to time:

- (a) **(audited consolidated Financial Statements)** within 120 days after the close of each financial year, a copy of the audited consolidated Financial Statements of the Group in respect of that financial year;
- (b) **(unaudited consolidated Financial Statements)** within 90 days after the close of each financial half-year, a copy of the unaudited consolidated Financial Statements of the Group in respect of that half-year;
- (c) **(quarterly reports)** within one month after the end of each calendar quarter, a report including details of:

- (i) updated commentary (and year to date) on the performance of the Issuer and the Group, over the last quarter;
- (ii) management accounts for the Group;
- (iii) any other matters, including any change to:
 - (A) the financial forecasts or expectations, value of underlying assets or any financial rating of the Issuer, a Guarantor or other member of the Group; or
 - (B) the debt funding arrangements of the Issuer, a Guarantor or other member of the Group, including any material breach of covenants,

which, in the Issuer's reasonable opinion, may have a material adverse effect on the Group's ability to comply with its obligations under the Notes;
- (d) **(certain events)** as soon as reasonably practicable after the Issuer or a Guarantor becomes aware of their existence, information relating to the following events:
 - (i) the occurrence and details of any Event of Default;
 - (ii) any proposal to appoint an external administrator to the Issuer, a Guarantor or any other member of the Group or a receiver to any of their assets; or
 - (iii) the occurrence of a Change of Control or a Delisting Event;
- (e) **(notices)** promptly, copies of all documents and notices given by the Issuer or a Guarantor to Noteholders (including copies of any Compliance Certificates); and
- (f) **(other)** all other information or reports regarding the financial condition and operations of the Issuer, a Guarantor or the Group as the Note Trustee (acting on instructions of the Noteholders) may reasonably request.

Each Financial Statement referred to above must be prepared in accordance with Accepted Accounting Practices consistently applied and give a true and fair view of (if audited) or fairly represent (if unaudited) the Group's consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.

Risk Factors

By investing in the Notes you will be lending money to the Issuer and may be exposed to a number of risks which can be broadly classified as risks associated with the Notes and risks associated with the Group's business that may affect the Notes.

This section describes potential risks associated with the Group's business and risks associated with an investment in the Notes and the Group. It does not purport to list every risk that may be associated with an investment in the Notes now or in the future and the occurrence or consequences of some of the risks described in this section are partially or completely outside the control of the Issuer, its directors and senior management team. The selection of risks has been based on an assessment of a combination of the probability of the risk occurring and impact of the risk if it did occur. This assessment is based on the knowledge of the directors as at the date of this Information Memorandum but there is no guarantee or assurance that the importance of different risks will not change or other risks emerge.

Prospective investors should satisfy themselves that they have a sufficient understanding of these matters, including the risks described below, and have regard to their own investment objectives, financial circumstances and taxation position, before applying for any Notes.

Capitalised terms used in this section have the meaning given to them in the Conditions, unless otherwise defined.

Risks associated with the Notes

(a) The liquidity of the Notes may be low

The market for the Notes may not be liquid.

If liquidity is low, there is a risk that, if you wish to sell your Notes prior to the Maturity Date, you may not be able to do so at a price acceptable to you, or at all, and there is a risk that the market price will become more volatile in general.

It is not intended that the Notes will be quoted on ASX or any other public stock exchange. The Issuer does not guarantee that you will be able to sell your Notes.

(b) Transferability of the Notes

Notes may only be transferred if the offer or invitation for the sale or purchase of those Notes is received by a person:

- 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
- 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.

(c) The Issuer or Guarantor may default on payment

Depending upon its performance and financial position, the Issuer may default on payment of some or all of the interest on the Notes, or repayment of some or all of the outstanding principal amounts of the Notes. Depending upon its performance and financial position, a Guarantor may fail to pay the amount payable by such Guarantor under the Guarantee.

If the Issuer does not pay some or all of the interest or outstanding principal amounts on the Notes as and when payable under the Conditions, and the Guarantors also fail to pay the amount payable by such Guarantors under the Guarantee, then you may not receive some or all of the money you invested in Notes or interest that is due to be paid to you.

(d) Noteholders are secured creditors of the Issuer but will rank behind prior ranking Permitted Security Interests and creditors preferred by law

The Group is structured, like many other listed corporate groups, with the Issuer as the head holding company that holds (directly or indirectly) all of the Group's equity interests in its Subsidiaries and incorporated joint ventures. Accordingly, the assets of the Issuer comprise investments in cases, cash, receivables from third parties, benefit of insurance contracts, receivables from Subsidiaries and any incorporated joint venture entities and the equity interests in Subsidiaries and such joint venture interests.

The Notes are secured by a security interest over all present and future-acquired property of the Issuer (excluding the Co-Funding Arrangements).

Noteholders do not have security over the assets of the Subsidiaries or any incorporated joint ventures and, subject to the negative pledge in the Conditions, there are no restrictions under the Transaction Documents on Subsidiaries incurring indebtedness and from granting Security in relation to their own obligations or those of another member of the Group.

The Notes have the benefit of a negative pledge contained in the Conditions, which restricts Wholly Owned Subsidiaries (subject to customary exceptions) from granting security over their assets to secure other indebtedness unless the security also secures the Notes so that the Notes rank equally to or in priority to such other indebtedness.

If the Issuer becomes unable to meet its obligations or suspends any payments it is required to make, Noteholders' claims will rank after any prior ranking Permitted Security Interest and any creditor mandatorily preferred by law in any jurisdiction and, subject to the Priority Deed, equally with holders of ASX-listed notes issued by the Issuer in 2014 and 2018 ("**IMF Bentham ASX Bonds**") and lenders pursuant to any Permitted Secured Finance Arrangements. Subsidiaries may also have other liabilities which may be secured or unsecured and could affect the value of the Notes and the Security and the return to Noteholders in a winding up of the Issuer.

If there are insufficient assets to satisfy Noteholders' claims and lenders' claims pursuant to any Permitted Secured Finance Arrangement after satisfying any prior ranking Permitted Security Interest and creditors preferred by law, there is a risk that you may lose some or all of the money you invested in Notes and any Interest that has accrued but remains unpaid.

(e) The Security may not be enforceable, or may not have the intended priority in respect of assets outside of Australia

The Issuer owns assets included in the Security which are located outside of Australia, including shares in Subsidiaries, and may hold other assets outside of Australia during the term of the Notes. The Security will be registered in Australia and perfected in accordance with applicable Australian law but may not be registered or steps taken to perfect such Security over assets of the Issuer in any other jurisdiction. As a result, it is possible that the Security may not constitute an enforceable security interest over assets of the Issuer located outside of Australia or that any such Security may be subject to prior ranking Security created either by law or otherwise in those jurisdictions outside Australia where such Issuer assets are located. As a result Noteholders should not rely upon the ability to enforce the Security in respect of any Issuer assets located outside of Australia and may rank as unsecured creditors in the winding-up of the Issuer with respect to such assets located outside of Australia.

(f) Administration risk

The General Security Agreement granted by the Issuer is over all of its assets, subject to customary exceptions, and excluding the Co-Funding Arrangements.

The carve-out in respect of the Co-Funding Arrangements may result in the assets secured comprising less than “the whole or substantially the whole of the property” of the Issuer, which will expose the Noteholders to “administration risk”.

This describes the risk for a secured party that its security becomes subject to a moratorium if an administrator is appointed to an Australian company (which the directors of a company are likely to do if the company is or is likely to become insolvent). Subject to the consent of the administrator or court order, a secured creditor is not entitled to enforce its security during the moratorium.

The risk is usually addressed by the secured party taking security over all, or substantially all, of the Australian company’s assets. This is because a secured party who holds perfected security over all, or substantially all, of an Australian company’s assets is permitted to enforce its security and appoint a receiver within 13 business days of the administrator’s appointment.

Given the exclusion of the Co-Funding Arrangements from the scope of the General Security Agreement, the Noteholders will be exposed to administration risk to the extent this exclusion results in the Noteholders holding a security interest over less than all or substantially all of the assets of the Issuer.

(g) The realisation of the Security following an Event of Default may not be sufficient to repay the principal outstanding amounts on the Notes and any accrued but unpaid Interest

Upon an enforcement of the Security following an Event of Default and subject to the enforceability and ranking of the Security in the applicable jurisdiction, Noteholders will have access to the property secured by the Security. This property currently consists of all of the Issuer’s present and after acquired property (subject to customary exceptions and excluding the Co-Funding Arrangements), which mainly comprise the following:

- The Issuer’s investments in cases. However, the realisable value from these investments at the time of an Event of Default may not reflect the long term value of such investments should they be held and conducted in accordance with the Issuer’s ordinary course of business. Such investments are highly illiquid and may require substantial further funding in order to realise any value from them;
- Current Resources of the Issuer. However, there are no restrictions in the Transaction Documents on the Issuer’s ability to deal in its Current Resources (as if the definition applied to the Issuer’s assets only) in the ordinary course of business and hence there can be no assurance with regard to the Issuer’s cash level from time to time or the realisable value of the other assets comprising Current Resources of the Issuer which, in the case of Receivables, will be subject to credit risk;
- The Issuer’s insurance contracts. However, there may be no realisable value in these insurance contracts following an Event of Default and the contracts may be subject to termination rights which are triggered at the time of an Event of Default which may impact any value which is realisable from the contract which is also subject to underwriter credit risk;
- The shares the Issuer holds in its Subsidiaries, but not to the assets of the Subsidiaries. On a winding up of a Subsidiary, a Noteholder would not receive any value for the shares unless creditors of the relevant Subsidiary were satisfied in full; and
- Under the terms of the Security, subject to an Event of Default not having occurred, the

Issuer may dispose of any Circulating Asset (which comprise all the Security, save for shares in Subsidiaries) in the ordinary course of business.

Based on the above, there is no assurance or guarantee that the value of the Security upon realisation would be sufficient to repay the outstanding principal amounts and any accrued but unpaid Interest on the Notes.

(h) The Security ranks equally with the security provided under the IMF Bentham ASX Bonds and will rank equally with any further Notes or IMF Bentham ASX Bonds and lenders pursuant to any Permitted Secured Finance Arrangements

Noteholders have the benefit of certain restrictions to the Issuer's ability to raise further secured debt.

The Issuer is prohibited from creating and issuing any further Notes or IMF Bentham ASX Bonds or granting any Security in respect of indebtedness which would rank equally with, or in priority to, the Notes, other than in specified circumstances. The Issuer and each Subsidiary are permitted to incur secured indebtedness (including issuing further Notes or IMF Bentham ASX Bonds), if following the incurrence of the relevant secured indebtedness the aggregate of the outstanding Notes, the IMF Bentham ASX Bonds, any other secured indebtedness which the Issuer is permitted to incur under the terms of the Notes and the indebtedness of any Wholly Owned Subsidiary does not exceed the Secured Debt Limit (being an aggregate amount of A\$300 million) and the Current Resources of the Wholly Owned Group are equal to or greater than 75% of the Group Indebtedness. In addition, the provider of the Financial Indebtedness must be a Beneficiary under the Security Trust Deed and the obligations of the Issuer (or the relevant Wholly Owned Subsidiary) under the secured indebtedness must be subject to a priority deed such that the Issuer's obligations (or the obligations of the relevant Wholly Owned Subsidiary) under the secured indebtedness rank behind or equally with the Notes and the IMF ASX Bentham Bonds.

The issue of further Notes or the incurrence of any indebtedness pursuant to Permitted Secured Finance Arrangements would increase the risk of there being insufficient assets to satisfy in full Noteholders' claims and lenders' claims pursuant to any Permitted Secured Finance Arrangement after satisfying any prior ranking Permitted Security Interests and creditors preferred by law and hence there is a risk that a Noteholder may lose some or all of the money invested in Notes and any interest that has accrued but remains unpaid.

(i) Noteholders may only request that their Notes be redeemed early in limited circumstances

Noteholders may only request redemption of their Notes prior to the Maturity Date where there is a Change of Control or a Delisting Event. Alternatively, to realise its investment, Noteholders may be able to sell their Notes on Austraclear at the prevailing market price but, depending on market conditions at the time, it is possible that Notes may be trading at a market price below their outstanding principal amount and/or the market for Notes may not be liquid.

(j) Issuer may redeem Notes early in limited circumstances

The Issuer has the right to redeem Notes if a Tax Event occurs, on certain Optional Redemption Dates or pursuant to a clean-up call.

Depending on market conditions at the time, you may not be able to reinvest the amount you receive on redemption at a similar rate of return to the rate of return you expected on your Notes if you had held them until the Maturity Date.

(k) The obligations of the Guarantors under the Guarantee are not secured

The obligations of the Guarantors under the Guarantee are not secured. If the Guarantors fail to pay an amount payable under the Guarantee, Noteholders will not have recourse to the

assets of the Guarantors (other than indirectly through the Security granted by the Issuer over its shares in such Guarantors) to recover any amounts they are owed under the Guarantee.

(l) The enforceability of the Guarantee may be limited

The enforceability of the Guarantee is subject to various limitations including:

- statutes of limitations, laws relating to administration, moratoria, bankruptcy, liquidation, insolvency, receivership, reorganisation, schemes of arrangement and similar laws affecting generally creditors' and counterparties' rights and specific court orders that may be made under such laws;
- defences such as set-off, laches, forbearance, election, abatement or counterclaim, the doctrine of frustration and the doctrine of estoppel and waiver and the fact that guarantees, security interests and certain other documents and obligations may be discharged as a matter of law in certain circumstances;
- the fact that equitable remedies will only be granted by a court in Australia in its discretion (for example, specific performance will not normally be ordered in respect of a monetary obligation and an injunction will only be granted where it would be just to do so);
- certain Guarantors are incorporated in jurisdictions outside of Australia. The ability to enforce the Guarantee against such Guarantors would be subject to the laws and directives of such jurisdictions which may be different to those in Australia and there may be a risk that the Guarantee will not be enforced in accordance with its terms; and
- the Guarantee or a transaction connected with the Guarantee may be voidable at the option of a party, or may be set aside by a court on application by a party, or a party may be entitled to rescind the Guarantee and amounts paid or property transferred under it may be recovered by that party:
 - if that party entered into the Guarantee or transaction as a result of a mistake or another party's misrepresentation or as a result of fraud, duress or unreasonable or unconscionable conduct or misleading or deceptive conduct on the part of another party (or of a third person of which another party has actual or constructive knowledge) or as a result of a breach by another party (or of a third person of which another party has actual or constructive knowledge) of any duty owed to that party; or
 - if that party's entry into the Guarantee or a transaction in connection with it constitutes an 'insolvent transaction' or an 'unfair loan' or an 'unreasonable director-related transaction' within the meaning of sections 588FC, 588FD or 588FDA respectively of the Corporations Act and the party is subsequently wound up.

(m) Taxation considerations

A summary of potential Australian taxation implications for Noteholders is included in the section entitled "Australian Taxation" below. This is a general summary and is not intended to provide specific advice in relation to the circumstances of any particular investor. Accordingly, Noteholders should seek independent advice in relation to their own individual taxation circumstances.

(n) Risks associated with Personal Property Securities Act 2009 ("PPSA")

The PPSA regime commenced operation throughout Australia on 30 January 2012 pursuant to the PPSA which established a national system for the registration of security interests in personal property and introduced rules for the creation, priority and enforcement of security

interests in personal property. There is uncertainty on aspects of the PPSA regime because the PPSA significantly alters the law relating to secured transactions. There are issues and ambiguities in respect of which a market view or practice will evolve other time.

Security interests for the purposes of the PPSA include traditional securities over personal property such as charges and mortgages and other transactions that, in substance, secure payment or performance of an obligation but may not have previously been legally classified as securities under general law (for example, hire purchase agreements, leases such as finance leases and capital leases, retention of title arrangements, flawed asset arrangements and turnover trusts). Further, certain other interests are deemed to be security interests whether or not they secure payment or performance of an obligation (for example, the interest of a lessor under a lease of goods for a term of more than one year or the assignee of certain receivables).

A person who holds a security interest under the PPSA is not obliged to register (or otherwise perfect) the security interest. However, if they do not do so:

- another security interest may take priority;
- another person may acquire an interest in the assets which are subject to the security interest free of their security interest; and
- except in limited cases, they may not be able to enforce the security interest against a grantor who becomes insolvent (because the security interest will vest in the grantor).

Risks associated with IMF's business that may affect Notes

(a) Risks specific to IMF investments

Portfolio concentration

IMF's current on balance sheet portfolio has a concentration of risks associated with its large investments in the Wivenhoe Dam and Westgem investments. Although IMF has a diversification strategy in place to reduce the concentration risk for future periods and has communicated the prospects of these investments throughout the last year, if one or both investments were to be lost they would have a material impact of IMF's financial results and cash position. IMF has taken steps, including co-funding and After-the-Event insurance cover, to mitigate in part these impacts but IMF retains material adverse costs risks on these investments.

Poor investment decisions

The central task in IMF's business is to choose successful investments. If poor investment selection occurs then this will cause loss to IMF through payment of the client's legal expenses and payment of the successful defendant's costs (in jurisdictions where this is relevant). To mitigate this risk, IMF continues to monitor its performance metrics and conducts detailed investment post-mortems on all investments which are lost to ensure perceived weaknesses and errors are identified and changes made going forward.

Remaining in unsuccessful investments

It is sometimes the position that investments turn out to be less positive as the litigation proceeds after the initial assessment. While IMF has rights of termination under its funding agreements, if IMF fails to terminate, or is unable to terminate such funding, then loss will occur to IMF.

Multiple defendants

In some investments there may be multiple defendants, or defendants may add third parties to the funded litigation, potentially increasing adverse costs if the litigation is unsuccessful.

Time and expense

If IMF fails to control expenditure on individual investments beyond the proposed budget or such investments take materially longer than originally indicated, then loss may be caused to IMF.

Inability of defendants to pay judgments

Part of the investment selection process involves an assessment by IMF of the ability of the defendant to pay a judgment if the investment is successful. If IMF fails to properly carry out its assessment of the defendant's ability to pay, or that ability deteriorates after funding is in place, then this will cause loss to IMF even if the investment is successful.

Lost investments

If selected investments are unsuccessful, either at first instance or subsequent to a defendant's successful appeal upon final judgment, this will result in a write off of the intangible asset represented by such investment (comprising the amount funded to the client and the amount of the associated capitalised overheads required to be allocated to the investment in accordance with Accepted Accounting Practices). In addition, IMF may be liable to the successful defendants in respect of their legal costs incurred pursuant to indemnifications provided for adverse costs. These negative financial impacts can be amplified in situations where IMF funds multiple similar claims by a client or group of clients and a loss in one investment results in the remaining investments being lost or otherwise discontinued.

Offshore investment

IMF has invested in litigation funding agreements in countries other than Australia. IMF has agreed to fund investments in the United States, Canada, Singapore, Hong Kong, the United Kingdom and Europe and may agree to fund other investments in the future in these and other jurisdictions. Some jurisdictions limit the ability of IMF to be directly involved in the conduct and management of those investments. Consequently, the ability to manage such investments can be more difficult than the management of Australian investments and may cause loss to IMF.

(b) Fund returns

IMF's first-generation funds (funds 1, 2 & 3), have Class A and Class B stock which carry different rights. Non-controlling Class B stocks carry an entitlement to receive a priority return on invested capital and a further preferred return on committed but undrawn capital. IMF retains control and ownership of the funds via its interests in Class A stock. The returns to IMF are subject to the satisfaction of the Class B priority returns from each fund and a failure to achieve the priority return hurdles could affect the returns achieved from these funds, which could ultimately have an adverse financial impact on IMF. In certain adverse performance circumstances the Class B investors have the right to remove IMF as the manager of the Funds.

IMF's second-generation funds (funds 4 & 5) have an American waterfall structure and IMF's capital participation is *pari passu* with the external investment in those funds.

A number of the risks set out under the heading "*Risks specific to IMF investments*" in this section refer to the risk of loss to IMF in respect of those investments. Where the applicable investments are funded by one of IMF's existing funds, these losses would be suffered by the applicable fund. However, in IMF's first generation funds, given that IMF's Class A returns are subordinated to the return of Class B external investor's capital and a preferred return, such losses would delay the receipt of revenues by IMF from those funds.

(c) **Regulatory change and judicial decisions**

It is possible that statute law or the interpretation of the common law may change in a way which is adverse to the interests of IMF. There are now numerous court decisions in Australia and elsewhere (both single Judge and Courts of Appeal) supporting the business model of IMF, but it is possible that higher courts may disagree with existing authorities and such decisions may impact adversely on IMF's business model. In addition, there remains the potential for further regulation of the litigation funding industry in all jurisdictions in which IMF operates and although no applicable legislative body has announced a present intention to enact legislation or secondary regulation which would have a direct impact on IMF's current business operations, no assurance can be given that such legislation or regulation will not be enacted in the future. It is noted that the Australian Law Reform Commission recently completed a review of the litigation funding and contingent fee arrangements for lawyers in Australia and provided its recommendations to the Federal government in January 2019. Whilst no legislation has been proposed in relation to this review at the present time, IMF does not consider that the recommendations if transposed into legislation would have a material impact on IMF's business.

(d) **Competition**

IMF currently faces increasing levels of competition in each of its operating jurisdictions, particularly in the United States and Australia in the securities class action sector. Such competition may adversely impact on the performance of IMF through either loss of funding opportunities or a compression of funding returns.

(e) **Poor performance**

There is no guarantee that IMF may be able to maintain its historical investment performance. Weaker investment performance could materially adversely impact IMF's business in terms of financial performance and in a number of other ways, including its ability to attract future fund investors and obtain adverse cost insurance for investments in jurisdictions where this is a relevant consideration.

(f) **Reliance on key personnel**

IMF depends substantially on its executive directors, senior management and key personnel to oversee the day-to-day operations and the strategic management of the company. There can be no assurance given that there will be no detrimental impact on IMF if multiple directors or employees cease their employment.

(g) **Requirement for working capital**

IMF's ability to self-fund its working capital requirements is dependent upon the ability to generate sufficient cash flow from the investment portfolio and its funds in a given period to match the capital requirements for future investments in that period. IMF always has the option to modify its capital commitments in line with available cash flow, however to date IMF has generally sought to bridge any cash flow gaps which have arisen by seeking further debt or equity capital funding in various forms. To the extent IMF continues to have such external funding requirements, IMF will be reliant upon there being willing investors to meet such demand. In the event such investment is not forthcoming at any point in time, IMF will need to modify its future investments in line with cash flows generated from its existing investment portfolio.

(h) **Funding to meet redemption obligations**

The IMF Bentham ASX Bonds are due to be redeemed on their maturity date in December 2022, and the Notes are due to be redeemed on their maturity date in November 2025. As such, IMF will need to retain sufficient cash to meet such redemption obligations or otherwise refinance the debt. IMF typically has been unable to access bank funding and, in the absence of retained cash reserves, will be reliant upon its ability to access the non-bank debt markets

to refinance the IMF Bentham ASX Bonds and the Notes (if necessary).

(i) **IT & data security**

IMF is dependent on technological services for its investment management system. These systems may fail or may not operate properly. IMF may fail to keep its technology up to date with the resultant loss of business opportunities.

(j) **Brand reputation**

IMF has played a leadership role in the development of the dispute finance industry in Australia and continues to be a market leading brand for international dispute financing. Given the nature of some of the investments funded by IMF, IMF is acutely aware of the reputation risks facing every business and is not immune to brand and reputation risks which may ultimately decrease stakeholder trust and loyalty, brand equity and compromise financial value in IMF.

(k) **Economic risks**

General economic conditions, movements in interest and inflation rates and currency exchange rates may have an adverse effect on IMF's activities, as well as on its ability to fund those activities. If IMF's offshore operations become significantly larger, these economic risks, and in particular risks associated with currency exchange rates, may increase.

(l) **Exchange rate risk**

IMF provides litigation funding services to clients in a number of countries other than Australia and earns revenues in currencies other than Australian dollars. In the ordinary course of business, the Group earns revenue in the currency of the country in which the costs are incurred.

Changes in the value of Australian dollars relative to other currencies in which the Group earns revenues and incurs costs will impact the translation of non-Australian dollars denominated earnings and may impact the Australian dollar value of assets and liabilities denominated in foreign currency recorded on IMF's balance sheet.

(m) **Growth**

IMF is currently pursuing a strategy of international expansion, having recently acquired Omni Bridgeway and opened offices in Hong Kong, Montreal and London. There are always risks attendant upon growth strategies. There is a risk, for instance, that IMF may mismanage its growth strategy.

Conditions

The following are the Conditions which, as supplemented, amended, modified or replaced in relation to any Tranche of Notes by the relevant Pricing Supplement, will apply to that Tranche of Notes. References to a "Pricing Supplement" in these Conditions do not limit the provisions which may be supplemented, amended, modified or replaced by the Pricing Supplement.

The Notes are constituted by the Note Trust Deed. Each Noteholder, and any person claiming through or under any Noteholder, is entitled to the benefit of, is bound by and is deemed to have notice of, all of the provisions of the Note Trust Deed, the Guarantee, the Security Trust Deed, each Security, the Priority Deed, these Conditions and the relevant Pricing Supplement. Each such person is also deemed to have notice of the Information Memorandum. Copies of each such document are available for inspection at the Specified Office of the Issuer and the Note Trustee.

1 Interpretation

1.1 Terms defined in Pricing Supplement

Terms which are specified in the Pricing Supplement as having a defined meaning have the same meaning when used in these Conditions.

1.2 Definitions

In these Conditions, the following meanings apply unless the contrary intention appears:

Accepted Accounting Practices means:

- (a) in relation to any Financial Statements in respect of a member of the Group that is not incorporated in Australia, the accounting practices and standards generally accepted in the jurisdiction of incorporation of that member of the Group from time to time; and
- (b) for all other purposes, the accounting standards and principles issued by the Australian Accounting Standards Board from time to time;

Additional Amount means an additional amount payable by the Issuer under Condition 11.2 ("Withholding tax");

Agency Agreement means:

- (a) the agreement entitled Agency and Registry Services Agreement between the Issuer, the Registrar, the Issuing & Paying Agent and the Calculation Agent dated 6 April 2016;
- (b) any other agreement between the Issuer and a Registrar in relation to the establishment and maintenance of a Register (and/or the performance of any payment or other duties) for any issue of Notes; and/or
- (c) any other agency agreement entered into between the Issuer and an agent in connection with any issue of Notes;

Agent means each of the Registrar, the Issuing and Paying Agent, the Calculation Agent and any other agent appointed under an Agency Agreement, or any of them as the context requires;

Apex Co-Funding Arrangements means the co-funding agreement entered into between, amongst others, the Issuer, Apex Minerals NL (In Liquidation) (Receivers and Managers Appointed) and Apex Gold Pty Ltd (In Liquidation) (Receivers and Managers Appointed) dated on or around 10 July 2015 relating to the Apex litigation and any agreements related thereto;

ASIC means the Australian Securities and Investments Commission;

ASX means ASX Limited (ABN 98 008 624 691) and, where the context permits, the Australian Securities Exchange operated by ASX Limited;

Austraclear means Austraclear Ltd (ABN 94 002 060 773);

Austraclear Regulations means the regulations known as “Austraclear Regulations” together with any instructions or directions established by Austraclear to govern the use of the Austraclear System and binding on the participants in that system;

Austraclear System means the clearing and settlement system operated by Austraclear in Australia for holding securities and electronic recording and settling of transactions in those securities between participants of that system;

Australian Tax Act means the Income Tax Assessment Act 1936 of Australia or the Income Tax Assessment Act 1997 of Australia, as applicable;

Business Day means a day (not being a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney and, if a Note held in the Austraclear System is to be issued or payment made in respect of a Note held in the Austraclear System on that day, a day on which the Austraclear System is operating;

Business Day Convention means a convention for adjusting any date if it would otherwise fall on a day that is not a Business Day and the following conventions, where specified in the Pricing Supplement in relation to any date applicable to any Note, and **Following Business Day Convention** means that the date is postponed to the first following date that is a Business Day;

Calculation Agent means Sargon CT Pty Ltd (ABN 12 106 424 088);

Calculation Date means 5pm on the fifth Business Day prior to a proposed Distribution, entry into a Permitted Secured Finance Arrangement, or issue of further Notes, as applicable;

Change of Control means:

- (a) a court approval of a merger by way of scheme of arrangement of the Issuer (but shall not include a merger by way of scheme of arrangement for the purposes of a corporate restructure (including change of domicile, consolidation, sub-division, reduction or return of the issued capital of the Issuer)); or
- (b) a takeover bid (as defined in the Corporations Act):
 - (i) is announced;
 - (ii) has become unconditional irrespective of whether or not the takeover bid extends to shares in the Issuer issued and allotted after the date of the takeover bid; and
 - (iii) the person making the takeover bid has a relevant interest (as defined in the Corporations Act) in 50% or more of the Shares;

Change of Control Redemption Period means the period beginning on the date the Issuer provides the notification described in Condition 9.2 (“Early redemption at the option of Noteholders (Change of Control)”) and ending on the date which is 20 Business Days from that date;

Circulating Asset means any Secured Property other than:

- (a) any equity interests in members of the Group held by the Issuer;

- (b) freehold or leasehold property and any interest in land or real property, save for ordinary course of business commercial leases of office premises of a duration of less than 21 years;

Code means the United States of America Internal Revenue Code of 1986;

Co-Funding Arrangements means the Apex Co-Funding Arrangements and the Wivenhoe Co-Funding Arrangements;

Compliance Certificate has the meaning given in Condition 5.10 (“Delivery of Compliance Certificates”);

Conditions means, in relation to the Notes, these terms and conditions as amended, supplemented, modified or replaced by the Pricing Supplement applicable to such Note and references to a particular numbered Condition shall be construed accordingly;

Controller has the meaning given to that term in the Corporations Act;

Corporations Act means the Corporations Act 2001 of Australia;

Current Resources means the aggregate amount in Australian dollars on the Calculation Date of:

- (a) cash at bank and in hand and short-term deposits with an original maturity of three months or less, that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value;
- (b) deposits with an original maturity date of greater than three months to the extent that they are readily convertible to cash;
- (c) financial instruments held by way of treasury investment in accordance with the treasury policy of the Issuer or applicable member of the Wholly Owned Group; and
- (d) the Receivables,

in each case, of the Wholly Owned Group.

Any such cash resource denominated in a currency other than Australian dollars shall be converted into an Australian dollar amount for the purposes of this calculation only using the exchange rate published by the Reserve Bank of Australia on its website on the relevant Calculation Date;

Day Count Fraction means, in respect of the calculation of interest on a Note for any period of time (“**Calculation Period**”), the day count fraction specified in the Pricing Supplement and if “**RBA Bond Basis**” is so specified, means one divided by the number of Interest Payment Dates in a year (or where the Calculation Period is the first Interest Period or does not constitute an Interest Period, the actual number of days in the Calculation Period divided by 365 (or, if any portion of the Calculation Period falls in a leap year, the sum of:

- (a) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366; and
- (b) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365));

Denomination means A\$1,000, being the notional face value of a Note on its Issue Date;

Delisting Event means that, prior to their scheduled maturity date, trading in the IMF Bentham ASX Bonds is suspended for more than 15 consecutive Business Days, other than as a result of the Issuer seeking to delist the IMF Bentham ASX Bonds from the ASX in order to list, or

following a listing of, the IMF Bentham ASX Bonds on any other recognised investment exchange in any jurisdiction or country;

Delisting Redemption Period means the period beginning on the date the Issuer provides the notification described in Condition 9.3 (“Early redemption at the option of Noteholders (delisting)”) and ending on the date which is 20 Business Days from that date;

Distribution means a distribution to shareholders in any form whatsoever, including without limitation, by way of dividend (whether in cash or in specie), share buy-back, reduction of capital, bonus securities issue or otherwise;

Event of Default means the happening of any event set out in Condition 13.1 (“Events of Default”);

Excluded Fund means any Fund:

- (a) that is a Subsidiary of the Issuer;
- (b) that has a liability to pay or repay Financial Indebtedness which is limited in recourse to the realisation of an asset or assets of the Fund (which assets shall, for the avoidance of doubt, include all capital commitments or subscriptions to the Fund);
- (c) in which the Issuer and its Subsidiaries in aggregate (without double counting) holds less than 10% of the equity interest of the Fund (such equity interest to include an investment which is in the nature of a loan to, or amount owing by, the Fund); and
- (d) where the ratio of the Net Senior Financial Indebtedness of the Fund to the Total Assets of the Fund is less than 30%,

provided that if after the Issue Date the Group acquires or invests in any Fund referred to in paragraphs (a) to (d) above, and the Issuer’s and its Subsidiaries’ cumulative investment in that Fund and any other Excluded Funds (without double counting) exceeds US\$50,000,000 in aggregate, that Fund will not be an Excluded Fund until such time that the Issuer’s and its Subsidiaries’ cumulative investment in that Fund and the other Excluded Funds is less than US\$50,000,000;

Excluded Wholly Owned Subsidiary means:

- (a) each of:
 - (i) Security Finance 2 LLC;
 - (ii) Bentham Capital GP LLC;
 - (iii) Security Finance LLC; and
 - (iv) Lien Finance Canada Limited; and
- (b) Omni Bridgeway Holding B.V. and any Wholly Owned Subsidiary of Omni Bridgeway Holding B.V.; and
- (c) any Wholly Owned Subsidiary acquired by the Group after the Issue Date,

unless such Wholly Owned Subsidiary guarantees any Financial Indebtedness (other than any guarantee of Financial Indebtedness existing on the Issue Date) or incurs any Financial Indebtedness (other than Financial Indebtedness incurred prior to the Issue Date or the Financial Indebtedness is owed to the Issuer or another Wholly Owned Subsidiary), in which case, such Wholly Owned Subsidiary is not an Excluded Wholly Owned Subsidiary;

FATCA means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the United States and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement under the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above, with the United States Internal Revenue Service, the United States government or any governmental or taxation authority in any other jurisdiction;

Finance Lease means any lease or hire-purchase agreement the obligations under which are required under Accepted Accounting Practices to be classified and accounted for as capitalised finance lease obligations, but excluding any lease or hire-purchase agreement to the extent that the obligations under the lease or hire-purchase agreement (other than contingent obligations) are legally defeased;

Financial Indebtedness of a person means, without double counting, any indebtedness (whether present, actual or contingent) of that person for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised under any acceptance credit, bill acceptance or bill endorsement facility;
- (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 Accepted Accounting Practices, be treated as a Finance Lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing which for the avoidance of doubt shall not include any consideration for the acquisition of Omni Bridgeway Holding Limited payable by any member of the Group;
- (g) 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 marked to market value shall be taken into account);
- (h) 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
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above,

other than any such indebtedness (including any indebtedness of the kind referred to in paragraphs (a) to (i) above):

- (j) of one member of the Group to another member of the Group, to the extent of the proportion that such indebtedness bears to the percentage equity share held by the Issuer in such Group member; or

- (k) where the indebtedness does not represent more than 10% of the Total Assets of the Issuer, on the terms where that liability to pay or repay such indebtedness is limited in recourse to the realisation of an asset or assets of the Issuer and such asset or assets did not form part of the Total Assets as at the Issue Date and there is no recourse against the Issuer or any other member of the Group; or
- (l) incurred as a result of a Wholly Owned Subsidiary guaranteeing the obligations of the Issuer or any other member of the Group;

Financial Statements means:

- (a) an income statement;
- (b) a balance sheet;
- (c) a cash flow statement; and
- (d) (if for a financial year and required by law or directive) a statement of changes in equity for the year,

together with any notes to those documents and any accompanying reports (including any directors' and auditors reports), statements, declarations and other documents or information intended to be read with any of them, in each case as required under the Corporations Act and applicable laws and directives;

Financial Undertakings means each undertaking set out in Condition 5.1 ("Issuer negative pledge"), Condition 5.2 ("Wholly Owned Subsidiary negative pledge") and Condition 5.4 ("Limit on the incurrence of secured Financial Indebtedness");

First Optional Redemption Date means the date so specified in the Pricing Supplement;

Fourth Optional Redemption Date means the date so specified in the Pricing Supplement;

Fund means each of Bentham IMF 1 LLC, IMF Bentham (Fund 2) Pty Ltd, IMF Bentham (Fund 3) Pty Ltd, the managed accounts, fund of one and investment vehicles which comprise Fund 4 as announced to the ASX on 30 November 2018 and 10 December 2018, IMF Bentham (Fund 5) LP, OB Capital Coop U.A. and OMNI Bridgeway DARP Coop U.A., together with any other investment fund or investment vehicle or accounts managed or advised by a member of the Group;

Group means the Issuer and each of its Subsidiaries from time to time and any entity (including, without limitation, any partnership whether limited or otherwise) which is subject to the control of the Issuer or a Subsidiary of the Issuer, as such term is defined in section 50AA(1) of the Corporations Act;

Group Indebtedness means the aggregate amount in Australian dollars on the Calculation Date of all Financial Indebtedness of the Group less the aggregate amount in Australian dollars on the Calculation Date of all Financial Indebtedness of Excluded Funds. Any amount of such indebtedness denominated in a currency other than Australian dollars shall be converted into an Australian dollar amount for the purposes of this calculation only using the exchange rate published by the Reserve Bank of Australia on its website on the relevant Calculation Date;

Guarantee means the unconditional and irrevocable guarantee by each Guarantor under:

- (a) the deed poll entitled "Guarantee Deed Poll" dated 17 December 2019; or
- (b) such other deed poll that supplements, amends, amends and restates, modifies or replaces the deed poll referred to above;

Guarantor means each Initial Guarantor and each other person that has acceded to (and has not been released from) the Guarantee, or other guarantee that satisfies the requirements of Condition 5.2(a)(i) (“Wholly Owned Subsidiary negative pledge”), from time to time;

IMF Bentham ASX Bonds means the A\$76,000,000 debt securities issued by the Issuer, listed on ASX and with a scheduled maturity date of 22 December 2022;

Information Memorandum means the information memorandum, disclosure document or other offering document referred to in a Pricing Supplement in each case prepared by, or on behalf of, and approved by, the Issuer in connection with the issue of Notes and all documents incorporated by reference in it;

Initial Guarantor means each of:

- (a) Bentham Holdings Inc;
- (b) Bentham IMF Holdings 1 LLC;
- (c) Bentham Capital LLC;
- (d) Bentham Capital Management LLC;
- (e) Bentham IMF Capital Limited;
- (f) IMF Bentham Pte Limited;
- (g) IMF Litigation Funding Services Limited;
- (h) IMF Bentham GPA 5 Pty Ltd (ABN 88 633 952 342);
- (i) IMF Bentham Holdings Pty Ltd (ABN 30 636 484 163); and
- (j) IMF Bentham Cayman Advisory Services Limited;

an **Insolvency Event** occurs in relation to a body corporate if:

- (a) it is (or states that it is) insolvent (as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation or wound up (each as defined in the Corporations Act);
- (c) it enters into or makes any arrangements with its creditors as contemplated in Part 5.1 of the Corporations Act (other than for the purpose of a solvent reconstruction or amalgamation or compromise); or
- (d) it has had a Controller appointed to all or substantially all of its assets under a Security securing an amount more than A\$15,000,000 (or its equivalent in any other currencies);

Interest Commencement Date means, for a Note, the Issue Date of the Note or any other date so specified in, or determined in accordance with, the Pricing Supplement;

Interest Payment Date means each date so specified in the Pricing Supplement;

Interest Period means 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) the Interest Commencement Date; and

- (b) the final Interest Period ends on (but excludes) the Maturity Date or, if redeemed earlier in accordance with these Conditions, on that date;

Interest Rate means, in respect of a Note, the interest rate (expressed as a percentage per annum) payable in respect of that Note specified in the Pricing Supplement or calculated or determined in accordance with these Conditions and the Pricing Supplement;

Issue Date means the date on which a Note is, or is to be issued, as specified in, or determined in accordance with, the Pricing Supplement;

Issuer means IMF Bentham Limited (ABN 45 067 298 088);

Issuing & Paying Agent means Sargon CT Pty Ltd (ABN 12 106 424 088);

JV Arrangements means the Co-Funding Arrangements together with any other incorporated or unincorporated joint venture arrangement or co-funding arrangement entered into by a member of the Group and notified to the Note Trustee in writing;

Maturity Date means the date so specified in, or determined in accordance with, the Pricing Supplement as the date on which the Note is to be redeemed (and adjusted, if necessary, in accordance with the applicable "Business Day Convention" so specified in the Pricing Supplement);

Meeting Provisions means the provisions relating to meetings of Noteholders in the Note Trust Deed;

Net Senior Financial Indebtedness means, for each Excluded Fund, the amount of its Senior Financial Indebtedness less the amount of all cash held by it;

Note means a medium term debt obligation issued or to be issued by the Issuer which is constituted by, and owing under the Note Trust Deed, the details of which are recorded in, and evidenced by, entry in the Register. References to any particular type of "Note" or "Notes" should be read and construed accordingly. All references to Notes must, unless the context otherwise requires, be read and construed as references to the Notes of a particular series;

Note Trust Deed means the document entitled "Note Trust Deed" dated 6 April 2016, as amended by the First Supplemental Note Trust Deed dated 17 December 2019, and executed by the Issuer and the Note Trustee;

Note Trustee means Australian Executor Trustees Limited (ABN 84 007 869 794) in its capacity as trustee of the IMF Bentham OTC Note Trust constituted by the Note Trust Deed or such other person appointed under the Note Trust Deed as trustee of the IMF Bentham OTC Note Trust;

Noteholder means, in respect of a Note, the person whose name is entered in the Register as the holder of that Note;

Offshore Associate means an "associate" (within the meaning of section 128F(9) of the Australian Tax Act) of the Issuer that is either:

- (a) a non-resident of Australia that, if it acquires the Notes or an interest in the Notes, would not acquire the Notes or an interest in the Notes in carrying on a business at or through a permanent establishment of the associate in Australia; or
- (b) a resident of Australia that, if it acquires the Notes or an interest in the Notes, would acquire the Notes or an interest in the Notes in carrying on a business in a country outside Australia at or through a permanent establishment of the associate in that country;

Optional Redemption Date means:

- (a) each Interest Payment Date commencing on (and including) the First Optional Redemption Date to (but excluding) the Second Optional Redemption Date;
- (b) each Interest Payment Date commencing on (and including) the Second Optional Redemption Date to (but excluding) the Third Optional Redemption Date;
- (c) each Interest Payment Date commencing on (and including) the Third Optional Redemption Date to (but excluding) the Fourth Optional Redemption Date; or
- (d) any date which is on or after the Fourth Optional Redemption Date;

Payment Date means, as applicable, the Maturity Date, an Interest Payment Date or other relevant date on which a payment in respect of a Note is due;

Permitted Secured Finance Arrangement means:

- (a) the IMF Bentham ASX Bonds; and
- (b) any secured Financial Indebtedness of the Issuer or a Subsidiary following the incurrence of which:
 - (i) the Current Resources of the Wholly Owned Group are equal to or greater than 75% of the Group Indebtedness; and
 - (ii) the Secured Debt Limit is not exceeded, other than as a result of the Issuer incurring a Permitted Refinancing in order to repay any other Permitted Secured Finance Arrangement, provided such Permitted Refinancing is completed within 5 Business Days of being incurred and the Secured Debt Limit would be met at the end of the 5 Business Day period; and
 - (iii) unless the Security Interest ranks behind the Security granted for the benefit of the Noteholders:
 - (A) the Issuer (or Subsidiary as the case may be), the Note Trustee and any lender or provider of such Financial Indebtedness has, on or prior to completion of the creation of such Security Interest, entered into a priority deed on terms consistent with, or the priority of such Financial Indebtedness is otherwise regulated by, the Priority Deed; and
 - (B) any such lender or provider of Financial Indebtedness has, prior to completion of the creation of such Security Interest, become a Beneficiary (as defined in the Security Trust Deed),

and to the extent any such Financial Indebtedness is denominated in a currency other than Australian dollars, such amount shall be converted into Australian dollars for the purposes of this definition only, using the exchange rate published by the Reserve Bank of Australia on its website on the date 15 Business Days prior to the proposed drawdown or issue of the Financial Indebtedness;

Permitted Refinancing means any secured Financial Indebtedness incurred for the purposes of refinancing all or part of any Permitted Secured Finance Arrangement provided that the principal amount of that Financial Indebtedness does not exceed the principal amount of the Permitted Secured Finance Arrangement being refinanced plus transaction costs associated with the refinancing;

a Permitted Security Interest means:

- (a) any Security Interest granted in favour of the Security Trustee or the trustee of the IMF Bentham Bonds Trust (as the case may be) in respect of the Issuer's obligations in respect of the Notes or the IMF Bentham ASX Bonds;
- (b) any Security Interest granted in connection with a Permitted Working Capital Facility;
- (c) any Security Interest granted in connection with a Permitted Secured Finance Arrangement;
- (d) any Security Interest over or affecting any asset acquired by the Issuer or any Wholly Owned Subsidiary after the Issue Date if:
 - (i) the Security Interest was not created in contemplation of the acquisition of that asset by the Issuer or any Wholly Owned Subsidiary;
 - (ii) the principal amount secured has not been increased in contemplation of, or since, the acquisition of that asset by the Issuer or any Wholly Owned Subsidiary; and
 - (iii) the Security Interest is removed or discharged within six months of the date of acquisition of such asset;
- (e) any Security Interest granted in connection with the interest of the Issuer or any Wholly Owned Subsidiary in a JV Arrangement that secures the performance of an obligation (including, without limitation, an obligation to pay or repay money) of the Issuer or any Wholly Owned Subsidiary as a joint venturer (or a co-funder as the case may be) in favour of one or more other parties to the JV Arrangement under or in respect of such arrangement, provided however, that the Security Interest does not extend to any other assets owned by the Issuer or any Wholly Owned Subsidiary and that the recourse of the holder of the Security Interest is limited solely to the property the subject of the Security Interest and any proceeds from the enforcement of the Security Interest;
- (f) any netting and set-off arrangements entered into by the Issuer or any Wholly Owned Subsidiary in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (g) a Security Interest arising by operation of law and in the ordinary course of trading so long as the Financial Indebtedness secured by that Security Interest is paid when due or contested in good faith and appropriately provisioned;
- (h) any title retention arrangement entered into by the Issuer or any Wholly Owned Subsidiary in the ordinary course of trading on the supplier's usual terms of sale (or on terms more favourable to the Issuer or any Wholly Owned Subsidiary, as applicable) 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;
- (i) any Security Interest over goods (and related insurance contracts) under, and relating to, documentary credit transactions arising or created in the ordinary course of business;
- (j) deposits or pledges to secure contracts in the ordinary course of business, other than by way of security for Financial Indebtedness;
- (k) any Security Interest provided for by one of the following transactions if the transaction does not secure payment or performance of an obligation:
 - (i) a transfer of an account or chattel paper;

- (ii) a commercial consignment; or
 - (iii) a PPS Lease,
- (as each term is defined in the PPSA); and
- (m) any Security Interest approved by the Noteholders by a Special Resolution of the Noteholders pursuant to the Meeting Provisions;

Permitted Working Capital Facility means any bank facilities obtained from time to time by the Issuer that entitle a bank providing a bank guarantee or other bank facility to the Issuer to a lien over cash deposited by the Issuer with the bank up to a maximum aggregate of A\$10,000,000 at any one time. To the extent any such bank facility is denominated in a currency other than Australian dollars, such amount shall be converted into Australian dollars for the purposes of this definition only, using the exchange rate published on the date 15 Business Days prior to the proposed drawdown under such facility;

PPSA means the Personal Properties Securities Act 2009 of Australia;

Pricing Supplement means, in respect of a Tranche, the pricing supplement prepared and issued specifying the relevant issue details of such Notes and which has been confirmed by the Issuer;

Priority Deed means the document entitled "Priority Deed" dated 6 April 2016 and executed by the Issuer, Australian Executor Trustees Limited (ABN 84 007 869 794) in its capacity as trustee of IMF Bentham Bonds Trust, the Security Trustee and the Note Trustee;

Receivables means trade and other receivables as stated in the latest monthly management accounts of the Group, less any amounts of such trade and other receivables collected or impaired by the Issuer or other applicable members of the Group (as applicable) since the date of such accounts;

Record Date means the close of business in the place where the Register is maintained on the eighth day before the Payment Date;

Register means the register of holders of Notes established and maintained by or on behalf of the Issuer under an Agency Agreement;

Registrar means Sargon CT Pty Ltd (ABN 12 106 424 088);

Related Entity has the meaning given in the Corporations Act;

Retained Earnings has the meaning given for the purposes Accepted Accounting Practices;

Second Optional Redemption Date means the date so specified in the Pricing Supplement;

Secured Debt Limit means the aggregate amount (without double counting) of:

- (a) the secured Financial Indebtedness which the Issuer is permitted to incur under these Conditions; and
- (b) the Financial Indebtedness of each Wholly Owned Subsidiary,

being A\$300,000,000 (excluding any accrued but unpaid interest on such Financial Indebtedness which is in accordance with the terms of the applicable governing documents) or such higher figure as the Issuer and the Note Trustee may agree, the agreement of the latter being conditional upon the prior approval of the Noteholders by way of a Special Resolution of the Noteholders pursuant to the Meeting Provisions;

Secured Property means all assets that are subject to the Security;

Security has the meaning given to that term in the Security Trust Deed;

Security Interest includes any mortgage, pledge, lien or charge or any security or preferential interest or arrangement of any kind (including under sections 12(1) and (2) and (3) of the PPSA) 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. It includes retention of title other than in the ordinary course of day-to-day trading and a deposit of money by way of security but it excludes a charge or lien arising in favour of a government agency by operation of statute unless there is default in payment of moneys secured by that charge or lien;

Security Trust Deed means the document entitled “Security Trust Deed” dated 6 April 2016 and executed by, amongst others, the Issuer and the Security Trustee;

Security Trustee means Sargon CT Pty Ltd (ABN 12 106 424 088) or any person who becomes the “Security Trustee” under the Security Trust Deed;

Senior Financial Indebtedness means, in respect of an Excluded Fund, any Financial Indebtedness of the relevant Excluded Fund that is not provided by an equity investor in such Excluded Fund or any Related Entity of such equity investor, where such Financial Indebtedness is limited in recourse to the assets of the relevant Excluded Fund;

Share means a fully paid ordinary share in the capital of the Issuer;

Special Resolution has the meaning given in the Note Trust Deed;

Specified Office means, for a person, that person’s office specified in the Information Memorandum or Pricing Supplement or any other address notified to Noteholders from time to time;

Subsidiary has the meaning given to it in Part 1.2 Division 6 of the Corporations Act;

Subsidiary Cash Limit at any time means 10% of the aggregate of:

- (a) the cash held by the Issuer on its balance sheet at that time; and
- (b) the cash held by each Wholly Owned Subsidiary on their respective balance sheets at that time;

Third Optional Redemption Date means the date so specified in the Pricing Supplement;

Tax Authority means any government, state, municipal, local, federal or other fiscal, revenue, customs or excise authority, body or official, having power to tax to which the Issuer becomes subject in respect of payments made by it of principal or interest in respect of the Notes;

Tax Event means:

- (a) if as a result of any change in, or amendment to, applicable laws, or any change in their application or official or judicial interpretation, which change becomes effective after the Issue Date, payment of interest on a Note is not, or may not, be allowed as a deduction for the purposes of the Issuer’s Australian income tax liability calculation; or
- (b) the Issuer or a Guarantor would be required, under Condition 11.2 (“Withholding tax”), to pay Additional Amounts on the next Interest Payment Date;

Taxes means taxes, withholdings, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any Tax Authority together with any related interest, penalties, fines and expenses in connection with them except if imposed on, or calculated having regard to, the net income of a Noteholder;

Total Assets at any time means:

- (a) in relation to a Fund, as stated in the latest monthly management accounts of the Fund; and
- (b) for any other purpose, in relation to the value of the total assets of the Issuer or of the Group, as stated in the latest monthly management accounts of the Issuer or the Group (as applicable);

Tranche means an issue of Notes specified as such in the Pricing Supplement issued on the same Issue Date and on the same terms;

Wholly Owned Group means the Issuer and each Wholly Owned Subsidiary;

Wholly Owned Subsidiary means a Subsidiary of the Issuer where:

- (a) the Issuer holds 100% of the issued share capital of the Subsidiary; or
- (b) the Issuer is in a position to cast, or control the casting of, 100% of the votes that might be cast at a general meeting of the Subsidiary; or
- (c) the Subsidiary is a Wholly Owned Subsidiary of a Wholly Owned Subsidiary of the Issuer; and

Wivenhoe Co-Funding Arrangements means:

- (a) the umbrella co-funding agreement entered into between Innsworth Investments II B.V and the Issuer;
- (b) the Asia Pacific Services Agreement entered into between Innsworth Investments II B.V and the Issuer;
- (c) the Umbrella Co-Funding Guarantee entered into certain funds managed by the Elliott group and the Issuer;
- (d) the co-funded litigation funding indemnity agreement between Innsworth Investments II BV, the Issuer and certain funds managed by the Elliott group;

each dated on or around 26 March 2014, and:

- (e) all litigation funding agreements entered into by the Issuer with claimants in relation to the Wivenhoe Dam litigation; and
- (f) the Wivenhoe funding participation agreement entered into between Innsworth Investments II BV and the Issuer dated 24 June 2014,

together with any agreements related thereto.

1.3 References to certain general terms

Unless the contrary intention appears, a reference to:

- (a) a group of persons is a reference to any two or more of them jointly and to each of them individually;
- (b) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;

- (c) a document (including these Conditions) includes any amendment, variation or replacement of it;
- (d) anything (including any amount) is a reference to the whole and each part of it;
- (e) a “law” includes common law, principles of equity, any decree and any statute or other law made by a parliament (and a statute or other law made by parliament includes any regulation or other instrument under it, and any consolidation, amendment, re-enactment or replacement of it);
- (f) a “directive” includes a treaty, official directive, request, regulation, guideline or policy (whether or not in any case having the force of law) with which responsible participants in the relevant market generally comply;
- (g) “**Australian dollars**”, “**\$**” or “**A\$**” is a reference to the lawful currency of Australia;
- (h) “**United States dollars**” or “**US\$**” is a reference to the lawful currency of the United States;
- (i) a time of day is a reference to Sydney time;
- (j) a “person” includes an individual, a firm, a body corporate, an unincorporated association and an authority;
- (k) a particular person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns; and
- (l) the words “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

1.4 Number

The singular includes the plural and vice versa.

1.5 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of these Conditions.

1.6 Calculation of period of time

If a notice must be given within a certain period of days or a certain number of days’ notice must be given or any other matter must take place within a certain number of days, the day on which the notice is given or action taken, and the day on which the meeting is to be held or other action taken, are not to be counted in calculating that period and references to a “day” are to a calendar day.

2 Introduction

2.1 Pricing Supplement

- (a) The Issuer will issue the Notes on the terms set out in these Conditions as supplemented, amended, modified or replaced by the Pricing Supplement applicable to those Notes. If there is any inconsistency between these Conditions and such Pricing Supplement, the Pricing Supplement prevails.
- (b) The Notes are issued in a single series. The series may comprise one or more Tranches having one or more Issue Dates and on conditions otherwise identical (other

than in respect of the issue price and date of the first payment of interest). A Tranche is the subject of a Pricing Supplement which supplements, amends, modifies or replaces these Conditions.

- (c) Copies of the Pricing Supplement and Conditions applicable to any Tranche of Notes are available for inspection or on request by a Noteholder or prospective Noteholder during normal business hours at the Specified Office of the Issuer, the Note Trustee or the Registrar or are otherwise available on reasonable request from the Issuer or the Registrar.

2.2 Currency and denomination

The Notes are issued in Australian dollars in a single denomination of A\$1,000.

2.3 Issue restrictions and tenor

The Notes may only be offered (directly or indirectly) for issue, or applications invited for the issue of Notes, if:

- (a) where the offer or invitation is made in, or into Australia:
 - (i) the aggregate consideration payable by each offeree is at least A\$500,000 (or its equivalent in an alternative currency and, in each case, disregarding moneys lent by the offeror or its associates to the offeree or its associates) or if the offer or invitation (including any resulting issue) otherwise does not require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act;
 - (ii) the offer or invitation (including any resulting issue) does not constitute an offer to a “retail client” as defined for the purposes of section 761G of the Corporations Act; and
 - (iii) such action does not require any document to be lodged with ASIC; and
- (b) at all times, the offer or invitation (including any resulting issue) complies with all other applicable laws and directives in the jurisdiction in which the offer, invitation or issue takes place.

2.4 Clearing systems

Notes may, but need not, be held in the Austraclear System, in which case the rights of a person holding an interest in the Notes lodged in the Austraclear System are subject to the rules and regulations of the Austraclear System. Neither the Issuer nor any Guarantor is responsible for anything the Austraclear System does or omits to do.

3 Form

3.1 Constitution under the Note Trust Deed

- (a) The Notes are debt obligations of the Issuer constituted by, and owing under, the Note Trust Deed.
- (b) Noteholders are entitled to the benefit of, are bound by, and are deemed to have notice of all the provisions of the Note Trust Deed, the Guarantee, the Security Trust Deed, each Security, the Priority Deed, these Conditions and the Pricing Supplement.

3.2 Form

The Notes are issued in registered form by entry in the Register.

3.3 No certificates

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

3.4 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 Note Trustee and the Noteholder to:
 - (i) pay principal, any interest and any other amount in accordance with these Conditions and the Note Trust Deed; and
 - (ii) comply with all other Conditions of the Note, the Note Trust Deed and the Security Trust Deed; and
- (b) an entitlement to the other benefits given to the Noteholder in respect of the Note under these Conditions, the Note Trust Deed and the Security Trust Deed.

3.5 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 error.

3.6 Non-recognition of interests

Except as ordered by a court of competent jurisdiction or required by law or directive, the Issuer, the Note Trustee, the Security Trustee and the Registrar 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 Condition applies whether or not a Note is overdue and despite any notice of ownership, trust or interest in the Note.

3.7 Joint Noteholders

Where two or more persons are entered in the Register as the joint holder 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 a Note.

4 Status of Notes and Guarantee

4.1 Status of Notes

The Notes constitute direct and unconditional obligations of the Issuer.

4.2 Ranking of Notes

The Notes rank *pari passu* and without preference or priority among themselves and with any Permitted Secured Finance Arrangements but subject to any prior ranking Permitted Security Interest and obligations mandatorily preferred by statute or applicable law.

4.3 Security

- (a) In consideration for being a holder of a Note, each Noteholder is entitled to become a Beneficiary (as defined in the Security Trust Deed). The Security Trustee holds the Security on trust for all the Beneficiaries (as defined in the Security Trust Deed) so that all amounts due under the Notes and the Note Trust Deed will be secured by the Security.

- (b) Each Noteholder appoints the Note Trustee as its Representative (as defined in the Security Trust Deed) to act on its behalf for the purposes of the Security Trust Deed, and directs the Security Trustee to agree (and the Issuer hereby agrees and the Note Trustee confirms that the Security Trustee has agreed), that each Noteholder is a Beneficiary under the Security Trust Deed.
- (c) Each Noteholder agrees to assume all the obligations of, and be bound, as a Beneficiary (as defined in the Security Trust Deed) under and in accordance with the Security Trust Deed.
- (d) The Noteholders acknowledge and accept that any rights, benefits or interests whatsoever held (either directly or via the application of law) by the Issuer or on its behalf in the Co-Funding Arrangements do not form part of the Security applicable to the Notes.

4.4 Status of the Guarantee

The Notes are issued with the benefit of the Guarantee. Pursuant to the Guarantee, each Guarantor unconditionally and irrevocably guarantees on a joint and several basis to the Noteholders, among other things, the due and punctual performance by the Issuer of its obligations under the Notes. The obligations of each Guarantor under the Guarantee are direct, unconditional, unsubordinated and (subject to Condition 5.2 (“Wholly Owned Subsidiary negative pledge”)) unsecured obligations of that Guarantor and (save for certain obligations required to be preferred by law) rank equally with all other unsecured obligations (other than subordinated obligations, if any) of that Guarantor from time to time outstanding.

4.5 Priority Deed

The Security and amounts due under the Notes are subject to the terms of the Priority Deed.

5 Negative pledge and financial and other undertakings

5.1 Issuer negative pledge

The Issuer undertakes that, at any time any Note remains outstanding, the Issuer will not create or permit to subsist any Security Interest over any Secured Property as security for any Financial Indebtedness which ranks equally or in priority to the Security other than a Permitted Security Interest or Security Interest mandatorily created by the laws of any jurisdiction.

5.2 Wholly Owned Subsidiary negative pledge

- (a) Subject to paragraph (b) below, the Issuer undertakes that, at any time any Note remains outstanding, the Issuer shall ensure that no Wholly Owned Subsidiary will:
 - (i) save for any Permitted Security Interest or Security Interest mandatorily created by the laws of any jurisdiction, create or permit to subsist any Security Interest over the assets of the relevant Wholly Owned Subsidiary for any Financial Indebtedness other than the Notes, unless such Security Interest also secures the Notes so that they rank equally to or in priority to such other Financial Indebtedness;
 - (ii) guarantee any Financial Indebtedness (other than the Notes and the IMF Bentham ASX Bonds) or incur any unsecured Financial Indebtedness (other than any Financial Indebtedness owed to the Issuer or another Wholly Owned Subsidiary), unless, in each case, the relevant Wholly Owned Subsidiary is a Guarantor, or otherwise provides any other guarantee of all amounts owing on the Notes then outstanding in favour of the Note Trustee (on behalf of the Noteholders from time to time) by acceding as a Guarantor to the Guarantee or providing such other guarantee, which other guarantee must rank equally

with, or in priority to, the obligations of the relevant Wholly Owned Subsidiary in relation to such other unsecured or guaranteed Financial Indebtedness; or

- (iii) hold cash on its balance sheet in an amount which at any time exceeds the Subsidiary Cash Limit at that time for a period of more than 30 consecutive calendar days, unless, in each case, the relevant Wholly Owned Subsidiary is a Guarantor or, otherwise, provides an unconditional guarantee (on terms that are market standard for similar guarantees) of all amounts owing on the Notes then outstanding in favour of the Note Trustee (on behalf of the Noteholders from time to time).
- (b) Where a Wholly Owned Subsidiary is a general partner of a limited partnership Fund, the above undertakings apply only in respect of the present or future assets of such Wholly Owned Subsidiary and not the present or future assets of such limited partnership Fund.

5.3 Change of Guarantors

Subject to all applicable laws, each Wholly Owned Subsidiary which ceases to be an Excluded Wholly Owned Subsidiary must accede as a Guarantor to the Guarantee (or otherwise provide another guarantee), in each case if required to do so under Condition 5.2(a)(ii) (“Wholly Owned Subsidiary negative pledge”). The Issuer and the Note Trustee may release from the Guarantee or such other guarantee (in accordance with the Guarantee or such other guarantee, as applicable) any Subsidiary which ceases to be a Wholly Owned Subsidiary or each Wholly Owned Subsidiary which becomes an Excluded Wholly Owned Subsidiary.

5.4 Limit on the incurrence of secured Financial Indebtedness

Other than the Notes, the Issuer will not incur, or permit to subsist, any secured Financial Indebtedness (including a renewal, extension or a refinance of any such secured Financial Indebtedness) that ranks equally to or in priority to the Notes, other than any Financial Indebtedness that is secured by a Permitted Security Interest or a Security Interest mandatorily created by the laws of any jurisdiction.

5.5 Limit on the incurrence of certain borrowing

The Issuer undertakes that, at any time any Note remains outstanding, the Issuer shall ensure that each Fund that is not an Excluded Fund will not incur any borrowing, other than:

- (a) short term loans provided to the Fund by the Issuer or a Wholly Owned Subsidiary for the purpose of providing short term bridging of the Issuer’s funding commitments in respect of the relevant Fund; or
- (b) with the prior approval of the Noteholders by way of Noteholder Resolution.

5.6 Limit on making certain payments

The Issuer will not make a Distribution, except where, following such Distribution the Current Resources of the Wholly Owned Group are (or would be) greater than 75% of the Group Indebtedness, and provided that, in any case, a Distribution is no greater than an amount lawfully permitted under applicable law.

For the purposes of this Condition, a Distribution in the form of a dividend shall relate to the financial year in which such dividend is declared, regardless of the financial year in which such dividend is paid.

5.7 Limit on Disposals

The Issuer will ensure that it will not dispose of (or agree to dispose of) any of the Secured Property or its interests in the Co-Funding Arrangements (either in a single transaction or in a

series of transactions whether related or not and whether voluntary or involuntary) except disposals:

- (a) of a Circulating Asset in the ordinary course of the business of the Issuer; or
- (b) of any interest whatsoever in the JV Arrangements in accordance with any default or deadlock provisions contained in the governing documents in respect of such JV Arrangements, as in force from time to time and, for the avoidance of doubt, this paragraph (b) shall apply notwithstanding any enforcement of the rights under the Security by the Security Trustee or any administrator or receiver appointed on behalf of the Note Trustee; or
- (c) with the consent of the Security Trustee (such consent not to be unreasonably withheld).

5.8 Other undertakings

- (a) **(corporate existence)** The Issuer will (and the Issuer will ensure that each Guarantor will) do all things necessary to maintain its corporate existence in good standing.
- (b) **(comply with laws)** The Issuer undertakes to:
 - (i) obtain and renew on time and comply with (and the Issuer will ensure that each Guarantor obtains, renews and complies with), the terms of each authorisation necessarily for it to enter into the Note Trust Deed or the Guarantee, comply with its obligations and exercises its rights under it and make it admissible in evidence in its jurisdiction of incorporation where failure to do so would have or would be likely to have a material adverse effect on the ability of the Issuer to comply with its obligations under the Notes or the Guarantor to comply with its obligations under the Guarantee; and
 - (ii) comply (and the Issuer will ensure that each Guarantor complies) in all respects with all laws binding on it where a failure to comply is reasonably likely to have a material adverse effect on the ability of the Issuer to comply with its obligations under the Notes or the Guarantor to comply with its obligations under the Guarantee.

5.9 Reporting undertakings

- (a) The Issuer undertakes that, at any time any Note remains outstanding, the Issuer shall in its annual and semi-annual Financial Statements:
 - (i) provide a breakdown of the cash, deposits, financial instruments and Receivables comprising the Current Resources of the Wholly Owned Group as at 30 June and 31 December in each calendar year; and
 - (ii) confirm that it has complied with Condition 5.2(a)(iii) (“Wholly Owned Subsidiary negative pledge”) at all times during the previous six months (or provide reasonable detail of its non-compliance with Condition 5.2(a)(iii) (“Wholly Owned Subsidiary negative pledge”) at any time during the previous six months (including any relevant figures and calculations) and the steps being taken to remedy the same).
- (b) The Issuer undertakes that, if the Issuer is no longer listed on a major stock exchange, the Issuer must provide to the Note Trustee the following information and reports by publishing them on the Issuer’s website (via a password-protected section of the Issuer’s website or otherwise), or by such other means as the Issuer and the Note Trustee agree from time to time:

- (i) **(audited consolidated Financial Statements)** within 120 days after the close of each financial year, a copy of the audited consolidated Financial Statements of the Group in respect of that financial year;
- (ii) **(unaudited consolidated Financial Statements)** within 90 days after the close of each financial half-year, a copy of the unaudited consolidated Financial Statements of the Group in respect of that half-year;
- (iii) **(quarterly reports)** within one month after the end of each calendar quarter, a report including details of:
 - (A) updated commentary (and year to date) on the performance of the Issuer and the Group, over the last quarter;
 - (B) management accounts for the Group;
 - (C) any other matters, including any change to:
 - (aa) the financial forecasts or expectations, value of underlying assets or any financial rating of the Issuer, a Guarantor or other member of the Group; or
 - (ab) the debt funding arrangements of the Issuer, a Guarantor or other member of the Group, including any material breach of covenants,

which, in the Issuer's reasonable opinion, may have a material adverse effect on the Group's ability to comply with its obligations under the Notes; and

- (iv) **(certain events)** as soon as reasonably practicable after the Issuer or a Guarantor becomes aware of their existence, information relating to the following events:
 - (A) the occurrence and details of any Event of Default;
 - (B) any proposal to appoint an external administrator to the Issuer, a Guarantor or any other member of the Group or a receiver to any of their assets; or
 - (C) the occurrence of a Change of Control or a Delisting Event; and
- (v) **(notices)** promptly, copies of all documents and notices given by the Issuer or a Guarantor to Noteholders (including copies of any Compliance Certificates); and
- (vi) **(other)** all other information or reports regarding the financial condition and operations of the Issuer, a Guarantor or the Group as the Note Trustee (acting on instructions of the Noteholders) may reasonably request.

Each Financial Statement referred to above must be prepared in accordance with Accepted Accounting Practices consistently applied and give a true and fair view of (if audited) or fairly represent (if unaudited) the Group's consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.

5.10 Delivery of Compliance Certificates

- (a) With each set of Financial Statements delivered to the Note Trustee pursuant to Condition 5.9 ("Reporting undertakings"), the Issuer will provide a certificate to the Note Trustee ("**Compliance Certificate**") setting out (in reasonable detail) computations as to compliance with the Financial Undertakings as at the date at which those Financial

Statements or management accounts relate. In the event that the Issuer is relying upon the Receivables as stated in its latest monthly management accounts so as to ensure compliance with the Financial Undertakings, the Issuer shall provide those management accounts to the Note Trustee and a Compliance Certificate setting out (in reasonable detail) computations as to compliance with the Financial Undertakings as at the date at which those management accounts relate. In the event the Issuer is not in compliance with any such Financial Undertakings, such Compliance Certificate will give reasonable detail of such non-compliance (including any relevant figures and calculations) and the steps being taken to remedy such non-compliance.

- (b) Each Compliance Certificate shall be:
- (i) signed by either two directors or a director and the chief financial officer of the Issuer; and
 - (ii) include a statement that no Event of Default has occurred or is continuing.

6 Title and transfer of Notes

6.1 Title

Title to Notes passes when details of the transfer are entered in the Register.

6.2 Transfer

Notes may only be transferred in accordance with these Conditions and the Note Trust Deed.

6.3 Transfers in whole

Notes may only be transferred in whole and not in part.

6.4 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.

6.5 Unincorporated associations

A transfer of a Note to an unincorporated association is not permitted.

6.6 Transfer of unidentified Notes

Where the transferor executes a transfer of less than all 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 principal amount of all the Notes registered as having been transferred equals the aggregate principal amount of all the Notes expressed to be transferred in the transfer.

6.7 Compliance with law

Notes may only be transferred if the offer or invitation for the sale or purchase of the Notes is received by a person:

- (a) 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

- (b) 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.

6.8 Restrictions on transfer

- (a) Transfers of Notes which are not lodged in the Austraclear System cannot be made between a Record Date and the relevant following Payment Date if a redemption of such Note is to occur during, or at the end of, that period in accordance with these Conditions.
- (b) Transfers of Notes will not be registered later than the close of business in the place where the Register is maintained on the eighth day prior to the Maturity Date of the Notes.

7 Fixed Rate Notes

7.1 Interest on Notes

Each Note bears interest on its outstanding principal amount from (and including) its Interest Commencement Date to (but excluding) its Maturity Date or, if redeemed earlier, the Optional Redemption Date, at the Interest Rate. Interest is payable in arrear on each Interest Payment Date or such other date on which a Note is redeemed.

7.2 Calculation of interest payable

The amount of interest payable in respect of a Note for any period shall be calculated by the Calculation Agent by multiplying the Interest Rate, the outstanding principal amount of the Note and the applicable Day Count Fraction.

8 General provisions applicable to interest

8.1 Default interest

If an amount is not paid under these Conditions when due, then interest accrues on the unpaid amount (both before and after any demand or judgment) at the last applicable Interest Rate plus 2% per annum (compounding daily) until the date on which payment is made to the Noteholder.

8.2 Calculation of other amounts

If the Pricing Supplement specifies that any other amount is to be calculated by the Calculation Agent, the Calculation Agent must, as soon as practicable after the time at which that amount is to be determined, calculate the amount in the manner specified in the Pricing Supplement.

8.3 Notification of Interest Rate, interest payable and other items

- (a) The Calculation Agent must notify the Issuer, the Registrar, the Noteholders, the Note Trustee and each other Agent of each Interest Rate, the amount of interest payable and each other amount, item or date calculated or determined by it together with the Interest Payment Date.
- (b) The Calculation Agent must give notice under this Condition as soon as practicable after making its determination.

- (c) The Calculation Agent may amend its 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 promptly notify the Issuer, the Registrar, the Noteholders, the Note Trustee and each other Agent of any such amendment.

8.4 Determination final

The determination by the Calculation Agent of all amounts, rates and dates falling to be determined by it under these Conditions is, in the absence of fraud or manifest error, final and binding on the Issuer, the Guarantors, the Registrar, each Noteholder, the Note Trustee, the Security Trustee and each other Agent.

8.5 Rounding

For the purposes of any calculations required under these Conditions (unless otherwise specified in these Conditions or the Pricing Supplement):

- (a) all percentages resulting from the calculations must be rounded to the nearest one hundred-thousandth of a percentage point (with 0.000005% being rounded up to 0.00001%);
- (b) all figures resulting from the calculations must be rounded to five decimal places (with halves being rounded up); and
- (c) all amounts that are due and payable must be rounded (with halves being rounded up) to one cent.

9 Redemption

9.1 Redemption on maturity

The Issuer agrees to redeem each Note on its Maturity Date at its outstanding principal amount unless:

- (a) the Note has been previously redeemed; or
- (b) the Note has been purchased and cancelled.

9.2 Early redemption at the option of Noteholders (Change of Control)

Upon the occurrence of a Change of Control, each Noteholder will have the right to require the Issuer to redeem all or some of the Notes at their outstanding principal amount (together with any accrued but unpaid interest, if any, to, but excluding, the date of redemption) (the “**Change of Control Redemption Price**”). Within 30 days after a Change of Control, the Issuer shall deliver a notice to the Registrar and the Note Trustee requesting that the Note Trustee promptly notifies Noteholders stating that:

- (a) a Change of Control has occurred and that such Noteholder has the right to require the Issuer to redeem such Notes at the Change of Control Redemption Price;
- (b) the redemption date (which shall be the 20th Business Day after the expiry of the Change of Control Redemption Period);
- (c) the procedures determined by the Issuer, consistent with the Conditions, that a Noteholder must follow in order to have its Notes redeemed and including a form of redemption exercise notice (“Exercise Notice”); and
- (d) the last day of the Change of Control Redemption Period.

In order to have any of their Notes redeemed under this Condition 9.2, a Noteholder must deliver to the Issuer a duly completed and signed Exercise Notice at any time during the Change of Control Redemption Period.

If an Exercise Notice is delivered by a Noteholder in accordance with this Condition 9.2, the Issuer must redeem all of the Notes the subject of the Exercise Notice on the relevant redemption date at the Change of Control Redemption Price.

9.3 Early redemption at the option of Noteholders (delisting)

Upon the occurrence of a Delisting Event, each Noteholder will have the right to require the Issuer to redeem all or some of the Notes at their outstanding principal amount (together with any accrued but unpaid interest, if any, to, but excluding, the date of redemption) (the “**Delisting Redemption Price**”). Within 2 Business Days after the occurrence of a Delisting Event, the Issuer shall deliver a notice to the Registrar and the Note Trustee requesting that the Note Trustee promptly notifies Noteholders stating that:

- (a) a Delisting Event has occurred and that such Noteholder has the right to require the Issuer to redeem such Notes at the Delisting Redemption Price;
- (b) the redemption date (which shall be the 20th Business Day after the expiry of the Delisting Redemption Period);
- (c) the procedures determined by the Issuer, consistent with Conditions, that a Noteholder must follow in order to have its Notes redeemed and including a form of delisting redemption exercise notice (“Exercise Notice”); and
- (d) the last day of the Delisting Redemption Period.

In order to have any of their Notes redeemed under this Condition 9.3, a Noteholder must deliver to the Issuer a duly completed and signed Exercise Notice at any time during the Delisting Redemption Period.

If an Exercise Notice is delivered by a Noteholder in accordance with this Condition 9.3, the Issuer must redeem all of the Notes the subject of the Exercise Notice on the relevant delisting redemption date at the Delisting Redemption Price.

9.4 Early redemption at the option of the Issuer (Issuer call)

The Issuer may redeem all or some of the Notes before their Maturity Date as follows:

- (a) on each Interest Payment Date commencing on (and including) the First Optional Redemption Date to (but excluding) the Second Optional Redemption Date by payment of 102% of the outstanding principal amount of each Note being redeemed;
- (b) on each Interest Payment Date commencing on (and including) the Second Optional Redemption Date to (but excluding) the Third Optional Redemption Date by payment of 101.5% of the outstanding principal amount of each Note being redeemed;
- (c) on each Interest Payment Date commencing on (and including) the Third Optional Redemption Date to (but excluding) the Fourth Optional Redemption Date by payment of 101% of the outstanding principal amount of each Note being redeemed; and
- (d) on any date on or after the Fourth Optional Redemption Date by payment of 100% of the outstanding principal amount of each Note being redeemed,

in each case, together with any accrued but unpaid interest, if any, to, but excluding, the date of redemption.

However, the Issuer may only do so if:

- (i) in circumstances where prior to such proposed redemption there has been a public announcement of a capital markets issuance to be made by the Issuer for the purposes of funding such redemption or a redemption under paragraph (d) above, the Issuer has given at least 2 Business Days (and not more than 60 days) notice to the Registrar, the Note Trustee, the Noteholders and each other Agent; and
- (ii) in any other circumstance, the Issuer has given at least 30 days (and not more than 60 days) notice to the Registrar, the Note Trustee, the Noteholders and each other Agent.

9.5 Early redemption at the option of the Issuer (tax)

The Issuer may redeem all (but not some) of the Notes at their outstanding principal amount (together with any accrued interest, if any, to (but excluding) the date of redemption if a Tax Event occurs.

However, the Issuer may only do so if:

- (a) the Issuer has given at least 10 days' (and no more than 45 days') notice to the Registrar, the Note Trustee, the Noteholders and each other Agent;
- (b) before the Issuer gives the notice under paragraph (a), the Note Trustee has received:
 - (i) a certificate signed by two directors of the Issuer; and
 - (ii) an opinion of independent legal advisers of recognised standing in the jurisdiction of incorporation of the Issuer, that a Tax Event has occurred; and
- (c) the proposed redemption date is an Interest Payment Date.

9.6 Early redemption at the option of the Issuer (clean-up call)

The Issuer may redeem all (but not some) of the Notes before their Maturity Date at their outstanding principal amount (together with any accrued interest, if any, to (but excluding) the date of redemption if more than 90% of the aggregate amount of Notes that were initially issued on the Issue Date have been redeemed prior to their Maturity Date.

However, the Issuer may only do so if:

- (a) the Issuer has given at least 10 days' (and no more than 45 days') notice to the Registrar, the Note Trustee, the Noteholders and each other Agent; and
- (b) the proposed redemption date is an Interest Payment Date.

9.7 Partial redemptions

If only some of the Notes are to be redeemed under Conditions 9.2 ("Early redemption at the option of Noteholders (Change of Control)") or 9.3 ("Early redemption at the option of Noteholders (delisting)"), the Notes to be redeemed will be specified in the relevant notice. Where only some of the Notes will be redeemed under Condition 9.4 ("Early redemption at the option of the Issuer (Issuer call)"), the Notes to be redeemed will be specified in the notice and selected:

- (a) pro-rata across all Noteholders or in a fair and reasonable manner; and
- (b) in compliance with any applicable law or directive.

9.8 Effect of notice of redemption

Any notice of redemption given under this Condition 9 ("Redemption") is irrevocable.

9.9 Late payment

If an amount payable is not paid under this Condition 9 ("Redemption") when due, then interest continues to accrue on the unpaid amount (both before and after any demand or judgment) at the last applicable Interest Rate plus 2% per annum (compounding daily) until the date on which payment is made to the Noteholder.

9.10 Purchase

The Issuer and any of its Related Bodies Corporate may at any time purchase (including on issue) Notes in the open market or otherwise and at any price. Notes purchased under this Condition 9.10 may be held or resold at the discretion of the purchaser or, if the Notes are to be cancelled, at the discretion of the Issuer, subject to compliance with any applicable law or directive.

10 Payments

10.1 Payments to Noteholders

- (a) Payments of principal will be made to each person registered in the Register at 10.00 am on the applicable Record Date as the holder of a Note.
- (b) Payment of interest shall be made to each person registered in the Register at close of business on the applicable Record Date as the holder of a Note.

10.2 Payments to accounts

Payments in respect of a Note will be made:

- (a) if the Note is held in the Austraclear System, by crediting on the Payment Date, the amount due to:
 - (i) the account of Austraclear (as the Noteholder) previously notified to the Issuer and the Registrar; or
 - (ii) if requested by Austraclear, the accounts of the persons in Australia in whose Security Record (as defined in the Austraclear Regulations) a Note is recorded as previously notified by Austraclear to the Issuer and the Registrar in accordance with the Austraclear Regulations; and
- (b) if the Notes are not held in the Austraclear System, by crediting on the Payment Date, the amount then due under each Note to an account in Australia previously notified by the Noteholder to the Issuer and the Registrar.

10.3 Other payments

If a Noteholder has not notified the Registrar of an account to which payments to it must be made by close of business on the Record Date, payments in respect of the Note will be made in such manner as the Issuer and Trustee agree.

10.4 Payments subject to law

All payments are subject to applicable law but without prejudice to the provisions of Condition 11 ("Taxation").

10.5 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 adjusted in accordance with the applicable Business Day Convention; 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, a Noteholder is not entitled to any additional payment in respect of that delay.

10.6 Unsuccessful attempts to pay

Subject to applicable law, 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 given a direction as to where 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; or
- (c) has made reasonable efforts to locate a Noteholder but is unable to do so,

then, in each case and subject to Condition 12 ("Time limit for claims"), the amount is to 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 claims the amount or the amount is paid by the Issuer according to the legislation relating to unclaimed moneys.

10.7 Payment to joint Noteholders

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

11 Taxation

11.1 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 in respect of Taxes, unless such withholding or deduction is required by law.

11.2 Withholding tax

If a law requires the Issuer, a Guarantor (or an Agent) to withhold or deduct an amount in respect of Taxes from a payment in respect of a Note such that the Noteholder would not actually receive on the due date the full amount provided for under the Notes, then:

- (a) the Issuer, the relevant Guarantor (or the Agent) agrees to withhold or deduct the amount for the Taxes; and
- (b) an additional amount is payable by the Issuer or the relevant Guarantor (as applicable) so that, after making the withholding or deduction and further withholdings or deductions applicable to any additional amounts payable under this Condition, the Noteholder is entitled to receive (at the time the payment is due) total amounts equal

to what it would have received if no withholdings or deductions had been required to be made from a payment in respect of a Note.

11.3 Gross-up exceptions

No Additional Amounts are payable under Condition 11.2 (“Withholding tax”) in respect of any Note:

- (a) to, or to a third party on behalf of, a Noteholder, if that person has not supplied an Australian tax file number, an Australian business number or details of an applicable exemption from these requirements (as appropriate);
- (b) to, or to a third party on behalf of, a Noteholder who is liable to such taxes, duties, assessments or governmental charges in respect of such Note by reason of having some connection with Australia other than the mere holding of the Note;
- (c) to, or to a third party on behalf of, a Noteholder who is liable to the Taxes in respect of a Note by reason of the Noteholder being an Offshore Associate of the Issuer not acting in the capacity of a clearing house, paying agent, custodian, funds manager or responsible entity of a registered scheme within the meaning of the Corporations Act;
- (d) in respect of any estate, inheritance, gift, sales, transfer, personal property, or any similar tax, assessment or governmental charge;
- (e) in circumstances where such a withholding or deduction would not be required if the Noteholder, or any person acting on the Noteholder’s behalf, had satisfied any statutory requirements or obtained and/or presented any form or certificate or had made a declaration of non-residence or similar claim for exemption to any Tax Authority upon the presentation or making of which the Noteholder would have been able to avoid or partially avoid (as the case may be) such withholding or deduction;
- (f) where such withholding or deduction is required to be made pursuant to a notice or direction issued by the Commissioner of Taxation under section 255 of the Australian Tax Act or section 260-5 of Schedule 1 to the Taxation Administration Act 1953 of Australia or any similar law;
- (g) in such other circumstances as may be specified in the Pricing Supplement; or
- (h) in respect of any combination of any or all of paragraphs (a) to (g) above.

Notwithstanding any other provision of these Conditions, if the Issuer, a Guarantor, any Agent, or any other person through whom payments on the Notes are made, is required to withhold or deduct amounts under or in connection with, or in order to ensure compliance with FATCA, the Issuer, the relevant Guarantor or that other person shall be permitted to make such withholding or deduction, and Noteholders and beneficial owners of Notes will not be entitled to receive any gross up, Additional Amount or other amount for such withholding or deduction.

12 Time limit for claims

A claim against the Issuer for a payment under a Note is void unless made within 10 years (in the case of principal) or 5 years (in the case of interest and other amounts) from the date on which that payment first became due.

13 Events of Default

13.1 Events of Default

Each of the following is an Event of Default in respect of the Notes:

- (a) **(non-payment)** the Issuer fails to pay, within 10 Business Days after the due date, any amount in respect of the Notes when due;
- (b) **(other non-compliance)** the Issuer or a Guarantor fails to comply with any of its other material obligations in connection with a Note (other than in relation to the payment of money referred to in Condition 13.1(a) above) or (in the case of a Guarantor) the Guarantee and such failure remains unremedied for a period of 30 Business Days after the Issuer or the relevant Guarantor (as applicable) has received written notice from the Note Trustee or any Noteholder in respect of the failure;
- (c) **(cross default)** any Financial Indebtedness of the Issuer or a Guarantor for amounts totalling, in aggregate, more than A\$10,000,000 (or its equivalent in any other currency or currencies):
 - (i) becomes payable or repayable prior to its stated maturity due to the occurrence of a default event (howsoever described) and any applicable grace period has expired; or
 - (ii) has not been paid or repaid when due and any applicable grace period has expired,

and such Financial Indebtedness is not satisfied in full by the Issuer or the relevant Guarantor (as applicable) within 15 Business Days of the Issuer becoming required to pay such amount;
- (d) **(Permitted Secured Finance Arrangement)** any amount pursuant to a Permitted Secured Finance Arrangement becomes payable or repayable by the Issuer prior to its stated maturity due to the occurrence of a default event (howsoever described) and any applicable grace period has expired;
- (e) **(insolvency)** an Insolvency Event occurs in relation to the Issuer or a Guarantor;
- (f) **(obligations unenforceable)** any Note, the Note Trust Deed, the Guarantee, any Security or the Security Trust Deed is or becomes (or is claimed to be by the Issuer or anyone on its behalf) wholly or any part of a material provision of it void, voidable or unenforceable or any Note, the Note Trust Deed, the Guarantee, any Security or the Security Trust Deed ceases to wholly or in relation to any part of a material provision of it have full force and effect or the whole or any part of a material provision of it is declared by any court of competent jurisdiction to be void or unenforceable; or
- (g) **(obligations unlawful)** it is, or becomes, unlawful for the Issuer or a Guarantor to perform any of its payment obligations under any Note, the Note Trust Deed, the Guarantee, any Security or the Security Trust Deed and such obligation is not rendered lawful within 30 Business Days of it becoming unlawful.

13.2 Consequences of an Event of Default

- (a) If an Event of Default occurs and continues unremedied in relation to the Notes, then a Noteholder may, or, subject to Condition 13.4(c) ("Enforcement") below, the Note Trustee must (if requested in writing by the requisite number of Noteholders) declare by notice to the Issuer (with a copy to the Registrar and the Note Trustee (if notice is given by a Noteholder)) that each Note held by it is (or, if the Note Trustee has given the declaration, all Notes are) to be redeemed by the Issuer paying to the Noteholder the applicable redemption amount for the Note (together with any accrued interest) in which case those amounts become immediately due and payable.
- (b) If an Event of Default occurs, then interest continues to accrue on any unpaid amounts (both before and after any demand or judgment) at the sum of the Interest Rate plus a default rate of 2.00% per annum (compounding daily) from the date of the relevant default until the date on which payment is made to the Noteholder.

13.3 Notification

If an Event of Default occurs (or, in the case of Condition 13.1(b) (“Events of Default”), an Event of Default would occur with the lapse of time if notice were to be given to the Issuer), the Issuer must promptly (and in any event within 5 days) after becoming aware of it notify the Note Trustee, the Security Trustee, the Registrar and the Noteholders of the occurrence of the Event of Default (specifying details of it).

13.4 Enforcement

- (a) Subject to the Priority Deed, the Security Trust Deed and Condition 13.4(c), at any time after the occurrence of an Event of Default and for so long as it is subsisting, the Note Trustee may, either at its discretion or pursuant to a direction of Noteholders in accordance with paragraph (c)(i) below and, in either case, without further notice, institute such proceedings and/or take such other action as it may think fit against or in relation to the Issuer to enforce the Issuer’s obligations under the Notes. The Issuer shall, as a result of the bringing of any such proceedings, be obliged to pay any sums representing or measured by reference to principal or interest on the Notes sooner than the same would otherwise have been payable by it.
- (b) Without prejudice to Condition 13.4(a) but subject to the Priority Deed, the Security Trust Deed and Condition 13.4(c), if the Issuer breaches any of its obligations under the Note Trust Deed, the Note Trustee may, either at its discretion or pursuant to a direction of Noteholders in accordance with paragraph (c)(i) below and, in either case, without further notice, bring such proceedings as it may think fit to enforce such obligations.
- (c) The Note Trustee must not take any of the actions referred to in Condition 13.2(a) (“Consequences of an Event of Default”) or in paragraphs (a) or (b) above to enforce the obligations of the Issuer in respect of the Notes or take any other enforcement action pursuant to or in connection with the Note Trust Deed or the Notes unless:
 - (i) it shall have been so requested in writing by Noteholders who hold in aggregate 25% or more of the outstanding principal amount of all Notes then outstanding; and
 - (ii) it shall have been indemnified to its satisfaction in accordance with the terms of the Note Trust Deed.
- (d) If, prior to acting on a direction received pursuant to paragraph (a), the Note Trustee receives further directions to take any action pursuant to this paragraph (c)(i) that are, in its reasonable opinion, materially inconsistent or conflicting in any material respect with the initial directions, the Note Trustee must call a meeting of Noteholders in accordance with the terms of these Conditions, the Note Trust Deed and the Meeting Provisions in order to resolve the inconsistency or conflict and shall act in accordance with any resolutions passed at that meeting or in accordance with any direction by Noteholders who hold in aggregate 50% or more of the outstanding principal amount of all Notes then outstanding.
- (e) No Noteholder is entitled to proceed directly against the Issuer to enforce any right or remedy under or in respect of any Note, the Note Trust Deed, the Guarantee, the Security Trust Deed or the Priority Deed unless expressly entitled to do so under these Conditions or the Note Trust Deed, the Guarantee, the Security Trust Deed or the Priority Deed or the Note Trustee, having become bound to proceed, fails to do so within five days from the date that the Note Trustee is notified by a Noteholder of the failure, and such failure is continuing.
- (f) Any enforcement of the Security will be by the Security Trustee subject to and in accordance with the provisions of the Security Trust Deed and the Priority Deed.

14 Agents**14.1 Role of Agents**

In acting under an Agency Agreement, each Agent acts solely as agent of the Issuer and does not assume any obligations towards or relationship of agency or trust with any Noteholder.

14.2 Appointment and replacement of Agents

Each initial Agent for the Notes is specified in the Pricing Supplement. Subject to Condition 14.4 ("Required Agents"), the Issuer reserves the right at any time to vary or terminate the appointment of any Agent and to appoint a successor.

14.3 Change of Agent

The Issuer (or the Agent on its behalf) must notify the Note Trustee and the Noteholders if there is any change in the identity of any Agent or any Agent's Specified Office.

14.4 Required Agents

The Issuer must at all times maintain a Registrar, an Issuing & Paying Agent and a Calculation Agent.

15 Meetings of Noteholders

The Meeting Provisions contain provisions for convening meetings of the Noteholders to consider any matter affecting their interests, including any variation of these Conditions. Any resolution duly passed by the Noteholders pursuant to the Meeting Provisions shall be binding on all Noteholders (whether or not they were present at the meeting at which such resolution was passed).

16 Variation**16.1 Variation with consent**

Unless Condition 16.2 ("Variation without consent") applies, any Note may be varied by the Noteholders in accordance with the Meeting Provisions.

16.2 Variation without consent

Any Condition may be amended by the Issuer with the consent of the Note Trustee (not to be unreasonably withheld or delayed) but without the consent of the Noteholders if the amendment:

- (a) is of a formal, minor or technical nature;
- (b) is made to correct a manifest error; or
- (c) is made to cure any ambiguity or correct or supplement any defective or inconsistent provision,

provided that, in all cases, in the reasonable opinion of the Issuer and the Note Trustee, such amendment is not materially prejudicial to the interests of the Noteholders.

17 Further issues of Notes

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same conditions as the Notes of any series in all respects (or in all respects except for the first payment of interest, if any, on them) so as to form a single series with the Notes of that series.

18 Notices

18.1 Notices to Noteholders

All notices and other communications to Noteholders must be in writing. Any such notice or other communication may be given by any of the following means:

- (a) sent by prepaid post (airmail, if appropriate) to or left at the address of the Noteholder (as shown in the Register at close of business on the day which is 3 Business Days before the date of the notice or communication);
- (b) given by an advertisement published in *The Australian Financial Review* or *The Australian*; or
- (c) if such notice or other communication (including by email) is to, or from, Austraclear or a participant of the Austraclear System by email or as otherwise permitted, in accordance with the Austraclear Regulations.

18.2 Notices to the Issuer, a Guarantor, the Note Trustee, the Security Trustee and the Agents

All notices and other communications to the Issuer, a Guarantor, the Note Trustee, the Security Trustee or an Agent must be in writing and may be sent by prepaid post (airmail, if appropriate) to or left at the Specified Office of the Issuer, the relevant Guarantor, the Note Trustee, the Security Trustee or the Agent.

18.3 Receipt – delivery

If delivered in person or sent by recorded delivery or courier, a notice or any other communication is taken to be received on the date it is delivered to its Specified Office.

18.4 Receipt - publication in newspaper

If published in a newspaper, a notice or other communication is taken to be received on the first date that publication has been made in all the required newspapers.

18.5 Deemed receipt - postal

If sent by post, notices or other communications are taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

18.6 Deemed receipt - email

If sent by email:

- (a) when the sender receives an automated message confirming delivery;
- (b) when the sender receives any other proof that the email has been received; or
- (c) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

whichever happens first.

18.7 Deemed receipt - general

Despite Condition 18.5 (“Deemed receipt - postal”) and Condition 18.6 (“Deemed receipt – email”), if notices or other communications are received after 5.00 pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00 am on the next Business Day.

19 Governing law**19.1 Governing law**

These Conditions are governed by the law in force in New South Wales, Australia.

19.2 Jurisdiction

The Issuer irrevocably and unconditionally submits and each Noteholder is taken to have submitted, to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. The Issuer waives any right it has to object to any actions or proceedings (“**Proceedings**”) being brought in those courts including, without limitation, by claiming that the Proceedings have been brought in an inconvenient forum or that those courts do not have jurisdiction.

19.3 Serving documents

Without preventing any other method of service, any document in any Proceedings (including, without limitation any writ of summons or other originating process or any third or other party notice) may be served on the Issuer by being delivered or left at the Specified Office of the Issuer or otherwise at the Issuer’s registered office or principal place of business.

Form of Guarantee

1 Interpretation

1.1 Incorporation of other defined terms

Terms which are defined (or given a particular meaning) in the Terms or the Conditions (as applicable) have the same meaning when used in this deed unless the same term is also defined in this deed, in which case the definition in this deed prevails.

1.2 Definitions

In this deed, these meanings apply unless the contrary intention appears:

Bond Trust Deed means:

- (a) the trust deed entitled “IMF Bentham Bonds Trust Deed” dated 7 April 2014 between the Issuer and the Bond Trustee, as amended on 15 May 2014, 9 January 2015 and 24 March 2016, and further amended on 5 December 2018;
- (b) such other deed that supplements, amends, amends and restates, modifies or replaces the deed referred to above, or which is otherwise acknowledged in writing to be a deed for the purposes of the Bonds,

in each case, executed by the Issuer and the Bond Trustee;

Bond Trustee means Australian Executor Trustees Limited (ABN 84 007 869 794) in its capacity as trustee of the IMF Bentham Bonds Trust constituted by the Bond Trust Deed or such other person appointed under the Bond Trust Deed as trustee of the IMF Bentham Bonds Trust;

Bondholder means, in respect of a Bond, the person whose name is entered on the Register as the holder of that Bond;

Business Day means a day (not being a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney;

Conditions means, in respect of a Note, the terms and conditions applicable to such Note as set out in the Information Memorandum, as amended, supplemented, modified or replaced by the Pricing Supplement applicable to such Note and references to a particular numbered **Condition** shall be construed accordingly;

Extraordinary Resolution has the meaning given in the Meeting Provisions of the Notes;

Guarantee means the guarantee given by the Guarantor in clause 3.1 (“Guarantee”);

Guarantor means the Initial Guarantors and each other person who becomes a Guarantor pursuant to this deed by executing New Guarantor Deed Poll but excludes any person who has been released from the Guarantee pursuant to this deed, from time to time. If there are more than one, the Guarantor means each of them individually and every two or more of them jointly;

Guarantor Release Deed Poll means a deed poll substantially in the form of Schedule 3 (“Form of Guarantor Release Deed Poll”) of this deed;

Information Memorandum means, in respect of a Note, the information memorandum or other offering document referred to in the Pricing Supplement for that Note and all documents

incorporated by reference into it, including any applicable Pricing Supplement and any other amendments or supplements to it;

Initial Guarantor means each person who is specified as an Initial Guarantor and whose details are set out in Schedule 1 (“Initial Guarantors”);

Ipsa Facto Event means the Issuer is the subject of:

- (a) an announcement, application, compromise, arrangement, managing controller or administration as defined in section 415D(1), 434J(1) or 451E(1) of the Corporations Act; or
- (b) any process which under any law with a similar purpose may give rise to a stay on or prevention of the exercise of contractual rights.

Issuer means IMF Bentham Limited (ABN 45 067 298 088);

Meeting Provisions means:

- (a) in respect of Bonds, the provisions relating to meetings of Bondholders set out in a schedule to the Bond Trust Deed; and
- (b) in respect of Notes, the provisions relating to meetings of Noteholders set out as a schedule to the Note Trust Deed;

New Guarantor Deed Poll means a deed poll substantially in the form of Schedule 2 (“Form of New Guarantor Deed Poll”) of this deed;

Note Trust Deed means:

- (a) the deed entitled “Note Trust Deed” dated 6 April 2016, as supplemented by the First Supplemental Note Trust Deed dated 17 December 2019; and
- (b) such other deed that supplements, amends, amends and restates, modifies or replaces the deed referred to above, or which is otherwise acknowledged in writing to be a deed for the purposes of the Notes,

in each case, executed by the Issuer and the Note Trustee;

Note Trustee means Australian Executor Trustees Limited (ABN 84 007 869 794) in its capacity as trustee of the IMF Bentham OTC Note Trust constituted by the Note Trust Deed or such other person appointed under the Note Trust Deed as trustee of the IMF Bentham OTC Note Trust;

Noteholder means, in respect of a Note, the person whose name is entered on the Register as the holder of that Note;

Special Resolution has the meaning given in the Meeting Provisions of the Bonds;

Terms means, in respect of a Bond, the terms applicable to such Bond as set out in the Bond Trust Deed; and

Transaction Documents means:

- (a) this deed;
- (b) the Bond Trust Deed;
- (c) the Note Trust Deed; and

- (d) any other document agreed by the parties to be a “Transaction Document” for the purposes of this deed.

1.3 General interpretation

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this deed. Unless the contrary intention appears, a reference in this deed to:

- (a) a group of persons is a reference to any two or more of them jointly and to each of them individually;
- (b) a document (including this deed) includes any variation, amendment, amendment and restatement or variation or replacement of it;
- (c) “**law**” means common law, principles of equity and laws made by any parliament (and laws made by parliament include and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (d) a “**directive**” means a treaty, an official directive, request, regulation, guideline or policy (whether or not having the force of law) with which responsible participants in the relevant market generally comply;
- (e) “**Australian dollars**” or “**A\$**” is a reference to the lawful currency of Australia;
- (f) a time of day is a reference to Sydney time;
- (g) the word “**person**” includes an individual, a firm, a body corporate, an unincorporated association and an authority;
- (h) a particular person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (i) if a notice must be given within a certain period of days, the day on which the notice is given, and the day on which the thing is to happen, are not to be counted in calculating that period;
- (j) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (k) anything (including any amount) is a reference to the whole and each part of it;
- (l) the singular includes the plural and vice versa; and
- (m) the words “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

2 Guarantee Deed Poll

2.1 Benefit

- (a) Each of the Bond Trustee, the Note Trustee, each Bondholder and each Noteholder has the benefit of, and is entitled to enforce, this deed even though it is not a party to, or is not in existence at the time of execution and delivery of, this deed.
- (b) Each Guarantor enters into this deed for the benefit severally of the Bond Trustee, the Note Trustee, the Bondholders and the Noteholders from time to time.

2.2 Limit on rights of Bondholders and Noteholders

All of the rights against a Guarantor in connection with this Guarantee are held by the Bond Trustee for the Bondholders and the Note Trustee for the Noteholders. Accordingly, subject to the Terms and to the Bond Trust Deed (with respect to the Bonds) and the Conditions and to the Note Trust Deed (with respect to the Notes):

- (a) no Bondholder or Noteholder is entitled to directly enforce any rights, powers or remedies in connection with this Guarantee (whether under this deed or otherwise) directly against a Guarantor; and
- (b) the rights, powers and remedies of the Bond Trustee and the Note Trustee under and in respect of the Guarantee are exercisable and enforceable by the Bond Trustee or the Note Trustee (as the case may be) only. No Bondholder or Noteholder may exercise any of them (whether in its own name or the name of the Bond Trustee or the Note Trustee).

2.3 Bondholders and Noteholders bound

The deed and the other undertakings in this deed are given subject to and on the condition that each Bondholder and each Noteholder is taken to have notice of, and be bound by, all the provisions of this deed and the relevant Terms or the relevant Conditions, as applicable.

2.4 Direction to hold documents

Each Bondholder and each Noteholder is taken to have irrevocably:

- (a) instructed the Guarantors that this deed is to be delivered to and held by the Note Trustee and a copy of this deed to be delivered to and held by the Bond Trustee; and
- (b) appointed and authorised the Note Trustee to hold those documents in Sydney (or any other place in Australia as the Guarantors and the Note Trustee may agree) on behalf of the Bondholders and the Noteholders,

in each case until all the obligations of the Issuer under the Bond Trust Deed and any Bonds and the Note Trust Deed and any Notes have been discharged in full.

2.5 Copies of documents to Bondholders and Noteholders

Within 14 days of a Guarantor receiving a written request from a Bondholder or a Noteholder to do so, the Guarantor must provide (or procure that the Bond Trustee or the Note Trustee, as the case may be, provides) to that Bondholder or that Noteholder a certified copy of any document held in accordance with clause 2.4 ("Direction to hold documents") if the Bondholder or the Noteholder requires such copy in connection with any legal proceeding, claim or action brought by the Bondholder or the Noteholder in relation to its rights under the Guarantee.

3 Guarantee

3.1 Guarantee

Each Guarantor irrevocably and unconditionally jointly and severally:

- (a) with respect to the Bonds:
 - (i) guarantees to the Bond Trustee and to each Bondholder punctual performance by the Issuer of all the Issuer's obligations owed to the Bond Trustee and to such Bondholder pursuant to each Bond held by that Bondholder;
 - (ii) undertakes with the Bond Trustee and each Bondholder that:

- (A) whenever the Issuer does not pay any amount when due under or in connection with the Bonds (or anything which would have been due if the Bonds or the amount was enforceable, valid and not illegal) (after allowing for any applicable grace period), immediately, on demand by the Bond Trustee or the relevant Bondholder, that Guarantor shall pay that amount as if it was the principal obligor; and
 - (B) if an Ipso Facto Event has occurred then, immediately on demand by the Bond Trustee or the relevant Bondholder, that Guarantor shall pay all amounts owing under the Bonds as if it were the primary obligor; and
 - (iii) agrees with the Bond Trustee and each Bondholder that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Bond Trustee and each Bondholder immediately on demand against any cost, loss or liability it incurs as a result of the Issuer or a Guarantor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Bonds on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under the Guarantee if the amount claimed had been recoverable on the basis of a guarantee.
- (b) with respect to the Notes:
- (i) guarantees to the Note Trustee and to each Noteholder punctual performance by the Issuer of all the Issuer's obligations owed to the Note Trustee and to such Noteholder pursuant to each Note held by that Noteholder;
 - (ii) undertakes with the Note Trustee and each Noteholder that:
 - (A) whenever the Issuer does not pay any amount when due under or in connection with the Notes (or anything which would have been due if the Notes or the amount was enforceable, valid and not illegal) (after allowing for any applicable grace period), immediately, on demand by the Note Trustee or the relevant Noteholder, that Guarantor shall pay that amount as if it was the principal obligor; and
 - (B) if an Ipso Facto Event has occurred then, immediately on demand by the Note Trustee or the relevant Noteholder, that Guarantor shall pay all amounts owing under the Notes as if it were the primary obligor; and
 - (iii) agrees with the Note Trustee and each Noteholder that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Note Trustee and each Noteholder immediately on demand against any cost, loss or liability it incurs as a result of the Issuer or a Guarantor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Notes on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under the Guarantee if the amount claimed had been recoverable on the basis of a guarantee.

Each of paragraphs (a)(i), (a)(ii)(A), (a)(ii)(B), (a)(iii), (b)(i), (b)(ii)(A), (b)(ii)(B) and (b)(iii) is a separate obligation. None is limited by reference to the other.

3.2 Continuing guarantee and ranking

- (a) This Guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable under the Bonds and the Notes, regardless of any intermediate payment or discharge in whole or in part.
- (b) The obligations of each Guarantor under the Guarantee will be direct, unconditional, unsubordinated and (subject to the Terms or the Conditions, as applicable) unsecured obligations of that Guarantor and (save for certain obligations required to be preferred by law) will at all times rank equally with all other unsecured obligations (other than subordinated obligations, if any) of that Guarantor from time to time outstanding.

3.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Issuer or a Guarantor or any security for those obligations or otherwise) is made by the Bond Trustee and each Bondholder or the Note Trustee and each Noteholder, as the case may be, in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Guarantee will continue or be reinstated as if the discharge, release or arrangement had not occurred.

3.4 Waiver of defences

The obligations of each Guarantor under this Guarantee will not be affected by an act, omission, matter or thing which, but for this Guarantee would reduce, release or prejudice any of its obligations under this Guarantee (without limitation and whether or not known to it, the Bond Trustee and each Bondholder or the Note Trustee and each Noteholder) including:

- (a) any time, waiver or consent granted to, or composition with, the Issuer, a Guarantor or other person;
- (b) the release of the Issuer, a Guarantor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, execute, take up or enforce, any rights against, or security over assets of, the Issuer, a Guarantor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Issuer, a Guarantor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of the Bonds or the Notes or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under the Bonds or the Notes or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under the Bonds, the Notes or this Guarantee or any other document or security;
- (g) any set off, combination of accounts or counterclaim;
- (h) any insolvency or similar proceedings; or
- (i) this Guarantee or any other document not being executed by or binding upon any other party.

References in this Guarantee to obligations of the Issuer or any Guarantor or amounts due will include what would have been obligations or amounts due but for any of the above, as well as obligations and amounts due which result from any of the above.

3.5 Immediate recourse

Each Guarantor waives any right it may have of first requiring the Bond Trustee, any Bondholder, the Note Trustee or any Noteholder to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Guarantee. This waiver applies irrespective of any law or any provision of the Bonds or the Notes or any other document to the contrary.

3.6 Appropriations

Until all amounts which may be or become payable by the Issuer or a Guarantor under or in connection with the Notes have been irrevocably paid in full, the Bond Trustee, any Bondholder, the Note Trustee or any Noteholder may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Bond Trustee, any Bondholder, the Note Trustee or any Noteholder in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this Guarantee.

3.7 Deferral of Guarantors' rights

Until all amounts which may be or become payable by the Issuer or a Guarantor under or in connection with the Bonds and the Notes have been irrevocably paid in full and unless the Bond Trustee or any Bondholder, or the Note Trustee or any Noteholder, as the case may be, otherwise directs, no Guarantor will exercise or otherwise enjoy the benefit of any right which it may have by reason of performance by it of its obligations under the Bonds or the Notes or by reason of any amount being payable, or liability arising, under this Guarantee:

- (a) to be indemnified by the Issuer or a Guarantor;
- (b) to claim any contribution from any other guarantor or provider of security for the Issuer or any Guarantor's obligations under the Bonds or the Notes;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Bond Trustee or any Bondholder under the Bonds or of any other guarantee or security taken pursuant to, or in connection with, the Bonds by the Bond Trustee or any Bondholder, the Note Trustee or any Noteholder under the Notes or of any other guarantee or security taken pursuant to, or in connection with, the Notes by the Note Trustee or any Noteholder;
- (d) to bring legal or other proceedings for an order requiring the Issuer or any Guarantor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under this Guarantee;
- (e) to exercise any right of set-off against the Issuer or any Guarantor;
- (f) to claim or prove as a creditor of the Issuer or any Guarantor in competition with the Bond Trustee, any Bondholder, the Note Trustee or any Noteholder; and/or
- (g) in any form of administration of the Issuer or any Guarantor (including liquidation, winding up, bankruptcy, voluntary administration, dissolution or receivership or any

analogous process) prove for or claim, or exercise any vote or other rights in respect of, any indebtedness of any nature owed to it by the Issuer or any Guarantor.

If any Guarantor shall receive any benefit, payment or distribution in relation to any such right it shall hold that benefit, payment or distribution (or so much of it as may be necessary to enable all amounts which may be or become payable to the Bondholder or any Bondholder, or the Note Trustee or any Noteholder by the Issuer or any Guarantor under or in connection with the Bonds or the Notes, as the case may be, to be paid in full) on trust for the Bondholder or any Bondholder or the Note Trustee or any Noteholder, as the case may be.

3.8 Financial covenants

Each Guarantor expressly undertakes to comply with the relevant Terms and the relevant Conditions in so far as such Term or Condition expressly apply to it or where the Issuer has agreed to ensure or otherwise that a Guarantor so comply with such Term or Condition.

3.9 Change of Guarantors

- (a) A Wholly Owned Subsidiary becomes a party to this Guarantee as a Guarantor (after the date of this deed) by signing and delivering to the Issuer, the Bond Trustee and the Note Trustee a "New Guarantor Deed Poll" in substantially the same form as set out in this deed and doing any other thing necessary to ensure the enforceability of that person's obligations as a Guarantor.
- (b) The obligations of a Guarantor under this Guarantee may be revoked by the Issuer giving no less than 5 Business Days' notice to the Bond Trustee and the Bondholders in accordance with the Terms and to the Note Trustee and the Noteholders in accordance with the Conditions and signing and delivering to the Issuer, the Bond Trustee and the Note Trustee a "Guarantor Release Deed Poll" in substantially the same form as set out in this deed. Such revocation will not affect the liability of any other Guarantor not named in such notice.

3.10 Additional security

This Guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Bond Trustee, any Bondholder, the Note Trustee or any Noteholder.

3.11 Amendment and termination

A Guarantor may not amend, vary, terminate or suspend this Guarantee or its obligations under this deed unless such amendment, variation, termination or suspension shall have been approved by a Special Resolution of the holders of each series of Bonds outstanding and an Extraordinary Resolution to which the special quorum provisions specified in the Notes apply to the holders of each Series of Notes outstanding, save that nothing in this clause 3.11 shall prevent the Guarantor from increasing or extending its obligations hereunder by way of supplement to this Guarantee at any time.

4 Representations and warranties

Each Guarantor makes the following representations and warranties in respect of itself for the benefit of the Bond Trustee and the Note Trustee:

- (a) **(incorporation and existence)** it has been incorporated as a company limited by shares in accordance with the law of its place of incorporation, is validly existing under that law and has power and authority to carry on its business as it is now being conducted;

- (b) **(power)** it has the power to enter into this deed and to comply with its obligations under it;
- (c) **(no contravention or exceeding power)** this Guarantee and the transactions under it which involve it do not contravene its constituent documents (if any) or any law, regulation, directive or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded and do not (and will not) breach or conflict with any agreement or instrument binding on it;
- (d) **(authorisations)** it has in full force and effect the authorisations necessary for it to enter into this deed, to comply with its obligations and exercise its rights under it, to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this Guarantee constitute legal, valid, binding and (subject to insolvency and other laws generally affecting creditors' rights and the discretionary nature of equitable remedies) enforceable obligations;
- (f) **(no proceedings)** except as otherwise expressly disclosed, it is not aware of any pending or threatened proceeding affecting it or any of its Subsidiaries or any of their assets before a court, authority, commission or arbitrator except those in which a decision against it or the Subsidiary (either alone or together with other decisions) will not result in a material adverse effect on the ability of the Guarantor to meet its obligations under this Guarantee;
- (g) **(no immunity)** neither it nor any of its assets has any immunity from set off, suit or execution;
- (h) **(not as trustee)** it does not enter into this deed as a trustee of any trust; and
- (i) **(solvency)** it is solvent and is able to pay its due debts.

5 Notices

5.1 Notices to Bondholders and Noteholders

All notices and other communications to the Bondholders and the Noteholders in connection with this deed must be made in accordance with the notice provisions set out in the Terms and the Conditions, as applicable.

5.2 Other notices

- (a) All notices and other communications to a party in connection with this deed must be in writing, signed by a person authorised by the sender for such purposes and marked for the attention of the addressee as provided in the Details or, in the case of an Initial Guarantor, as set out in Schedule 1 or if the recipient has notified otherwise, then marked for attention in the way last notified.
- (b) Communications sent by email need not be marked for attention in the way stated in this clause 5.2. However, the email must state the first and last name of the sender. Communications sent by email are taken to be signed by the named sender.
- (c) Communications must be:
 - (i) delivered to the address of the addressee;
 - (ii) sent by prepaid ordinary post (airmail, if appropriate) to the address;
 - (iii) sent by fax to the fax number; or

(iv) sent by email to the address,

set out or referred to in the Details (or Schedule 1 as the case may be).

However, if a recipient has notified a changed address or fax number, then communications must be to that address or number.

(d) Communications take effect from the time they are received or taken to be received under paragraph (e) below (whichever happens first) unless a later time is specified.

(e) Communications are taken to be received:

(i) if delivered in person or sent by recorded delivery or courier, on the date it is delivered;

(ii) if sent by post, 5 days after posting (or seven days after posting if sent from one country to another);

(iii) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or

(iv) if sent by email:

(A) when the sender receives an automated message confirming delivery;

(B) when the sender receives any other proof that the email has been received; or

(C) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

whichever happens first.

(f) Notwithstanding paragraphs (d) and (e) above, if communications are received or taken to be received after 5.00 pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00 am on the next Business Day and take effect from that time unless a later time is specified.

(g) A party may waive any period of notice required to be given by a Guarantor under this deed.

6 General

6.1 Governing law and jurisdiction

(a) This deed is governed by the law in force in New South Wales.

(b) Each Guarantor submits to the non-exclusive jurisdiction of the courts of that place.

(c) Each Guarantor waives any right it has to object to an action being brought in those courts including by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

6.2 Serving documents

Without preventing any other method of service, any document in a court action in connection with this deed may be served by being delivered to or left at that party's address specified in

the Details (or Schedule 1 as the case may be) (if relevant) or at the person's registered office or principal place of business.

6.3 Agent for service of process

Each Guarantor incorporated outside Australia appoints IMF Bentham Limited (ABN 45 067 298 088) of Level 6, 37 St Georges Terrace, Perth, Western Australia, 6000 as its agent to receive any document referred to in clause 6.2 ("Serving documents"). If for any reason that person ceases to be able to act as such, each such Guarantor will immediately appoint another person with an office located in Australia to act as its agent to receive any such document.

EXECUTED as a deed poll

Form of Pricing Supplement

The Pricing Supplement to be issued in respect of the Notes will be substantially in the form set out below.

[NOTIFICATION UNDER SECTION 309B(1)(C) OF THE SECURITIES AND FUTURES ACT (CHAPTER 289) OF SINGAPORE (THE “SFA”) – In connection with Section 309B of the SFA and the Securities and Futures (Capital Markets Products) Regulations 2018 of Singapore (the “**CMP Regulations**”), the Issuer has determined the classification of the Notes as “prescribed capital markets products” (as defined in the CMP Regulations) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).]

Series No.: [●]

Tranche No.: [●]



IMF Bentham Limited
(ABN 45 067 298 088)
("Issuer")

Issue of
A\$[●] [●]% Fixed Rate Notes due [●]
("Notes")

irrevocably and unconditionally guaranteed on a joint and several basis by
certain subsidiaries of the Issuer
(together, the "**Guarantors**")

The date of this Pricing Supplement is [●].

This Pricing Supplement (as referred to in the Information Memorandum dated 17 December 2019 ("**Information Memorandum**")) relates to the Tranche of Notes referred to above. It is supplementary to, and should be read in conjunction with (i) the terms and conditions of the Notes ("**Conditions**") contained in the Information Memorandum, (ii) the Note Trust Deed dated 6 April 2016, as amended by the First Supplemental Note Trust Deed dated 17 December 2019 and made by the Issuer and the Note Trustee, (iii) the Security Trust Deed dated 6 April 2016 between, among others, the Issuer and the Security Trustee, and (iv) the Priority Deed dated 6 April 2016 between, among others, the Issuer and the Note Trustee. The Notes have the benefit of a Guarantee Deed Poll dated 17 December 2019 made by the Initial Guarantors.

Unless otherwise indicated, terms defined in the Conditions have the same meaning when used in this Pricing Supplement.

This Pricing Supplement does not constitute, and may not be used for the purposes of, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation. No action is being taken to permit an offering of the Notes or the distribution of this Pricing Supplement in any jurisdiction where such action is required.

The particulars to be specified in relation to the Tranche of Notes referred to above are as follows:

- | | | | |
|----|---------------------------------------|---|---|
| 1 | Issuer | : | IMF Bentham Limited (ABN 45 067 298 088) |
| 2 | Initial Guarantors | : | (a) Bentham Holdings Inc;
(b) Bentham IMF Holdings 1 LLC;
(c) Bentham Capital LLC;
(d) Bentham Capital Management LLC;
(e) Bentham IMF Capital Limited;
(f) IMF Bentham Pte Limited;
(g) IMF Litigation Funding Services Limited;
(h) IMF Bentham GPA 5 Pty Ltd (ABN 88 633 952 342);
(i) IMF Bentham Holdings Pty Ltd (ABN 30 636 484 163); and
(j) IMF Bentham Cayman Advisory Services Limited. |
| 3 | Lead Manager and Initial Subscriber | : | FIIG Securities Limited (ABN 68 085 661 632) |
| 4 | Registrar | : | Sargon CT Pty Ltd (ABN 12 106 424 088) |
| 5 | Issuing & Paying Agent | : | Sargon CT Pty Ltd (ABN 12 106 424 088) |
| 6 | Calculation Agent | : | Sargon CT Pty Ltd (ABN 12 106 424 088) |
| 7 | Note Trustee | : | Australian Executor Trustees Limited (ABN 84 007 869 794) |
| 8 | Security Trustee | : | Sargon CT Pty Ltd (ABN 12 106 424 088) |
| 9 | Aggregate principal amount of Tranche | : | A\$[●] |
| 10 | Issue Date | : | [●] 2019 |
| 11 | Issue Price | : | 100% |
| 12 | Denomination | : | A\$1,000 per Note on the Issue Date |

- 13 Minimum parcel size on initial issue : A\$50,000
- 14 Maturity Date : [●] 2026
- 15 Record Date : As per the Conditions
- 16 Condition 7 (Fixed Rate Notes) applies : Yes
- Interest Rate : [●]% per annum
- Interest Commencement Date : [●] 2019
- Interest Payment Dates : [●], [●], [●] and [●] of each year, commencing on [●] up to, and including, the Maturity Date or, if redeemed earlier, an Optional Redemption Date
- Business Day Convention : Following Business Day Convention
- Day Count Fraction : RBA Bond Basis
- 17 Noteholder puts : Yes.
- The Notes may be redeemable before their Maturity Date at the option of the Noteholders on:
- (a) a Change of Control as set out in Condition 9.2 (“Early redemption at the option of Noteholders (Change of Control)”); and
 - (b) a Delisting Event as set out in Condition 9.3 (“Early redemption at the option of Noteholders (delisting)”).
- 18 Issuer call : Yes.
- The Notes are redeemable before their Maturity Date at the option of the Issuer:
- (a) as set out in Condition 9.4 (“Early redemption at the option of the Issuer (Issuer call)”) and the First Optional Redemption Date is [●], the Second Optional Redemption Date is [●], the Third Optional Redemption Date is [●] and the Fourth Optional Redemption Date is [●];
 - (b) as set out in Condition 9.5 (“Early redemption at the option of the Issuer (tax)”); and
 - (c) as set out in Condition 9.6 (“Early redemption at the option of the Issuer (clean-up call)”).
- 19 Clearing system : Austraclear System.
- Interests in the Notes may also be traded through Euroclear and Clearstream as set out on page [●] of the Information Memorandum.

- 20 ISIN : [●]
- 21 Common Code : [●]
- 22 Austraclear I.D. : [●]
- 23 Australian interest withholding tax : It is the Issuer's intention that the Notes will be issued in a manner which will comply with the public offer test under section 128F of the Australian Tax Act.
- 24 Listing : Not applicable

The Issuer accepts responsibility for the information contained in this Pricing Supplement.

Date: [●]

CONFIRMED

For and on behalf of
IMF BENTHAM LIMITED

By:

By:

Name:

Name:

Title:

Title:

Selling Restrictions

Under the Subscription Agreement dated 17 December 2019 between the Issuer and the Lead Manager and Initial Subscriber (“Subscription Agreement”) and subject to the Conditions contained in the Information Memorandum, the Notes will be offered by the Issuer through the Lead Manager and Initial Subscriber. The Issuer will have the sole right to accept any offers to purchase Notes and may reject any such offer in whole or (subject to the terms of such offer) in part.

None of the Issuer, the Initial Guarantors or the Lead Manager and Initial Subscriber has represented that any Notes may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or in accordance with any available exemption, or assumes any responsibility for facilitating that sale.

Persons into whose hands this Information Memorandum comes are required by the Issuer, the Initial Guarantors, the Lead Manager and Initial Subscriber to comply with all applicable laws and directives in each country or jurisdiction in which they purchase, offer, sell, resell, reoffer or deliver Notes or have in their possession or distribute or publish the Information Memorandum or other offering material and to obtain any authorisation, consent, approval or permission required by them for the purchase, offer, sale, reoffer, resale or delivery by them of any Notes under any applicable law or directive in force in any jurisdiction to which they are subject or in which they make such purchases, offers, sales, reoffers, resales or deliveries, in all cases at their own expense, and none of the Issuer, the Initial Guarantors or the Lead Manager and Initial Subscriber has responsibility for such matters. In accordance with the above, any Notes purchased by any person which it wishes to offer for sale or resale may not be offered in any jurisdiction in circumstances which would result in the Issuer being obliged to register any further prospectus or corresponding document relating to the Notes in such jurisdiction.

The following selling restrictions apply to Notes.

Australia

The Lead Manager and Initial Subscriber has acknowledged that:

- (a) no "prospectus" or other "disclosure document" (each as defined in the Corporations Act) in relation to the Notes has been or will be lodged with ASIC or any other government agency or authority; and
- (b) no action has been taken, or will be taken, by it in any jurisdiction which would permit a public offering of the Notes, or possession or distribution of the Information Memorandum or any other offering material in relation to Notes, in any jurisdiction where action for that in connection with the primary distribution of the Notes.

The Lead Manager and Initial Subscriber has represented and agreed that it:

- (i) has not made or invited, and will not make or invite, an offer of the Notes for issue or sale in Australia (including an offer or invitation which is received by a person in Australia); and
- (ii) has not distributed or published, and will not distribute or publish, any Information Memorandum or other offering material or advertisement relating to any Notes in Australia,

unless:

- (A) the offer or invitation falls within the exemption for offers to sophisticated investors set out in section 708(8) of the Corporations Act or the offer or invitation does not otherwise require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act;
- (B) such action does not require any document to be lodged with ASIC or ASX;
- (C) the offer or invitation is not made to a person who is a “retail client” as defined for the purposes of section 761G of the Corporations Act; and

- (D) the offer or invitation and all conduct in connection with it complies with all applicable laws and directives.

In addition, the Lead Manager and Initial Subscriber has agreed, that, in connection with the primary distribution of the Notes, it will not offer or sell Notes to any person if, at the time of such sale, the officers and employees of the Lead Manager and Initial Subscriber making the offer, effecting the sale or otherwise directly involved in, the sale, knew or had reasonable grounds to suspect that, as a result of such sale, any Notes or an interest in any Notes were being, or would later be, acquired (directly or indirectly) by an associate of the Issuer for the purpose of section 128F(9) of the Income Tax Assessment Act 1936 of Australia ("**Australian Tax Act**") and associated regulations except as permitted by section 128F(5) of the Australian Tax Act.

Singapore

The Lead Manager and Initial Subscriber has acknowledged that the Information Memorandum has not been registered as a prospectus with the Monetary Authority of Singapore.

Accordingly, the Lead Manager and Initial Subscriber has represented, warranted and agreed that it has not offered or sold any Notes or caused the Notes to be made the subject of an invitation for subscription or purchase and will not offer or sell any Notes or cause the Notes to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, the Information Memorandum and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Notes, whether directly or indirectly, to any person in Singapore other than:

- (a) to an institutional investor (as defined in Section 4A of the Securities and Futures Act (Chapter 289 of Singapore), as modified or amended from time to time (the "**SFA**")) pursuant to under Section 274 of the SFA;
- (b) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA; or
- (c) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the Notes are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (1) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (2) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities or securities-based derivatives contracts (each term as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Notes pursuant to an offer made under Section 275 of the SFA except:

- (i) to an institutional investor or to a relevant person, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (ii) where no consideration is, or will be, given for the transfer;
- (iii) where the transfer is by operation of law;
- (iv) as specified in Section 276(7) of the SFA; or

- (v) as specified in Regulation 37A of the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2005.

Australian Taxation

1. INTRODUCTION

The following is a summary of the Australian withholding tax treatment under the Australian Tax Act and the Taxation Administration Act 1953 of Australia, at the date of this Information Memorandum, of payments of interest (as defined in the Australian Tax Act) by the Issuer on the Notes and certain other Australian tax matters. This taxation summary is based on the Australian taxation laws in force and generally accepted administrative practices of the Australian Taxation Office (“ATO”) as at the date of this Information Memorandum. Any of these may change in the future without notice and legislation introduced to give effect to announcements may contain provisions that are currently not contemplated and may have retroactive effect.

A term used below but not otherwise defined has the meaning given to it in the Conditions.

The summary is not exhaustive and, in particular, does not deal with the position of certain classes of Noteholders (including, without limitation, dealers in securities, custodians or other third parties who hold Notes on behalf of any person). In addition, this summary does not consider the Australian tax consequences for persons who hold interests in the Notes through Austraclear, Euroclear, Clearstream, Luxembourg or another clearing system.

Prospective Noteholders should also be aware that particular terms of issue of any Series of Notes may affect the tax treatment of that Series of Notes. Information regarding taxes in respect of Notes may also be set out in the relevant Pricing Supplement.

This summary is not intended to be, nor should it be construed as, legal or tax advice to any particular Noteholder. Each Noteholder should seek professional tax advice in relation to their particular circumstances.

2. AUSTRALIAN INTEREST WITHHOLDING TAX (“IWT”)

Interest paid by the Issuer on debentures and certain debt interests will, subject to certain exemptions, be subject to Australian IWT (generally at a rate of 10%), where the interest is paid to a non-resident of Australia and not derived by that non-resident in carrying on business at or through an Australian permanent establishment, or to an Australian resident who derived the interest in carrying on business at or through a permanent establishment outside Australia.

For Australian IWT purposes, “interest” is defined to include amounts in the nature of, or in substitution for, interest and certain other amounts including premiums on redemption or, for a Note issued at a discount, the difference between the amount repaid and the issue price. The Issuer intends to issue Notes which are to be characterised as both “debt interests” and “debentures” and the returns paid on the Notes are to be “interest” under the Australian Tax Act

(a) Section 128F exemption from Australian IWT

An exemption from Australian IWT will be available under section 128F of the Australian Tax Act in respect of any Notes issued by the Issuer if the Issuer remains an Australian resident company both at the time it issues the relevant Notes and at the time interest is paid in respect of the Notes, and the Notes are issued in a manner which satisfies the “public offer test”.

In broad terms, the issue of the Notes by the Issuer should satisfy the public offer test where the Notes are offered for issue:

- to 10 or more unassociated persons carrying on business of providing finance, or investing or dealing in securities, in the course of operating in financial markets;
- to 100 or more persons whom it was reasonable for the Issuer to regard as acquiring debt interests in the past or being interested in acquiring debt interests;

- as a result of being accepted for listing on a stock exchange;
- as a result of negotiations being initiated publicly in electronic form; or
- to a dealer, manager or underwriter who offers to sell those Notes within 30 days by one of the preceding 4 methods.

The public offer test will not be satisfied where at the time of the issue, the Issuer knew, or had reasonable grounds to suspect that the Notes would be acquired by an Offshore Associate of the Issuer other than an Offshore Associate acting through the permitted capacities as set out in section 128F(5) of the Australian Tax Act.

Accordingly, Notes issued by the Issuer should not be offered to such an Offshore Associate of the Issuer.

Even if the public offer test is initially satisfied in respect of the Notes, if such Notes later come to be held by an Offshore Associate of the Issuer other than an Offshore Associate acting through the permitted capacities as set out in section 128F(6) of the Australian Tax Act, and at the time of payment of interest on those Notes, the Issuer knows or has reasonable grounds to suspect that such person is such an Offshore Associate of the Issuer, the exemption under section 128F does not apply to interest paid by the Issuer to such Offshore Associate in respect of those Notes.

Unless otherwise specified in any relevant Pricing Supplement (or another relevant supplement to this Information Memorandum), the Issuer intends to issue the Notes in a manner which will satisfy the public offer test in section 128F of the Australian Tax Act.

(b) Exemptions under certain double tax conventions

Various Australian tax treaties, including those with the United States of America, the United Kingdom, Norway, Finland, the Republic of France, Japan, Switzerland, the Republic of South Africa and New Zealand, include exemptions from Australian IWT for interest derived by qualifying financial institutions. Prospective Noteholders should obtain their own independent tax advice as to whether any of the exemptions under the relevant tax treaties may apply to their particular circumstances.

(c) Payments under the Guarantee

The ATO has published a Taxation Determination stating that payments by a guarantor in respect of debentures are entitled to the benefit of the exemption contained in section 128F if payments of interest in respect of those debentures by the Issuer are exempt from Australian IWT. There is some doubt as to whether the reasoning adopted in the Taxation Determination is correct, however, this has not been tested by the courts.

If such payments are characterised as “interest” for Australian withholding tax purposes, Australian IWT could be payable if the section 128F exemption from Australian IWT does not apply to the Notes.

4. OTHER TAX MATTERS

Under Australian laws as presently in effect:

- *death duties* – Notes should not be subject to death, estate or succession duties imposed by Australia, or by any political subdivision or authority therein having power to tax, if held at the time of death;
- *stamp duty and other taxes* - no ad valorem stamp, issue, registration or similar taxes should be payable in Australia by the Noteholders on the issue, transfer or redemption of any Notes;
- *TFN/ABN withholding* - tax at the highest marginal tax rate (currently at the rate of 47%) may be deducted from payments on the Notes if the Noteholder of the Notes does not provide a TFN, (in certain circumstances) an ABN or proof of a relevant exemption from withholding tax (as appropriate).

- *garnishee directions by the Commissioner of Taxation* – the Commissioner of Taxation may give a direction requiring the Issuer to deduct from any payment to a Noteholder any amount in respect of Australian tax payable by the Noteholder. If the Issuer is served with such a direction, then the Issuer will comply with that direction and make any deduction required by that direction; and
- *goods and services tax (GST)* - neither the issue nor receipt of the Notes will give rise to a liability for GST in Australia on the basis that the supply of Notes will comprise either an input taxed financial supply or (in the case of an offshore subscriber that is a non-resident) a GST-free supply. Furthermore, neither the payment of principal or interest by the Issuer, nor the disposal of the Notes, would give rise to any GST liability in Australia.

U.S. Foreign Account Tax Compliance Act and OECD Common Reporting Standard

FATCA

The qualifications and limitations set out in the Introduction to the Australian Taxation section above apply equally to this FATCA section.

Financial institutions through which payments on Notes are made may be required to withhold U.S. tax pursuant to FATCA or similar laws implementing an inter-governmental approach on FATCA.

FATCA is particularly complex and its application to interest, principal or other amounts paid with respect to the Notes is not clear. If an amount in respect of U.S. withholding tax were to be deducted or withheld from interest, principal or other payments on the Notes, neither the Issuer, nor any other person would, pursuant to the Conditions, be required to pay additional amounts as a result of such deduction or withholding.

AUSTRALIAN IGA

Reporting Australian Financial Institutions (“**RAFIs**”) under the Australia–U.S. FATCA Intergovernmental Agreement dated 28 April 2014 (“**Australian IGA**”) must comply with specific due diligence procedures. In general, these procedures seek to identify their account holders and provide the ATO with information on financial accounts held by U.S. persons and recalcitrant account holders. The ATO is required to provide such information to the U.S. Internal Revenue Service. Consequently, Noteholders may be requested to provide certain information and certifications to any financial institutions through which payments on the Notes are made. A RAFI that complies with its obligations under the Australian IGA will not be subject to FATCA withholding on amounts it receives, and will not be required to deduct FATCA withholding from payments it makes, other than in certain prescribed circumstances.

In the event that any amount is required to be withheld or deducted from a payment on the Notes as a result of FATCA, pursuant to the terms and conditions of the Notes, no additional amounts will be paid by the Issuer as a result of the deduction or withholding.

CRS

The OECD Common Reporting Standard for Automatic Exchange of Financial Account Information (“**CRS**”) requires certain financial institutions to report information regarding certain accounts (which may include the Notes) to their local tax authority and follow related due diligence procedures. Noteholders may be requested to provide certain information and certifications to ensure compliance with the CRS. A jurisdiction that has signed a CRS Competent Authority Agreement may provide this information to other jurisdictions that have signed the CRS Competent Authority Agreement.

The Australian Government has enacted legislation amending, among other things, the Taxation Administration Act 1953 of Australia to give effect to the CRS.

Directory

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