

25 March 2024

## **MMA OFFSHORE LIMITED ENTERS INTO SCHEME IMPLEMENTATION DEED WITH CYAN MMA HOLDINGS PTY LIMITED FOR PROPOSED ALL-CASH A\$2.60 PER SHARE ACQUISITION**

- MMA Offshore Limited (“**MMA**”) has entered into a binding Scheme Implementation Deed (“**SID**”) with Cyan MMA Holdings Pty Limited ACN 675 840 196 (“**Cyan**”) for Cyan's proposed acquisition of 100% of the shares in MMA via a scheme of arrangement between MMA and its shareholders (“**Scheme**”).
- Cyan is a subsidiary of Cyan Renewables, which is an offshore vessel portfolio company of Seraya Partners, an infrastructure fund focused on energy transition and digital infrastructure.
- If the Scheme is implemented, each MMA shareholder on the Scheme Record Date will receive a cash amount of A\$2.60 per MMA share (“**Scheme Consideration**”).
- The Scheme Consideration values MMA equity on a fully diluted basis at approximately **A\$1.03 billion<sup>1</sup>** and represents:
  - an 11% premium to the closing share price of A\$2.35 per MMA share on 22 March 2024;
  - a 20% premium to the 30-day VWAP of A\$2.16 per MMA share on 22 March 2024;
  - a 31% premium to the 90-day VWAP of A\$1.98 per MMA share on 22 March 2024;
  - a 91% premium to the Company's net tangible assets at 31 December 2023; and
  - a 7.7x multiple on annualised H1 FY2024 EBITDA.
- Cyan intends to retain MMA's workforce and to utilise and grow MMA's expertise, assets and operating model to expand further into offshore wind support services while continuing to provide a comprehensive suite of marine and subsea services to its existing clients in the offshore energy and wider maritime industries.
- The MMA Board unanimously recommends that MMA shareholders vote in favour of the Scheme at the Scheme Meeting in the absence of a superior proposal<sup>2</sup> and subject to the independent expert concluding in its Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of MMA shareholders. Each MMA Director intends to vote all of the MMA shares that he or she holds or controls in favour of the Scheme, subject to those same qualifications.

<sup>1</sup> Based on a fully diluted share structure of 394,594,206 (379,021,627 issued ordinary shares in MMA plus 15,572,579 performance rights as at 22 March 2024) multiplied by A\$2.60 per share.

<sup>2</sup> As defined in the SID.

# ASX Announcement



Commenting on the Scheme, MMA Chairman Ian Macliver, said:

*“There has been increased interest in MMA as our strategy to diversify our operations and deleverage the business, together with our improved earnings, has seen the share price rise more than 80% over the past 5 months.*

*We have been in discussions with Cyan since October 2023 and the Board has now reached the required level of confidence to enter into the Scheme Implementation Deed.*

*We believe Cyan’s offer provides compelling value for MMA today, representing a 31% premium to the 90-day volume weighted average share price, a 91% premium to the Company’s net tangible asset value and a 7.7x earnings multiple based on annualised first half FY24 EBITDA. The MMA Board believes that the Scheme is in the best interests of shareholders, providing certainty in the form of a cash payment to shareholders while removing the risks associated with operating in a cyclical industry.*

*Cyan intends to retain MMA’s workforce, clients, sites and contracts and to invest capital in growing the business. MMA provides Cyan with exposure to Asia and, importantly, Australia as Cyan pursues equity investment to create a leading global energy transition-focused offshore marine business.”*

## **MMA Board recommendation and intention**

The Directors of MMA unanimously recommend that MMA shareholders vote in favour of the Scheme at the Scheme Meeting in the absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of MMA shareholders.

The reasons for the Directors’ recommendation include:

- the Scheme Consideration of A\$2.60 per MMA share represents a premium to the recent trading price of MMA shares, which has already increased significantly over the last twelve months;
- if the Scheme is implemented, MMA shareholders will receive a certain cash price for their investment in MMA, while removing the risks associated with operating in a cyclical industry;
- MMA shareholders will not incur any brokerage fees on the transfer of their MMA shares if the Scheme proceeds; and
- the Board of MMA retains a fiduciary right to consider any competing proposal.

The Directors of MMA also intend to vote, or cause to be voted, all MMA shares they hold or control in favour of the Scheme at the Scheme Meeting in the absence of a superior proposal and subject to the independent expert concluding in the Independent Expert’s Report (and continuing to conclude) that the Scheme is in the best interests of MMA shareholders.

## **Conditions of the Scheme**

A copy of the SID is annexed to this announcement.

MMA will engage an independent expert to prepare a report to opine on whether the Scheme is in the best interests of MMA shareholders ("**Independent Expert's Report**").

For personal use only



The Scheme is subject to various customary conditions precedent, including:

- approval by MMA shareholders at the upcoming Scheme meeting ("**Scheme Meeting**");
- approval of the Federal Court of Australia ("**Court**");
- approval of the Australian Foreign Investment Review Board;
- no Material Adverse Event;
- no Prescribed Occurrences;
- the independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of MMA shareholders; and
- another customary condition regarding there being no restraining orders, as detailed in the attached SID.

The Scheme is not subject to any financing conditions. The SID contains customary exclusivity obligations, including "no shop", "no talk", "no due diligence" (the latter two subject to a customary fiduciary exception), notification obligations and a matching right in favour of Cyan in respect of any superior proposal received by MMA. The SID also details certain termination rights and circumstances under which MMA may be required to pay Cyan a break fee of A\$10,259,449, in addition to circumstances where Cyan may be required to pay MMA a reverse break fee of that same amount.

The Company currently has 15,572,579 Performance Rights on issue (including rights held by MMA's Managing Director). Pursuant to the Scheme the MMA Board will make a determination of the number of unvested Performance Rights that will vest and become capable of exercise, if the Court orders the Scheme meeting to be held.

Further details of the conditions of the Scheme and other agreed terms are set out in the SID, as annexed to this announcement.

---

## Timetable and next steps

MMA shareholders will have an opportunity to vote on the Scheme at the Scheme Meeting, which is anticipated to be held in late June to mid July 2024.

A Scheme Booklet containing important information concerning the Scheme and Scheme Meeting, including the reasons for the unanimous recommendation of MMA Directors, and the Independent Expert's Report, is expected to be sent to MMA shareholders in late May to early June 2024.

For the Scheme to proceed, in addition to satisfying the other conditions precedent (or them being waived, to the extent permitted by the SID) the Scheme must be approved at the Scheme Meeting by at least 75% of all votes cast by MMA shareholders and (unless waived by the Court) a majority by number of all MMA shareholders present and voting (in person or by proxy) at the Scheme Meeting.

# ASX Announcement



An indicative timetable for the implementation of the Scheme is set out below.

Item	Estimated date
First Court Hearing	Late May-Early June 2024
Scheme Booklet distributed to MMA shareholders	Late May-Early June 2024
Scheme Meeting	Late June-Mid July 2024
Second Court Hearing for approval of the Scheme	Late June-Mid July 2024
Scheme Effective Date	Early-Mid July 2024
Scheme Record Date	Early-Late July 2024
Scheme Implementation Date	Mid-Late July 2024

*Note: timetable is indicative and is subject to change, including based on the timing of regulatory approvals.*

## Advisers

MMA has engaged Rothschild & Co as its financial adviser and Thomson Geer as its legal adviser in relation to the transaction.

UBS is acting as financial adviser and Allens as legal adviser to Cyan, Cyan Renewables and Seraya Partners.

## About Cyan Renewables

Headquartered in Singapore and fully owned by Seraya Partners, Cyan Renewables is Asia's first dedicated offshore wind vessel operator supporting the fast-growing offshore wind farm industry and the marine sector's transition from "blue to green". Built on the strong foundation of a team led by industry veterans, Cyan Renewables aspires to accelerate the growth of the global offshore wind sector by investing in a dedicated fleet of wind farm support vessels to support the full lifecycle of offshore wind farms from installation to servicing and maintenance. By being the partner of choice to both wind farm developers and vessel operators, Cyan Renewables aims to facilitate the world's transition towards a greener future built on sustainable renewable energy.

Cyan MMA Holdings Pty Limited (ACN 675 840 196) has been incorporated by Cyan Renewables as the acquisition vehicle for MMA's shares pursuant to the Scheme.

[www.cyanrenewables.com](http://www.cyanrenewables.com)

## About Seraya Partners

Seraya Partners is Asia's first independent next generation infrastructure fund manager investing in digital infrastructure and energy transition sectors. Seraya aims to deliver differentiated investment opportunities and attractive returns through its disciplined investment approach and deep sector expertise within its portfolio companies. Seraya is headquartered in Singapore with offices in Esberg, Seoul, Taipei and Tokyo.

[www.serayapartners.com](http://www.serayapartners.com)

For personal use only



# ASX Announcement



For further information please contact:

## **Investor enquiries**

**Mr David Ross**  
Managing Director  
+61 8 9431 7431  
[investors@mmaoffshore.com](mailto:investors@mmaoffshore.com)

## **Media enquiries**

**Shane Murphy / Jane Munday**  
FTI Consulting  
61 420 945 291 / +61 488 400 248  
[shane.murphy@fticonsulting.com](mailto:shane.murphy@fticonsulting.com) /  
[jane.munday@fticonsulting.com](mailto:jane.munday@fticonsulting.com)

Authorised for release to the ASX by the Board of MMA Offshore Limited (ACN 083 185 693).

## **Future performance**

This document contains certain forward-looking statements. The words 'anticipate', 'believe', 'expect', 'project', 'forecast', 'estimate', 'likely', 'intend', 'should', 'could', 'may', 'target', 'plan' and other similar expressions are intended to identify forward-looking statements. Other indications of, and guidance on, future matters are also forward-looking statements. Such forward-looking statements are not guarantees of future performance and involve known and unknown risks, uncertainties and other factors, many of which are beyond the control of MMA, and its officers, employees, agents and associates, that may cause actual results to differ materially from those expressed or implied in such statements. Actual results, performance or outcomes may differ materially from any projections and forward-looking statements and the assumptions on which those assumptions are based. You should not place undue reliance on forward-looking statements and neither MMA nor any of its directors, officers, employees, advisors, agents or associates assumes any obligation to update such information.

---

For personal use only



## Scheme Implementation Deed

between

**MMA Offshore Limited**  
ACN 083 185 693  
(MMA)

and

**Cyan MMA Holdings Pty Limited**  
ACN 675 840 196  
(Cyan)

**EXECUTION VERSION**

## Table of contents

<b>1</b>	<b>Interpretation .....</b>	<b>1</b>
	1.1 Definitions .....	1
	1.2 Interpretation.....	13
	1.3 Knowledge .....	14
<b>2</b>	<b>Agreement to propose and implement Scheme .....</b>	<b>14</b>
	2.1 MMA to propose Scheme .....	14
	2.2 Agreement to implement the Transaction.....	15
<b>3</b>	<b>Conditions Precedent .....</b>	<b>15</b>
	3.1 Conditions Precedent to Implementation.....	15
	3.2 Reasonable endeavours.....	16
	3.3 Prescribed Occurrence and Material Adverse Event .....	17
	3.4 Specific obligations .....	17
	3.5 Waiver of Conditions Precedent .....	18
	3.6 Notices in relation to Conditions Precedent.....	19
	3.7 Consultation on failure of Condition Precedent .....	19
	3.8 Failure to agree.....	20
	3.9 Scheme voted down because of Headcount Test.....	20
<b>4</b>	<b>Scheme transaction steps .....</b>	<b>21</b>
	4.1 Scheme.....	21
	4.2 No amendment to the Scheme without consent.....	21
	4.3 Scheme Consideration .....	21
	4.4 Deed Poll .....	21
	4.5 No withholding .....	21
<b>5</b>	<b>Performance Rights .....</b>	<b>23</b>
<b>6</b>	<b>Implementation of the Scheme.....</b>	<b>23</b>
	6.1 Timetable .....	23
	6.2 MMA's obligations.....	24
	6.3 Cyan's obligations.....	27
	6.4 Scheme Booklet.....	29
	6.5 Access .....	29
	6.6 Appointment of MMA Group Member directors .....	30
	6.7 MMA Directors' recommendation .....	30
	6.8 Debt financing arrangements .....	32
<b>7</b>	<b>Conduct of business and change of control consents.....</b>	<b>34</b>
	7.1 Conduct of business .....	34
	7.2 Change of control consents.....	37
<b>8</b>	<b>Exclusivity .....</b>	<b>37</b>
	8.1 No continuing discussions .....	37
	8.2 No-shop .....	38
	8.3 No-talk.....	38
	8.4 Due diligence information .....	38
	8.5 Response to approaches.....	39
	8.6 Notification of unsolicited approach .....	39
	8.7 Matching right .....	39
	8.8 Cyan Counterproposal.....	40
	8.9 Material modifications of Competing Proposal .....	40
	8.10 Legal advice.....	40
	8.11 Compliance with law .....	41
	8.12 Usual provision of information .....	41
	8.13 Fiduciary and other carve-out.....	41
<b>9</b>	<b>Break Fee .....</b>	<b>42</b>

9.1	Break Fee .....	42
9.2	No amounts payable .....	44
9.3	Compliance with law .....	44
9.4	Limitation of MMA liability .....	45
<b>10</b>	<b>Reverse Break Fee .....</b>	<b>45</b>
10.1	Reverse Break Fee .....	45
10.2	No amounts payable .....	46
10.3	Compliance with law .....	47
10.4	Limitation of Cyan liability .....	47
<b>11</b>	<b>Representations, warranties and undertakings .....</b>	<b>47</b>
11.1	MMA's representations and warranties .....	47
11.2	Qualifications on MMA Representations and Warranties .....	48
11.3	MMA's indemnity .....	48
11.4	Cyan's representations and warranties .....	48
11.5	Cyan's indemnity .....	48
11.6	Notifications .....	48
11.7	Timing of representations and warranties .....	49
11.8	Survival of representations and warranties .....	49
11.9	Survival of indemnities .....	49
11.10	No representation or reliance .....	49
11.11	Notifications .....	49
<b>12</b>	<b>Releases .....</b>	<b>49</b>
12.1	Release of MMA Indemnified Parties .....	49
12.2	Release of Cyan Indemnified Parties .....	50
12.3	Survival of releases .....	50
<b>13</b>	<b>Deed of Access, Indemnity and Insurance .....</b>	<b>51</b>
<b>14</b>	<b>Termination rights .....</b>	<b>52</b>
14.1	Termination events .....	52
14.2	Notice of breach .....	53
14.3	Termination right .....	53
14.4	Effect of termination .....	54
<b>15</b>	<b>Public announcements .....</b>	<b>54</b>
15.1	Announcement of transaction .....	54
15.2	Public announcements .....	54
<b>16</b>	<b>Confidentiality .....</b>	<b>54</b>
<b>17</b>	<b>Notices .....</b>	<b>54</b>
17.1	Manner of giving notice .....	54
17.2	When notice given .....	55
17.3	Proof of service .....	55
17.4	Documents relating to legal proceedings .....	55
<b>18</b>	<b>Entire agreement .....</b>	<b>55</b>
18.1	Entire agreement .....	55
18.2	No reliance .....	56
18.3	Termination rights .....	56
<b>19</b>	<b>General .....</b>	<b>56</b>
19.1	Amendments .....	56
19.2	Assignments .....	56
19.3	Costs .....	56
19.4	Stamp duty .....	56
19.5	GST .....	56
19.6	Consents .....	57
19.7	Execution and counterparts .....	57
19.8	Exercise and waiver of rights .....	57



19.9	Further assurance.....	57
19.10	No merger.....	57
19.11	Severability.....	57
19.12	Governing law.....	57
19.13	Jurisdiction.....	57
<b>Schedule 1</b>	.....	<b>59</b>
	Timetable.....	59
<b>Schedule 2</b>	.....	<b>60</b>
	MMA Representations and Warranties.....	60
<b>Schedule 3</b>	.....	<b>63</b>
	Cyan Representations and Warranties.....	63
<b>Schedule 4</b>	.....	<b>65</b>
	Scheme of Arrangement.....	65
<b>Schedule 5</b>	.....	<b>81</b>
	Deed Poll.....	81

**This deed** is made on

24 March 2024

between **MMA Offshore Limited** ACN 083 185 693 of Level 10, 12 The Esplanade, Perth WA 6000 (**MMA**)

and **Cyan MMA Holdings Pty Limited** ACN 675 840 196 of Level 12, 680 George Street, Sydney NSW 2000 (**Cyan**)

## Background

A Cyan wishes to acquire all of the Shares.

B MMA and Cyan have agreed that:

- (i) MMA will propose a members' scheme of arrangement pursuant to which Cyan will acquire all of the Scheme Shares; and
- (ii) MMA and Cyan will implement the Scheme on the terms and conditions of this deed.

## Agreed Terms

### 1 Interpretation

---

#### 1.1 Definitions

In this deed the following terms shall bear the following meanings:

**AASB 16 means** Accounting Standard AASB 16 Leases.

**Abstain Requirement** means:

- (a) an order, requirement or request made or imposed by the Court or a Regulatory Authority that one or more MMA Directors abstain or withdraw from making a recommendation to Shareholders to vote in favour of the Scheme; or
- (b) senior counsel acting for one or more MMA Directors advises that in their opinion, in order to comply with their personal fiduciary or statutory duties, such MMA Director or MMA Directors must, or should, abstain or withdraw from making a recommendation to Shareholders to vote in favour of the Scheme.

**Accounting Standards** means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the audited financial statements of the MMA Group.

**Affiliate** means, in relation to a person or entity:

- (a) a Related Body Corporate of that person or entity;
- (b) an entity over which the person or entity (or a Related Body Corporate of that person or entity) exercises Control within the meaning of section 50AA of the Corporations Act (but read as though section 50AA(4) were omitted);
- (c) a current, future or potential trust, limited partnership, fund, other investment vehicle or investment mandate from time to time managed or advised by the person or entity or any entity described in paragraph (a) or (b) above (each, an **Affiliate Fund**); and/or

- (d) a fund, collective investment vehicle, partner or limited partnership over which the person or entity or any entity described in paragraph (a) or (b) exercises Control within the meaning of section 50AA of the Corporations Act (but read as though section 50AA(4) were omitted),

and, in respect of Cyan only, excluding any investee or portfolio entity, being an entity in which Cyan or its Affiliate Funds invests in the ordinary course of its private equity investment operations, that are not provided and or do not obtain access to, Confidential Information and are not acting, directly or indirectly, on behalf, or at the direction or instruction, of Cyan or another Cyan Group Member that is in possession of Confidential Information in connection with the Scheme or the Transaction.

**Agreed Public Announcement** means an announcement of MMA in a form agreed between the parties prior to the execution of this deed, to be released by MMA pursuant to clause 15.1.

**ASIC** means the Australian Securities and Investments Commission.

**Associate** has the meaning given to that term in the Corporations Act, as if the subsection 12(1) of the Corporations Act included a reference to this deed and MMA was the designated body.

**ASX** means ASX Limited (ABN 98 008 624 691) or the Australian Securities Exchange, as the context requires.

**ATO** means the Australian Taxation Office.

**Authorisation** means any licence, permit, lease, authorisation, concession, consent, certificate or approval issued or granted by a Regulatory Authority.

**Break Fee Amount** means an amount equal to \$10,259,449.

**Business Day** means a business day as defined in the Listing Rules.

**CGT Withholding Amount** has the meaning given in clause 4.5(b).

**Claim** means any obligation, debt, cause of action, disability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise, in any way relating to this deed or the Transaction and includes any obligation, debt, cause of action, disability, claim, proceeding, suit or demand of any nature arising under an indemnity in this deed.

**Classification Society** means a member of the International Association of Classification societies which is responsible for the regulation and survey of vessels, including the vessels within the MMA Group's vessel fleet.

**Commissioner of Taxation** means the Australian Commissioner of Taxation.

**Competing Proposal** means any expression of interest, proposal, offer, agreement, arrangement or transaction, which, if entered into or completed substantially in accordance with its terms, would result in a Third Party (either alone or together with their Associates):

- (a) directly or indirectly acquiring or having the right to acquire: (i) a Relevant Interest in; (ii) a legal, beneficial or economic interest (including by way of an equity swap, contract for difference or similar transaction or arrangement) in; or (iii) control of, more than 20% of the Shares on issue;
- (b) directly or indirectly acquiring or becoming the holder of, or having a right to acquire a legal, beneficial or economic interest in, or control of, all or a substantial part of the consolidated assets of the MMA Group;

- (c) directly or indirectly acquiring control of MMA (as determined in accordance with section 50AA of the Corporations Act, but disregarding sub-section 50AA(4)) or merging with MMA or any other material MMA Group Member;
- (d) otherwise directly or indirectly acquiring, being stapled to, or merging with MMA; or
- (e) requiring MMA to abandon, or otherwise fail to proceed with the Transaction,

whether by way of takeover bid, reverse takeover, shareholder approved acquisition, members' or creditors' scheme of arrangement, capital reduction, share buy-back or repurchase, sale of assets, sale or purchase of securities or assets, assignment of assets and liabilities, strategic alliance, dual listed company structure or incorporated or unincorporated joint venture or other synthetic merger, deed of company arrangement, debt for equity arrangement or other proposal, offer, transaction or arrangement, or a series of any of the foregoing.

**Condition Precedent** means a condition precedent to the Scheme in clause 3.1.

**Confidential Information** has the meaning given to that term in the Confidentiality Deed.

**Confidentiality Deed** means the confidentiality deed dated 13 November 2023 between MMA, Cyan Renewables and Seraya (as subsequently amended from time to time).

**Consultation Notice** has the meaning given to that term in clause 3.7(a).

**Control** has the meaning given to that term in section 50AA of the Corporations Act and **Controlling** and **Controlled** has the corresponding meaning.

**Corporations Act** means the *Corporations Act 2001* (Cth), as modified or varied by ASIC.

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

**Court** means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Cyan and MMA.

**Cyan Board** means the board of directors of Cyan from time to time.

**Cyan Costs** has the meaning given to that term in clause 9.1(b)(i).

**Cyan Counterproposal** has the meaning given to that term in clause 8.8.

**Cyan Director** means a director of Cyan from time to time.

**Cyan Group** means:

- (a) Cyan;
- (b) Cyan Renewables;
- (c) Seraya; and
- (d) each Affiliate of Cyan, of Cyan Renewables or of Seraya.

**Cyan Group Member** or **member of the Cyan Group** means any one of:

- (a) Cyan;
- (b) Cyan Renewables;
- (c) Seraya; or
- (d) any Affiliate of Cyan, of Cyan Renewables or of Seraya.

**Cyan Indemnified Party** means any Representative of Cyan or of any of Cyan's Subsidiaries.

**Cyan Information** means the information relating to the Cyan Group provided in writing by or on behalf of any member of the Cyan Group to MMA for inclusion in the Scheme Booklet, including:

- (a) information about Cyan, other Cyan Group Members, Cyan's intentions for MMA and MMA's employees and Cyan's funding for the Scheme; and
- (b) any other information (such as information required under the Corporations Act, Corporations Regulations or RG 60 to enable the Scheme Booklet to be prepared) that the parties agree is "Cyan Information" and that is identified in the Scheme Booklet as such.

For the avoidance of doubt, the Cyan Information excludes the MMA Information and the Independent Expert's Report and any description of the taxation effect of the Transaction on Scheme Participants prepared by an external adviser to MMA.

**Cyan Renewables** means Cyan Renewables Pte Ltd of 9 Raffles Place, #22-02 Republic Plaza, Singapore 048619.

**Cyan Representations and Warranties** means the representations and warranties of Cyan set out in Schedule 3.

**Data Room** means the electronic data room hosted by Ansarada made available by MMA to one or more Representatives of Cyan for the purposes of due diligence as of 11:59pm on the day prior to the Execution Date.

**Deed Poll** means the deed poll to be entered into by Cyan the form of which is contained in Schedule 5 or in such other form as agreed in writing between the parties.

**Defaulting Director** has the meaning given to that term in clause 9.1(d)(i).

**Disclosure Letter** means the disclosure letter (dated the same date as the Execution Date) delivered by MMA to Cyan with respect to certain matters in this deed and countersigned by Cyan.

**Disclosure Materials** means:

- (a) the documents and other information (including written responses from MMA and its Representatives to requests for further information made by Cyan and its Representatives) contained in the Data Room as of 11:59pm on the day prior to the Execution Date, the index of which and accompanying Q&A schedule having been initialled by, or on behalf of, the parties for identification; and
- (b) the Disclosure Letter.

**D&O Run-off Policy** has the meaning given to that term in clause 13(a).

**EBITDA** means the operating earnings from ordinary operations before interest, income tax, depreciation and amortisation on a consolidated basis calculated in accordance with the Accounting Standards, adjusted by excluding any non-cash gain or loss in respect of one-off items such as impairments, reversals and provisions and the impacts of AASB 16.

**Effective** means, when used in relation to the Scheme, the coming into effect pursuant to section 411(10) of the Corporations Act of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme.

**Effective Date** means the date on which the Scheme becomes Effective.

**Encumbrance** means any encumbrance, mortgage, pledge, charge, lien, assignment, hypothecation, security interest, title retention, right of first refusal and any other security

arrangement of any kind given or created and including any possessory lien in the ordinary course of business whether arising by law or contract.

**End Date** means whichever one of the following applies:

- (a) if the FIRB Condition Precedent has been satisfied by 5:00pm on the second Business Day prior to the date that is six months after the Execution Date, the date which is six months after the Execution Date;
- (b) if the FIRB Condition Precedent has not been satisfied by 5:00pm on the second Business Day prior to the date that is six months after the Execution Date and the FIRB Condition Precedent is still capable of satisfaction at such time, the date which is seven months after the Execution Date; or
- (c) if the FIRB Condition Precedent has not been satisfied by 5:00pm on the second Business Day prior to the date that is seven months after the Execution Date and the FIRB Condition Precedent is still capable of satisfaction at such time, the date which is eight months after the Execution Date.

**Entity Declaration** has the meaning given to that term in clause 4.5(d).

**Exclusivity Period** means the period commencing on the Execution Date and ending on the earliest of:

- (a) the date this deed is terminated in accordance with its terms;
- (b) the Effective Date; and
- (c) the End Date.

**Execution Date** means the date of this deed.

**Fairly Disclosed** has the meaning given to that term in clause 1.2(p).

**FATA** means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

**Financial Indebtedness** means any debt or other monetary liability (whether actual or contingent) in respect of monies borrowed or raised or any financial accommodation including under or in respect of any:

- (a) bill, bond, debenture, note or similar instrument;
- (b) acceptance, endorsement or discounting arrangement;
- (c) guarantee;
- (d) finance or capital lease;
- (e) agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or service; or
- (f) obligation to deliver goods or provide services paid for in advance by any financier.

**FIRB** means the Australian Foreign Investment Review Board.

**FIRB Application** has the meaning given to that term in clause 3.4(a).

**FIRB Condition Precedent** has the meaning given to that term in clause 3.4(a).

**First Court Date** means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

**First Court Hearing** means the hearing of an application made to the Court by MMA for an order under section 411(1) of the Corporations Act convening the Scheme Meeting or, if the hearing of such application is adjourned for any reason, means the adjourned hearing.

**Foreign Corporate Regulatory Authority** means the Singaporean Accounting and Corporate Regulatory Authority, the Taiwanese Financial Supervisory Commission and the Malaysian Companies Commission of Malaysia.

**Growth Capital Expenditure** means any capital expenditure other than Maintenance Capital Expenditure where the investment is expected to deliver growth beyond the existing operations of the MMA Group.

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

**Headcount Test** means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the Scheme Resolution is passed at the Scheme Meeting by a majority in number of Scheme Participants present and voting, either in person or by proxy.

**Implementation** means the implementation of the Scheme, in accordance with its terms, after the Scheme becomes Effective.

**Implementation Date** means the fifth Business Day after the Record Date, or such other date agreed to in writing by MMA and Cyan.

**Independent Expert** means an expert to be appointed by MMA to express an opinion on whether the Scheme is in the best interests of Shareholders.

**Independent Expert's Report** means the report prepared by the Independent Expert commissioned by MMA for inclusion in the Scheme Booklet, which report states the Independent Expert's opinion in relation to whether the Scheme is in the best interest of Shareholders (including any updates or amendments to such report that the Independent Expert issues).

**Insolvency Event** means in relation to a person:

- (a) **(insolvency official)** the appointment of an Insolvency Official to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **(arrangements)** the entry by the person into a compromise or arrangement with its creditors generally;
- (c) **(winding up)** the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) **(suspends payments)** the person suspends or threatens to suspend payment of its debts as and when they become due;
- (e) **(ceasing business)** the person no longer carries on any business;
- (f) **(insolvency)** the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act, or other law applicable to such person;
- (g) **(deregistration)** the person being deregistered (or equivalent) as a company or otherwise dissolved;

- (h) **(deed of company arrangement)** the person executing a deed of company arrangement;
- (i) **(person as trustee or partner)** the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
  - (i) a breach of trust or obligation as partner by the person;
  - (ii) the person acting outside the scope of its powers as trustee or partner;
  - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability; or
  - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) **(analogous events)** anything analogous to those set out in any of paragraphs (a) to (i) (inclusive) occurs in relation to the person under the laws of a foreign jurisdiction.

**Insolvency Official** means a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law).

**Listing Rules** means the official listing rules of ASX.

**Maintenance Capital Expenditure** means non-discretionary capital expenditure required to maintain the existing operations of the MMA Group.

**Material Adverse Event** means:

- (a) an event, occurrence or matter that occurs after the Execution Date (each a **Specified Event**), which has or would (either individually or when aggregated together with any other such Specified Events of the same type or nature) be reasonably likely to have:
  - (i) the effect of a diminution in the value of the consolidated net assets of the MMA Group (taken as a whole) (calculated in accordance with the Accounting Standards), by at least 12.5% as against the consolidated net assets in the 31 December 2023 MMA Group reported balance sheet;
  - (ii) the effect of a diminution in the full financial year consolidated annual EBITDA of the MMA Group (taken as a whole) by at least 12.5% as compared to what the consolidated annual EBITDA of the MMA Group would reasonably have been expected to have been for the financial year ending 30 June 2024 based on the annualised consolidated EBITDA of the MMA Group for the half year ending 31 December 2023;
- (b) five or more vessels owned by the MMA Group each have the full class status of the vessel suspended by the vessels' Classification Society applicable to that vessel (including, without limitation, due to a catastrophic failure or other reason) and each such vessel being deemed by an industry recognised independent expert to be unable to earn revenue for a period of six months or more,

other than those events, occurrences or matters:

- (c) required or expressly permitted by this deed, the Disclosure Letter, the Deed Poll or the Scheme;
- (d) within the knowledge of Cyan on or before the Execution Date;
- (e) Fairly Disclosed in the Disclosure Materials;



- (f) Fairly Disclosed in an announcement by MMA to ASX, or a publicly available document lodged by an MMA Group Member with ASIC (or with any Foreign Corporate Regulatory Authority within a jurisdiction in which an MMA Group Member is incorporated) prior to the Execution Date;
- (g) disclosed in a publicly available document which would be accessible via a search of:
- (i) the PPS Register;
  - (ii) the registry of either Landgate or any other Australian state or territory land titles agency;
  - (iii) the registry of the High Court, the Federal Court, the Federal Circuit Court, and the Supreme Courts in each state and territory, of Australia;
  - (iv) IP Australia; or
  - (v) any other similar public registries or databases within the jurisdictions in which any MMA Group Member is incorporated,
- had each such search been conducted on the Business Day before the Execution Date;
- (h) agreed to by Cyan or requested by Cyan, in each case, in writing, including any reasonably foreseeable consequences;
- (i) relating to costs and expenses incurred, or anticipated to be incurred, by any member of the MMA Group in connection with the Scheme, including all third-party fees payable, or estimated to be payable, to external advisers of MMA (amounts or estimates of which third-party fees payable, or estimated to be payable, have been Fairly Disclosed in the Disclosure Materials);
- (j) comprising, or resulting from, the actual or anticipated termination, or other cessation, of the employment or other engagement of any Representative of any MMA Group Member;
- (k) relating to any loss, damage or expense that is recoverable, or would be reasonably likely to be recoverable, under MMA Group's insurance policies;
- (l) resulting from any change to any applicable law, any judicial or administrative interpretation of the law or any practice or policy of a Regulatory Authority, including in relation to Tax;
- (m) arising as a result of any change in Accounting Standards or the interpretation of Accounting Standards;
- (n) arising as a result of any changes in economic or business conditions (including interest rates, exchange rates, general economic, political or business conditions, commodity prices and capital markets or the securities market in general);
- (o) arising from any major hostilities, civil or political unrest, acts of war, cyberattack or terrorism, outbreak or escalation of any disease, epidemic or pandemic (including any outbreak, escalation or worsening of any of the foregoing);
- (p) arising as a result of the execution, announcement or performance of this deed or the Scheme in accordance with its terms.

**Material Contract** means any contract, agreement, arrangement or commitment to which a member of the MMA Group is a party:

- (a) that is material to the business of the MMA Group as a whole and necessary for the MMA Group to conduct its business as presently being conducted as at the Execution Date; and

- (b) is not readily replaceable by contracts with alternate suppliers, customers or other persons (as applicable).

**MMA Board** means the board of directors of MMA from time to time (or any committee of the board of directors of MMA constituted from time to time to consider the Transaction or related matters on behalf of MMA).

**MMA Costs** has the meaning given to that term in clause 10.1(b)(i).

**MMA Director** means a director of MMA from time to time.

**MMA Group** means MMA and its Subsidiaries, but (for the avoidance of doubt) excluding the entity or entities described in the Disclosure Letter as not being a Subsidiary of MMA.

**MMA Group Member or member of the MMA Group** means any one of MMA or of its Subsidiaries, but (for the avoidance of doubt) excluding the entity or entities described in the Disclosure Letter as not being a Subsidiary of MMA.

**MMA Indemnified Party** means any Representative of any member of the MMA Group.

**MMA Information** means all information included in the Scheme Booklet other than each of:

- (a) the Cyan Information;
- (b) the Independent Expert's Report; and
- (c) any description of the taxation effect of the Transaction on Scheme Participants prepared by an external adviser to MMA.

**MMA Representations and Warranties** means the representations and warranties of MMA set out in Schedule 2.

**Performance Right** means a performance right issued by MMA under employee incentive arrangements (or similar) of the MMA Group to, subject to the terms of that performance right, acquire a Share.

**Permitted Encumbrance** means:

- (a) the Encumbrances granted by the MMA Group Members in favour of their financiers; and
- (b) any other Encumbrance granted by any member of the MMA Group in the ordinary course of business under any retention of title, hire purchase or conditional sale arrangement or arrangement having similar effect in respect of goods supplied to the MMA Group on the supplier's standard or usual terms (or terms more favourable to the MMA Group) or arising by operation of law in the ordinary course of trading, so long as in each case, the debt it secures is paid when due or contested in good faith and appropriately provisioned.

**PPS Register** means the register established under the *Personal Property Securities Act 2009* (Cth).

**Prescribed Occurrence** means other than as:

- (a) expressly required or permitted by this deed, the Scheme or the transactions contemplated by them;
- (b) Fairly Disclosed in:
  - (i) the Disclosure Materials;
  - (ii) an announcement by MMA to ASX, or a publicly available document lodged by an MMA Group Member with ASIC (or with any Foreign Corporate

Regulatory Authority within a jurisdiction in which an MMA Group Member is incorporated) prior to the Execution Date; or

- (iii) a publicly available document which would be accessible via a search of:
  - (A) the PPS Register;
  - (B) the registry of either Landgate or any other Australian state or territory land titles agency;
  - (C) the registry of the High Court, the Federal Court, the Federal Circuit Court, and the Supreme Courts in each state and territory, of Australia;
  - (D) IP Australia; or
  - (E) any other similar public registries or databases within the jurisdictions in which any MMA Group Member is incorporated,

had each such search been conducted on the Business Day before the Execution Date;

- (c) required by applicable law or by an order, or other requirement, of a court or other Regulatory Authority; or
- (d) approved by written consent of Cyan (which response must not be unreasonably withheld or delayed more than five Business Days from the date of any request from MMA) or requested in writing by Cyan,

the occurrence of any of the following during the period commencing on the Execution Date and ending at 8:00am on the Second Court Date:

- (e) MMA converting all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act);
- (f) any member of the MMA Group resolving to reduce its share capital in any way;
- (g) any member of the MMA Group:
  - (i) entering into a buy-back agreement; or
  - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (h) a member of the MMA Group issuing securities, including without limitation shares, or granting options or convertible securities, or agreeing to make an issue of or grant an option over shares, other than an issue of Shares upon the exercise or conversion of any or all of the Performance Rights which are on issue on the day immediately prior to the Execution Date;
- (i) a member of the MMA Group issuing or agreeing to issue securities convertible into, or giving rights to be issued, Shares, including pursuant to a dividend reinvestment or other share plan;
- (j) any member of the MMA Group announcing, making, declaring, paying or distributing or incurring a liability to make or pay any dividend or otherwise returning or agreeing to return any capital to its members (whether in cash or in specie);
- (k) the MMA Group disposing, or agreeing to dispose, of the whole or a substantial part, of its business or property;
- (l) a member of the MMA Group creating, or agreeing to create any Encumbrance over the whole, or a substantial part, of its business or property, other than:

- (i) Encumbrances for the purposes of securing obligations under financing arrangements entered into for the purposes of:
  - (A) replacing maturing or expiring debt financing arrangements;
  - (B) refinancing existing debt finance arrangements on market terms;
  - (C) new bank guarantees;
  - (D) currency hedging; or
- (ii) other Permitted Encumbrances; or
- (m) an Insolvency Event occurs in relation to a member of the MMA Group (other than a dormant entity).

**Record Date** means 5:00pm on the fifth Business Day following the Effective Date, or such other date (after the Effective Date) as ASX requires or the parties may agree in writing.

**Regulator's Draft** has the meaning given to that term in clause 6.2(d).

**Regulatory Authority** includes:

- (a) a foreign or Australian government or governmental, semi-governmental, administrative, fiscal, tax or judicial entity or authority;
- (b) a minister, department, office, commission, delegate, instrumentality, tribunal, agency, board, authority or organisation of any government;
- (c) any regulatory organisation established under statute;
- (d) any applicable securities commission or stock or securities exchange;
- (e) in particular, ASX, ASIC, FIRB, the Takeovers Panel and Foreign Corporate Regulatory Authorities; and
- (f) any authorised representative of any of the above.

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

**Relevant Interest** has the meaning given to that term in sections 608 to 609B of the Corporations Act.

**Relevant Person** has the meaning given to that term in clause 4.5(e).

**Representative** means, in respect of a person, any director, officer or employee of the person and any financier, financial adviser, accounting adviser, auditor, legal adviser or technical or other expert adviser of, or consultant to, the person in relation to the Transaction.

**Reverse Break Fee Amount** means an amount equal to \$10,259,449.

**RG 60** means Regulatory Guide 60 issued by ASIC in September 2020.

**Scheme** means the scheme of arrangement pursuant to Part 5.1 of the Corporations Act between MMA and the Scheme Participants in respect of all Scheme Shares, the form of which is contained in Schedule 4 (as amended by the parties in writing from time to time), together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by MMA and Cyan.

**Scheme Booklet** means the information booklet to be despatched to Shareholders in connection with the Scheme, including a copy of the Scheme, the explanatory statement in respect of the Scheme, the Independent Expert's Report and the notice of the Scheme Meeting.

**Scheme Consideration** means the consideration to be provided by Cyan to each Scheme Participant for the transfer of each Scheme Share under the Scheme, being \$2.60 per Scheme Share.

**Scheme Meeting** means the meeting of Shareholders ordered by the Court to be convened in relation to the Scheme pursuant to section 411(1) of the Corporations Act and includes any meeting convened following any adjournment or postponement of that meeting.

**Scheme Participant** means a Shareholder recorded in the Share Register as holding one or more Scheme Shares as at the Record Date.

**Scheme Resolution** means the resolution to approve the Scheme to be considered by Shareholders at the Scheme Meeting.

**Scheme Shares** means all of the Shares on issue on the Record Date.

**Second Court Date** means the first day on which the application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the first day on which the adjourned application is heard or scheduled to be heard.

**Second Court Hearing** means the hearing at which the application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the hearing at which the adjourned application is heard.

**Seraya** means Seraya GP1 Ltd, as General Partner of Seraya Partners Fund I, L.P. of 9 Raffles Place, #22-02, Singapore 048619.

**Share** means a fully paid ordinary share in the capital of MMA.

**Share Register** means the register of holders of Shares maintained by or on behalf of MMA in accordance with the Corporations Act.

**Shareholder** means a person who is registered in the Share Register as the holder of one or more Shares, from time to time.

**Standard or Acceptable Conditions** means any of the following:

- (a) tax-related conditions which are in the form, or substantially in the form of those set out under the heading 'Standard tax conditions' in Section D of FIRB's Guidance Note 12 on 'Tax Conditions' (in the form last updated on 10 August 2023); and
- (b) any conditions related to any one or more Cyan Group Member's (and any one or more of their respective Representatives') access to the MMA Group's computer systems, client data and/or premises, unless such conditions would have a material adverse impact on the business and/or operations of the MMA Group.

**Subdivision 14-D** has the meaning given to that term in clause 4.5(b).

**Subsidiary** has the meaning given to that term in section 9 of the Corporations Act.

**Superior Proposal** means a bona fide Competing Proposal that the MMA Board, acting in good faith, and after consultation with external legal advisers and financial advisers, determines would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction which is more favourable to Shareholders (as a whole) than the Transaction (or, if applicable, the Transaction as amended or varied by agreement between the parties following application of the matching right process set out in clause 8.8), in each case taking into account all of the terms and conditions and other aspects of the Competing Proposal (including, but not limited to, any timing considerations, conditionality, the value and type of consideration, the identity of the proponent and funding) and of the Transaction.

**Takeovers Panel** means the Australian Takeovers Panel.

**Tax or Taxes** means all taxes, surtaxes, duties, levies, imposts, fees, withholdings, dues and other charges of any nature, imposed or collected by any Regulatory Authority, whether disputed or not, including federal, provincial, territorial, state, municipal and local, foreign and other income, franchise, capital, real property, personal property, withholding, payroll, health, transfer, value added, alternative, or add on minimum tax including GST, sales, use, consumption, excise, customs, anti-dumping, countervail, net worth, stamp, registration, franchise, payroll, employment, education, business, school, local improvement, development and occupation taxes, duties, levies, imposts, fees, assessments and withholdings, employment insurance premiums and all other taxes and similar governmental charges, levies or assessments of any kind whatsoever imposed by any Regulatory Authority including any instalment payments, interest, penalties or other additions associated therewith, whether or not disputed.

**Tax Act** means the *Income Tax Assessment Act 1997* (Cth).

**Third Party** means a person who:

- (a) is not a member of the MMA Group or an Associate of a member of the MMA Group;
- (b) is not a member of the Cyan Group or an Associate of a member of the Cyan Group; and
- (c) is not a person which would be a member of the Cyan Group or an Associate of a member of the Cyan Group, but for the remainder of the definition of "Affiliate" which follows paragraph (d) of that definition in this clause 1.1.

**Timetable** means the indicative timetable in relation to the Transaction contained in Schedule 1, or such other indicative timetable as the parties agree in writing or as may be required by ASX.

**Transaction** means the acquisition by Cyan of all of the Scheme Shares in consideration for the provision of the Scheme Consideration, by means of the Scheme and in accordance with the terms of this deed.

**Treasurer** means the Treasurer of the Commonwealth of Australia.

## 1.2 Interpretation

In this deed, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, or schedule is to a clause or paragraph of, or schedule to, this deed, and a reference to this deed includes any schedule;
- (d) a reference to a document (including to avoid doubt, this deed, the Scheme and the Deed Poll) or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, dollar, Australian dollar or \$ is to Australian currency;
- (f) a reference to time is to time in Perth, Western Australia, unless otherwise noted;
- (g) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;

- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a reference to the Listing Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;
- (k) a word or expression defined in the Corporations Act and not otherwise defined in this deed has the meaning given to it in the Corporations Act;
- (l) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it;
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day unless otherwise required by the Corporations Act or the Listing Rules; and
- (p) a reference to **Fairly Disclosed** means disclosed in good faith and with sufficient detail so as to enable a reasonable, diligent and sophisticated investor entering into a transaction of the nature contemplated by this document to understand the nature and scope of the relevant fact, matter, event or circumstance.

### 1.3 Knowledge

- (a) Where this deed makes reference to the knowledge, belief or awareness of MMA, or any similar reference, such knowledge, belief or awareness will be taken to mean the aggregated actual knowledge, belief and awareness of the MMA Directors and each of David Ross, David Cavanagh, Tom Radic, Stuart Edgar, Liz Buckey and Tim Muirhead, and the facts, matters or circumstances of which such persons would be aware if they had made reasonable enquiries of their direct reports in relation to the relevant matter.
- (b) Where this deed makes reference to the knowledge, belief or awareness of Cyan, or any similar reference, such knowledge, belief or awareness will be taken to mean the aggregated actual knowledge, belief and awareness of James Chern, Ivan Chern, Douglas Kang, Adrian Koh and Lee Keng Lin, and the facts, matters or circumstances of which such persons would be aware if they had made reasonable enquiries of their direct reports in relation to the relevant matter.

## 2 Agreement to propose and implement Scheme

---

### 2.1 MMA to propose Scheme

- (a) MMA agrees to propose the Scheme on and subject to the terms and conditions of this deed.
- (b) Cyan agrees to assist MMA to propose the Scheme on and subject to the terms and conditions of this deed.

## 2.2 Agreement to implement the Transaction

The parties agree to implement the Transaction on and subject to the terms and conditions of this deed.

## 3 Conditions Precedent

### 3.1 Conditions Precedent to Implementation

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to Implementation are not binding, unless each of the following conditions precedent are satisfied or waived to the extent and in the manner set out in this clause 3:

Condition Precedent	Party entitled to benefit	Party responsible
<p>(a) <b>FIRB:</b> Before 5:00pm on the Business Day immediately prior to the Second Court Date one of the following occurs:</p> <p>(i) Cyan has received written notification by or on behalf of the Treasurer under the FATA to the effect that the Commonwealth Government has no objection (unconditionally or on conditions acceptable to Cyan acting reasonably (for which purpose Cyan agrees (without limiting the conditions which may be acceptable) that any one or more of the Standard or Acceptable Conditions are, and will remain, acceptable)) under its foreign investment policy to Cyan acquiring all of the Scheme Shares under the Scheme;</p> <p>(ii) the period provided for under the FATA during which the Treasurer may make an order or interim order under Division 2 of Part 3 of the FATA prohibiting Cyan from acquiring all of the Scheme Shares has elapsed without such an order being made and the acquisition is not prohibited by section 82 of the FATA; or</p> <p>(iii) if an interim order has been made by the Treasurer to prohibit Cyan from acquiring the Scheme Shares under the Scheme, the subsequent period for making a final order under Division 2 of Part 3 of the FATA has elapsed without any final order being made and the acquisition is not prohibited by section 82 of the FATA.</p>	Cannot be waived	Cyan
<p>(b) <b>Shareholder Approval:</b> Shareholders approve the Scheme at the Scheme Meeting by the</p>	Cannot be waived	Cyan and MMA



Condition Precedent		Party entitled to benefit	Party responsible
	requisite majorities under section 411(4)(a)(ii) of the Corporations Act.		
(c)	<b>Court Approval of Scheme:</b> The Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.	Cannot be waived	Cyan and MMA
(d)	<b>Restraining Orders:</b> As at 8:00am on the Second Court Date, no judgement, order, decree, statute, law, ordinance, rule of regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition or other order or decision has been issued, made, entered, enacted, promulgated or enforced by any court of competent jurisdiction or any Regulatory Authority, and which remains in effect, that prohibits, restricts, makes illegal or prevents Implementation from occurring.	Cyan and MMA	Cyan and MMA
(e)	<b>Independent Expert's Report:</b> The Independent Expert: (i) issues an Independent Expert's Report, which concludes that the Scheme is in the best interests of Shareholders, before the time when the Scheme Booklet is registered by ASIC; and (ii) does not change or qualify that conclusion or withdraw that conclusion or its Independent Expert's Report by notice in writing to MMA before 8:00am on the Second Court Date.	MMA	Neither party
(f)	<b>No Material Adverse Event:</b> No Material Adverse Event occurs between the Execution Date and 8:00am on the Second Court Date.	Cyan	MMA
(g)	<b>No Prescribed Occurrence:</b> No Prescribed Occurrence occurs between the Execution Date and 8:00am on the Second Court Date.	Cyan	MMA

### 3.2 Reasonable endeavours

Each of MMA and Cyan agree to use reasonable endeavours to procure that:

- (a) each of the Conditions Precedent for which it is a party responsible (as noted in clause 3.1):
  - (i) is satisfied as soon as practicable after the Execution Date; and
  - (ii) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
- (b) there is no occurrence within its control or within the control of, in the case of Cyan, another Cyan Group Member or, in the case of MMA, another MMA Group Member that would prevent the Condition Precedent for which it is a party responsible being or

remaining satisfied at all times until the last time it is to be satisfied (as the case may require).

### 3.3 Prescribed Occurrence and Material Adverse Event

In respect of the Conditions Precedent in clauses 3.1(f) (No Material Adverse Event) and 3.1(g) (No Prescribed Occurrence), if:

- (a) a Prescribed Occurrence occurs between the Execution Date and 8:00am on the Second Court Date, then provided that MMA has given written notice to Cyan in accordance with clause 3.6 setting out the relevant circumstances of the Prescribed Occurrence and the Prescribed Occurrence is remediable, the Condition Precedent in clause 3.1(g) (No Prescribed Occurrence) will not be taken to have been breached or not fulfilled; or
- (b) a Material Adverse Event occurs between the Execution Date and 8:00am on the Second Court Date, then provided that MMA has given written notice to Cyan in accordance with clause 3.6 setting out the relevant circumstances of the Material Adverse Event and the Material Adverse Event is remediable, the Condition Precedent in clause 3.1(f) (No Material Adverse Event) will not be taken to have been breached or not fulfilled,

unless:

- (c) Cyan has given notice to MMA in accordance with clause 3.6(b) to remedy the effects of the occurrence of a Prescribed Occurrence or Material Adverse Event; and
- (d) MMA has failed to remedy the occurrence or the effects of the occurrence of a Prescribed Occurrence or Material Adverse Event within 10 Business Days (or any shorter period ending at 5:00pm on the Business Day before the Second Court Date) after the date on which such notice is given.

### 3.4 Specific obligations

- (a) Without limiting the generality of clause 3.2, Cyan must:
  - (i) as soon as practicable following the Execution Date and in any event within 10 Business Days after the Execution Date, prepare and make (or procure the preparation and making of) all applications, filings and submissions (and supply all documents and information) to FIRB, which in each case are necessary or advisable for the purposes of procuring the satisfaction of the Condition Precedent in clause 3.1(a) (FIRB) (the **FIRB Condition Precedent**), and thereafter take all reasonable steps to procure the satisfaction of the FIRB Condition Precedent as soon as practicable after the Execution Date;
  - (ii) provide MMA with drafts of any submissions or other written communications contemplated by clause 3.4(a)(i) (collectively the **FIRB Application**) before they are sent to FIRB in connection with the satisfaction of the FIRB Condition Precedent, and once sent to FIRB, promptly provide a copy to MMA;
  - (iii) allow MMA a reasonable opportunity to review and make comments on the FIRB Application prior to it being submitted to FIRB, and amend any factual inaccuracy, and consider in good faith any other reasonable comments provided by or on behalf of MMA;
  - (iv) after the FIRB application is submitted to FIRB, promptly notify MMA and promptly provide details to MMA of any communications received from FIRB or discussions between Cyan (or any other Cyan Group Member or any of their respective Representatives) and FIRB which relate to the 'decision period' (as defined in the FATA) for the FIRB Application or information about the business or operations of any MMA Group Member;

- (v) respond as soon as practicable and in any event in accordance with any relevant time limit (which may include any extension of time) to any request for information from FIRB to the extent such information is within the possession or control of any Cyan Group Member; and
  - (vi) keep MMA informed in a timely manner of the status of the assessment of the FIRB Application; and
- (b) MMA must cooperate with, and provide any document or information reasonably requested by Cyan or its Representatives for the purpose of Cyan making submissions to FIRB in order to satisfy the FIRB Condition Precedent, provided that, if the document or information is subject to confidentiality restrictions or is considered to be competitively sensitive or privileged information, then MMA or its Representatives may provide that document or information directly to FIRB or to Cyan's legal representatives on a counsel-to-counsel basis for on-forwarding to FIRB only.
- (c) Notwithstanding the other provisions of this deed, before providing any document or information to MMA pursuant to clause 3.4(a), Cyan may redact any part of that document, or not disclose any part of that information, which contains or constitutes confidential, competitively sensitive or privileged information relating to the business, affairs or managed funds of Cyan or any of its Affiliates (including investors in managed funds), to the extent that Cyan reasonably considers that the disclosure of such information to MMA (or otherwise) would be unlawful or damaging to the commercial or legal interests of Cyan or any of its Affiliates or the investors in funds managed by Cyan or any of its Related Bodies Corporate, or would be reasonably likely to jeopardise any attorney-client, work product or other legal privilege.

### 3.5 Waiver of Conditions Precedent

- (a) A Condition Precedent may only be waived in writing by:
- (i) in the case of a Condition Precedent for which clause 3.1 notes there is only one party entitled to the benefit, that party; or
  - (ii) in the case of a Condition Precedent for which clause 3.1 notes both parties are entitled to the benefit, the agreement of both parties,
- and will be effective only to the extent specifically set out in that waiver.
- (b) A party entitled to waive the breach or non-fulfilment of a Condition Precedent under this clause 3.5 may do so in its absolute discretion.
- (c) If either MMA or Cyan waives the breach or non-fulfilment of a Condition Precedent in accordance with this clause 3.5, then that waiver precludes that party which granted the waiver from suing the other party for (and (without expanding the circumstances under this deed when a Break Fee Amount, or Reverse Break Fee Amount, is payable) that other party is released from any obligation to (if that other party is MMA) pay a Break Fee Amount or (if that other party is Cyan) pay a Reverse Break Fee Amount arising (if applicable) from) any breach by that other party of this deed that resulted in the breach or non-fulfilment of the Condition Precedent. However, if the waiver of the Condition Precedent is itself conditional and that other party:
- (i) accepts the condition, the terms of that condition apply notwithstanding any inconsistency with, the waiver of the breach of or non-fulfilment of the Condition Precedent; or
  - (ii) does not accept the condition, the relevant Condition Precedent or a portion therefore has not been waived.
- (d) A waiver of a breach or non-fulfilment in respect of a Condition Precedent does not constitute:

- (i) a waiver of a breach or non-fulfilment of any other Condition Precedent arising from the same event; or
- (ii) a waiver of a breach or non-fulfilment of that Condition Precedent resulting from any other event.

### 3.6 Notices in relation to Conditions Precedent

Each of Cyan and MMA must:

- (a) **(notice of satisfaction)** promptly notify the other party of satisfaction of a Condition Precedent and must keep the other party informed of any material development of which it becomes aware that may lead to the breach or non-fulfilment of a Condition Precedent before the time and date specified for its satisfaction (or being satisfied by the End Date, if no such time and date is specified);
- (b) **(notice of failure)** promptly give written notice to the other party of a breach or non-fulfilment of a Condition Precedent of which it is aware, or of any act, failure to act, event or occurrence of which it is aware which will prevent a Condition Precedent being satisfied before the time and date specified for its satisfaction (or being satisfied by the End Date, if no such time and date is specified); and
- (c) **(notice of waiver)** upon the earlier of:
  - (i) receipt of a notice given under clause 3.6(b); or
  - (ii) otherwise becoming aware of any event which will prevent a Condition Precedent being satisfied before the time and date specified for its satisfaction (or being satisfied by the End Date, if no such time and date is specified),

give notice to the other party as soon as reasonably practicable as to whether or not the first party waives (if it has power to waive, pursuant to clause 3.5) the breach or non-fulfilment of any Condition Precedent resulting from the occurrence of that event, specifying the Condition Precedent in question.

### 3.7 Consultation on failure of Condition Precedent

- (a) If:
  - (i) there is a breach or non-fulfilment of a Condition Precedent which breach or non-fulfilment is not waived in accordance with this deed (or cannot be waived); or
  - (ii) there is an act, failure to act, event or occurrence which will prevent a Condition Precedent being satisfied by the time and date specified in clause 3.1 for its satisfaction (or by the End Date, if no such time and date is specified), and that anticipated breach or non-fulfilment of the Condition Precedent is not waived (or cannot be waived) in accordance with this deed,

either party may serve written notice on the other party as soon as practicable, and in any event within five Business Days after a notice is given under clause 3.6(b), **(Consultation Notice)** and following service of the Consultation Notice, MMA and Cyan must consult in good faith with a view to determining whether (but without being obliged to agree to the same):

- (iii) the Scheme may proceed by way of alternative means or methods, or whether, in the case of a breach or non-fulfilment of the Conditions Precedent in clauses 3.1(f) (No Material Adverse Event) and 3.1(g) (No Prescribed Occurrence), the breach or non-fulfilment, or the effects of the breach or non-fulfilment, are still able to be remedied;

- (iv) to extend the End Date, the time and date specified in this deed for the satisfaction of a Condition Precedent, or both;
- (v) to adjourn or change the date of an application to the Court;
- (vi) to change the Second Court Date, or to adjourn the application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme, to another date agreed to in writing by the parties; or
- (vii) to do any combination of the matters listed in clauses 3.7(a)(iii) to 3.7(a)(vi) (inclusive).

### 3.8 Failure to agree

- (a) If Cyan and MMA are unable to reach agreement under clause 3.7 within five Business Days after the date on which the Consultation Notice is given (or any shorter period ending at 5:00pm on the Business Day immediately before the Second Court Date) then:
  - (i) in the case of an actual or anticipated breach or non-fulfilment of a Condition Precedent for which clause 3.1 notes both parties are entitled to the benefit or which clause 3.1 notes cannot be waived, either MMA or Cyan may terminate this deed by written notice to the other party; or
  - (ii) in the case of an actual or anticipated breach or non-fulfilment of a Condition Precedent for which clause 3.1 notes there is only one party entitled to the benefit, only that party may waive that Condition Precedent or terminate this deed by written notice to the other party,

in each case before 8:00am on the Second Court Date.
- (b) A party will not be entitled to terminate this deed under this clause 3.8 if the relevant Condition Precedent has not been satisfied as a result of a breach of this deed by that party, or a deliberate act or omission of that party or of a Related Body Corporate of that party.

### 3.9 Scheme voted down because of Headcount Test

- (a) If the Scheme is not approved by Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and MMA and Cyan consider, acting reasonably, that the splitting by a Shareholder of their Shares into two or more parcels of Shares (whether or not it results in any change in beneficial ownership of the Shares) or some abusive or improper conduct may have caused or materially contributed to the Headcount Test not having been satisfied then MMA must:
  - (i) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
  - (ii) make such submissions to the Court and file such evidence as counsel engaged by MMA to represent it in Court proceedings related to the Scheme, in consultation with Cyan, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.
- (b) If the Court's approval of the Scheme under section 411(4)(b) of the Corporations Act is given, notwithstanding that the Headcount Test has not been satisfied, the Condition Precedent in clause 3.1(c) is deemed to be satisfied for all purposes.

## 4 Scheme transaction steps

---

### 4.1 Scheme

- (a) MMA must propose the Scheme to Shareholders on and subject to the terms and conditions of this deed and the Scheme.
- (b) If the Scheme becomes Effective, on the Implementation Date:
  - (i) each Scheme Participant will receive the Scheme Consideration in accordance with the terms of this deed, the Scheme and the Deed Poll; and
  - (ii) in exchange, all of the Scheme Shares held by Scheme Participants on the Record Date will be transferred to Cyan.

### 4.2 No amendment to the Scheme without consent

Each party agrees that they will not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of the other party.

### 4.3 Scheme Consideration

- (a) Cyan undertakes and warrants to MMA (in its own right and on behalf of each Scheme Participant) that in consideration of the transfer to Cyan of each Scheme Share held by a Scheme Participant under the terms of the Scheme, Cyan will on the Implementation Date:
  - (i) provide the Scheme Consideration to each Scheme Participant; and
  - (ii) accept that transfer of the Scheme Shares,
 in accordance with the terms of the Scheme and Deed Poll.
- (b) The parties acknowledges that the undertaking by Cyan in clause 4.3(a) is given to MMA in its own right and in its capacity as trustee and nominee for each Scheme Participant.

### 4.4 Deed Poll

Cyan covenants in favour of MMA (in MMA's own right and in its capacity as trustee and nominee for each Scheme Participant) to execute and deliver to MMA the Deed Poll on the Execution Date.

### 4.5 No withholding

- (a) Subject to clauses 4.5(b) to 4.5(g), Cyan must make all payments that become due under or in respect of the Scheme free and clear and without deduction of all present and future withholdings (including taxes or duties).
- (b) The parties acknowledge that they anticipate that none of the Scheme Shares held by Shareholders should comprise indirect Australian real property interests within section 855-25 of the Tax Act (on the basis that the 'principal asset test' referred to in section 855-25(1)(b) of the Tax Act should not be satisfied) and therefore Cyan should not be required by Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (Cth) (**Subdivision 14-D**) to pay an amount to the Commissioner of Taxation under section 14-200 in Subdivision 14-D (**CGT Withholding Amount**) in respect of the acquisition of Scheme Shares from certain Scheme Participants under the Transaction.
- (c) Notwithstanding clause 4.5(b), if Cyan is required by Subdivision 14-D to pay a CGT Withholding Amount in respect of the acquisition of Scheme Shares from certain

Scheme Participants, Cyan is permitted to deduct the relevant CGT Withholding Amount from the Scheme Consideration paid to those Scheme Participants, and remit such amounts to the Commissioner of Taxation. The aggregate sum payable to Scheme Participants by Cyan as Scheme Consideration will not be increased to reflect such deduction in respect of any CGT Withholding Amount and the net aggregate sum payable to those Scheme Participants shall be taken to be in full and final satisfaction of Cyan's obligation to pay the Scheme Consideration to those Scheme Participants.

- (d) Cyan acknowledges and agrees that it must not deduct from the Scheme Consideration or pay to the Commissioner of Taxation any amount on account of a CGT Withholding Amount under clause 4.5(c) with respect to a Scheme Participant where it has received an entity declaration from the Scheme Participant at least five Business Days prior to the Implementation Date (**Entity Declaration**) and:
- (i) the Entity Declaration is made in accordance with the requirements in section 14-225 of Subdivision 14-D and applies to a period that includes the Implementation Date; and
  - (ii) Cyan does not know that the Entity Declaration is false.
- (e) If Cyan forms the view that it knows that an Entity Declaration it has received from a person who could be, or is, a Scheme Participant (**Relevant Person**) is false, and Cyan received the Entity Declaration more than 30 days before the Implementation Date, Cyan agrees that it will not under clause 4.5(c) deduct from the Scheme Consideration or pay to the Commissioner of Taxation any amount on account of a CGT Withholding Amount in respect of that Relevant Person unless:
- (i) Cyan has, no fewer than 20 days before the Implementation Date, provided written notice to the Relevant Person who has provided that Entity Declaration detailing the information upon which it relied to form that view;
  - (ii) having provided the written notice referred to in clause 4.5(e)(i) to the Relevant Person, Cyan has provided that Relevant Person the opportunity to review the information in that notice and respond with its views on the matters set out in that notice by or before the date that is 10 days before the Implementation Date; and
  - (iii) the Relevant Person has either not responded to that notice by the time specified in clause 4.5(e)(ii), or has responded to that notice and Cyan, after having considered in good faith that response, continues to hold the view that it has knowledge that the Entity Declaration it has received from that Relevant Person is false.
- (f) MMA agrees that Cyan may approach the ATO to obtain clarification as to the application of Subdivision 14-D to the Transaction and, other than information which is subject to confidentiality restrictions or is competitively sensitive or privileged, will provide all information that Cyan reasonably requires for the purpose of making any such approach. Cyan agrees:
- (i) to provide MMA a reasonable opportunity to review the form and content of all materials to be provided to the ATO, and must incorporate MMA's reasonable comments on those materials, and take into account MMA's comments in relation to Cyan's engagement with the ATO, and provide MMA a reasonable opportunity to participate in any discussions and correspondence between Cyan and the ATO in connection with the application of Subdivision 14-D to the Transaction; and
  - (ii) not to contact any Shareholders in connection with the application of Subdivision 14-D to the Transaction without MMA's prior written consent.

- (g) The parties agree to consult with each other in good faith as to the application of Subdivision 14-D, including taking into account any clarification provided by the ATO following the process described in clause 4.5(f) in respect of any Shareholder.

## **5 Performance Rights**

---

- (a) MMA must take such action as is necessary after the Effective Date and prior to the Record Date to ensure that, by no later than the Record Date, there are no outstanding Performance Rights on issue as at the Record Date.
- (b) In order to comply with its obligations under clause 5(a), MMA may (without limitation):
- (i) accelerate the vesting of, or waive any vesting conditions or vesting periods applying to, any or all of the Performance Rights (subject to the proper exercise of the MMA Board's discretion);
  - (ii) make all necessary applications to the ASX for waivers of the Listing Rules (if required);
  - (iii) grant, issue or procure the issue or transfer of such number of Shares as required by the terms of relevant Performance Rights before the Record Date so that the holders of those Performance Rights can participate as Scheme Participants in the Scheme and receive the Scheme Consideration.
- (c) MMA must notify Cyan of the number of Shares that have been issued in accordance with clause 5(a) and clause 5(b) (if any), as soon as reasonably practicable after their issue.
- (d) For the avoidance of doubt, the parties agree that the exercise of any discretion by the MMA Board, or any other action, in connection with or which is otherwise undertaken in accordance with this clause 5 will not:
- (i) be a Prescribed Occurrence or Material Adverse Event (and will be excluded from any calculation of whether a Material Adverse Event has occurred, from time to time);
  - (ii) be a breach of, or non-compliance with, any provision of this deed;
  - (iii) give rise to a breach of any of the MMA Representations and Warranties;
  - (iv) give rise to any right for Cyan to terminate this deed;
  - (v) give rise to any obligation to pay the Break Fee Amount; and
  - (vi) give rise to any rights of Cyan against MMA pursuant to this deed.

## **6 Implementation of the Scheme**

---

### **6.1 Timetable**

- (a) Subject to clause 6.1(b), the parties must each use reasonable endeavours to achieve the Timetable.
- (b) Without expanding the circumstances where a breach of this deed occurs, the parties agree that any failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of this deed to the extent that such failure is:



- (i) due to circumstances and matters outside the party's control (including, for the avoidance of doubt, any delays caused by, or other acts or omissions of, a Regulatory Authority or the Independent Expert); or
  - (ii) due to MMA, the MMA Board, any MMA Director or another person taking or omitting to take any action in connection with, or due to any other matter relating to, an actual, proposed or potential Competing Proposal.
- (c) Each party must keep the other informed about their progress against the Timetable and notify the other party if it believes that any of the dates in the Timetable are not achievable.
- (d) To the extent that any of the dates or timeframes set out in the Timetable become unachievable due to matters outside of a party's control, the parties will consult in good faith to identify whether they can agree to any necessary extension to ensure such matters are completed within the shortest reasonable timeframe.

## 6.2 MMA's obligations

Subject to any change, withdrawal or modification of recommendation by the MMA Board (or by all or a majority of MMA Directors) that is permitted by clause 6.7(c), MMA must take all steps as reasonably necessary to propose and (subject to all of the Conditions Precedent being satisfied or waived in accordance with their terms) to implement the Scheme in accordance with (or earlier than provided in) the Timetable, and in particular MMA must:

- (a) **(Independent Expert)** as soon as reasonably practicable after the Execution Date, appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet (and any update to any such report) and any other materials to be prepared by the Independent Expert for inclusion in the Scheme Booklet (including any updates thereto);
- (b) **(Preparation of Scheme Booklet):**
  - (i) prepare the MMA Information in the Scheme Booklet in accordance with all applicable laws including the Corporations Act and Corporations Regulations, RG 60 and the Listing Rules and, subject to clause 6.3(a), include the Cyan Information in the Scheme Booklet; and
  - (ii) consult with Cyan as to the content and presentation of the Scheme Booklet, including:
    - (A) providing Cyan with drafts of the Scheme Booklet (accepting that any Cyan review of the Independent Expert's Report is limited to review for factual accuracy of those parts that include information relating to the Cyan Group);
    - (B) acting reasonably and in good faith, consider all reasonable comments from Cyan and its Representatives on those drafts when preparing revised drafts, provided that such comments are provided to MMA in a timely manner; and
    - (C) providing Cyan with a revised draft of the Scheme Booklet (accepting that any Cyan review of the Independent Expert's Report is limited to review for factual accuracy of those parts that include information relating to the Cyan Group) within a reasonable time before the draft of the Scheme Booklet which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act is finalised;
- (c) **(Confirmation of Cyan Information)** seek consent from Cyan for the form and context in which the Cyan Information appears in the Scheme Booklet (such consent not to be unreasonably withheld);

- (d) **(Lodgement of Regulator's Drafts):**
- (i) as soon as practicable, but by no later than 14 days before the First Court Date, provide a near final draft of the Scheme Booklet (**Regulator's Draft**) to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Cyan immediately thereafter; and
  - (ii) keep Cyan informed of any material issues raised by ASIC or ASX in relation to the Regulator's Draft or the Transaction and, where practical to do so, take into consideration any reasonable comments made by Cyan in relation any such matters raised by ASIC or ASX (provided that, where such issues relate to Cyan Information, MMA must not take any steps to address them without Cyan's prior written consent);
- (e) **(No objection statement)** apply to ASIC for the production of:
- (i) an indication of intent letter stating that it does not intend to appear before the Court on the First Court Date; and
  - (ii) a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (f) **(First Court Hearing)** apply to the Court for orders under section 411(1) of the Corporations Act directing MMA to convene the Scheme Meeting;
- (g) **(Approval and Registration of Scheme Booklet)** if the Court directs MMA to convene the Scheme Meeting, in accordance with section 412(6) of the Corporations Act, take all reasonable measures within MMA's control to cause that ASIC registers the Scheme Booklet;
- (h) **(Scheme Meeting)** as soon as reasonably practicable following registration of the Scheme Booklet with ASIC, convene the Scheme Meeting to seek Shareholders' approval of the Scheme in accordance with the orders made by the Court pursuant to subsection 411(1) of the Corporations Act;
- (i) **(Information)** subject to compliance with applicable laws, provide reasonable information about the Scheme, MMA, the MMA Group or Shareholders to Cyan and its Representatives, which Cyan requests and reasonably requires in order to:
- (i) canvass views on the Scheme by Shareholders; or
  - (ii) facilitate the provision by Cyan of the Scheme Consideration;
- (j) **(Supplementary Disclosure)** if, during the period commencing upon the despatch of the Scheme Booklet and ending on the Business Day immediately before the date of the Scheme Meeting, MMA becomes aware:
- (i) that any information included in the Scheme Booklet is or has become false, misleading or deceptive in any material respect or likely to mislead or deceive (whether by omission or otherwise); or
  - (ii) of information that is required to be disclosed to Shareholders in relation to the Scheme under any applicable law or having regard to RG 60 and is legally required to be included in the Scheme Booklet but was not included in it,

then MMA must promptly disclose such information to, and consult with, Cyan in good faith as to the need for, and form of, any supplementary disclosure to Shareholders, and (if necessary) seek the Court's approval for the despatch of any updated or supplementary Scheme Booklet;

- (k) **(Conditions Precedent Certificate)** at the Second Court Hearing, provide to the Court (through its counsel):
- (i) a certificate (signed for and on behalf of MMA) in the form of a deed confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent referred to in clause 3.1 as being the responsibility of MMA (whether solely or jointly), other than the Condition Precedent in clause 3.1(c) (Court Approval of Scheme), have been satisfied or waived in accordance with this deed, a draft of which certificate must be provided by MMA to Cyan by 4:00pm on the date that is two Business Days prior to the Second Court Hearing; and
  - (ii) any certificate provided to it by Cyan pursuant to clause 6.3(h);
- (l) **(Second Court Hearing)** if the Condition Precedent in clause 3.1(b) (Shareholder Approval) is satisfied in accordance with clause 3, and it can reasonably be expected that all of the Conditions Precedent (other than the Condition Precedent in clause 3.1(c) (Court Approval of Scheme)) will be satisfied or waived in accordance with this deed by 8:00am on the Second Court Date, apply to the Court for orders approving the Scheme as agreed to by Shareholders at the Scheme Meeting (and, if it becomes apparent that a Condition Precedent (other than the Condition Precedent in clause 3.1(c) (Court Approval of Scheme)) will not be satisfied or waived in accordance with this deed before 8:00am on that proposed Second Court Date, apply for an adjournment of that proposed Second Court Hearing to a date agreed by MMA and Cyan in writing in accordance with this clause 6.2(l), and if MMA and Cyan are not able to agree on the relevant date, MMA and Cyan agree that MMA will not be obliged to apply for any such adjournment);
- (m) **(Court Documents)** prepare relevant Court documents for the First Court Hearing and Second Court Hearing (including (as applicable) originating process, affidavits, submissions and draft minutes of Court orders), provide drafts of those documents to Cyan in a timely manner prior to filing those documents with the Court and, acting reasonably and in good faith, take into account all reasonable comments on, or reasonable suggested amendments to, those documents from Cyan and its Representatives, provided that such comments or suggested amendments are provided in a timely manner;
- (n) **(MMA Representation at Court Hearings)** procure that it is represented by counsel at the First Court Hearing and Second Court Hearing;
- (o) **(Cyan Representation at Court Hearings)** allow, and not oppose, any application by Cyan for leave of the Court to be represented by counsel at the First Court Hearing and Second Court Hearing (at Cyan's cost);
- (p) **(Extract Court Orders and notify ASX)** as soon as reasonably possible after conclusion of the Second Court Hearing obtain an office copy of any orders made by the Court under section 411(4)(b) of the Corporations Act approving the Scheme, and, promptly after receipt of these orders, notify ASX of MMA's intention to lodge the Court orders with ASIC the following Business Day;
- (q) **(Lodgement of Court Orders)** for the purposes of section 411(10) of the Corporations Act, lodge with ASIC an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving the Scheme by no later than 5:00pm on the Business Day following the day on which MMA receives such office copy;
- (r) **(Scheme Implementation)** if the Court makes orders under section 411(4) of the Corporations Act approving the Scheme:
- (i) determine the identity of each Scheme Participant and their entitlement to the Scheme Consideration as at the Record Date, including by taking up-to-date copies of the Share Register current as at the Record Date;

- (ii) provide to Cyan all information about the Scheme Participants that Cyan reasonably requires in order for Cyan to provide the Scheme Consideration to the Scheme Participants in accordance with the Scheme;
- (iii) execute one or more proper instruments of transfer of, and giving effect to and registering the transfer of, all Scheme Shares to Cyan on the Implementation Date subject to, and in accordance with, the Scheme; and
- (iv) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (s) **(Listing)** subject to clause 6.2(t), not do anything to cause the Shares to cease being quoted on the ASX or to become permanently suspended from quotation prior to Implementation, unless Cyan has agreed in writing or as otherwise results from any actions or omissions permitted by this deed;
- (t) **(Suspension of trading and delisting):**
  - (i) after the Court makes the orders under section 411(4)(b) of the Corporations Act approving the Scheme, apply to ASX to have trading in Shares suspended from the close of trading on the Effective Date; and
  - (ii) after the Implementation Date (on a date to be agreed with Cyan), apply to ASX to have MMA removed from the official list of ASX, and quotation of Shares on ASX terminated;
- (u) **(Proxy solicitation)** upon request by Cyan before the Scheme Meeting, MMA must retain a proxy solicitation services firm to assist MMA with the solicitation of votes at the Scheme Meeting (at Cyan's cost) and, in each case subject to compliance with applicable law, not less than once per week after despatch of the Scheme Booklet and daily in the 10 Business Days before the date of the Scheme Meeting, provide Cyan with the tally of proxy appointments and directions received by MMA before the Scheme Meeting; and
- (v) **(Compliance with Laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy.

### 6.3 Cyan's obligations

Cyan must take all steps to implement the Scheme in accordance with (or earlier than provided in) the Timetable, and in particular Cyan must:

- (a) **(Prepare Cyan Information)**
  - (i) prepare in a timely manner and promptly provide to MMA the Cyan Information for inclusion in the Scheme Booklet in accordance with all applicable laws (including the Corporations Act and Corporations Regulations, RG 60 and the Listing Rules); and
  - (ii) provide MMA (and, as requested by the Independent Expert, provide the Independent Expert) with drafts of the Cyan Information in a timely manner and, acting reasonably and in good faith, take into account all reasonable comments from MMA, the Independent Expert and their respective Representatives on those drafts, provided that such comments are provided to Cyan in a timely manner;
- (b) **(Assistance with Scheme Booklet and Court documents)** provide any assistance or information reasonably requested by MMA or its Representatives in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to Shareholders) or any Court documents, including reviewing the drafts of the Scheme Booklet and provide comments in a timely manner on those drafts in good

faith and procuring any affidavit and oral evidence necessary to progress the Scheme;

- (c) **(Independent Expert's Report)** subject to the Independent Expert entering into arrangements with Cyan, including in relation to confidentiality in a form reasonably acceptable to Cyan (acting reasonably), provide any assistance or information reasonably requested by MMA or its Representatives, or by the Independent Expert or its Representatives, in connection with the preparation of the Independent Expert's Report (and any update or variation to any such report) and any other materials to be prepared by the Independent Expert for inclusion in the Scheme Booklet (including any updates thereto);
- (d) **(Representation)** procure that it is represented by counsel at the First Court Hearing and at the Second Court Hearing for the purposes of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act;
- (e) **(Deed Poll)** on the Execution Date, execute and deliver to MMA the Deed Poll and Cyan must subsequently comply with its obligations under the Deed Poll;
- (f) **(Update Cyan Information)** until the date of the Scheme Meeting, promptly advise MMA in writing if it becomes aware:
  - (i) of information which should have been but was not included in the Cyan Information in the Scheme Booklet (including if known at the time), and promptly provide MMA with the omitted information;
  - (ii) of new information which was not included in the Cyan Information in the Scheme Booklet, but if it had been known at the time of preparation of the Scheme Booklet should have been included in the Cyan Information in the Scheme Booklet, and promptly provide MMA with the omitted information; or
  - (iii) that the Cyan Information in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise), and promptly provide MMA with any information required to correct such misleading or deceptive statements;
- (g) **(confirmation of Cyan Information)** before a draft of the Scheme Booklet is lodged with ASIC, and again before the Scheme Booklet is despatched to Shareholders, and no later than two Business Days after MMA requests that Cyan does so, confirm in writing to MMA that Cyan consents to the inclusion of the Cyan Information in the Scheme Booklet, in the form and context in which the Cyan Information appears (and procure that any other relevant Cyan Group Member does the equivalent);
- (h) **(Conditions Precedent Certificate)** by 8:00am on the Second Court Date, provide to MMA for provision to the Court at the Second Court Hearing a certificate (signed for and on behalf of Cyan) in the form of a deed confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent referred to in clause 3.1 as being the responsibility of Cyan (whether solely or jointly), other than the Condition Precedent in clause 3.1(c) (Court Approval of Scheme), have been satisfied or waived in accordance with this deed, a draft of which certificate must be provided to MMA by 5:00pm on the day that is two Business Days prior to the Second Court Date;
- (i) **(Scheme Consideration)** if the Scheme becomes Effective, provide the Scheme Consideration in the manner and in the amount contemplated by clause 4 of this deed, the terms of the Scheme and the Deed Poll;
- (j) **(Share Transfer)** if the Scheme becomes Effective, accept a transfer of the Scheme Shares as contemplated by clause 4.1 and execute instruments of transfer in respect of the Scheme Shares in accordance with the Scheme; and
- (k) **(Compliance with Laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy.

#### 6.4 Scheme Booklet

- (a) If the parties disagree on the form or content of the Scheme Booklet, they must consult in good faith to try and settle and agree the form of the Scheme Booklet.
- (b) If after five Business Days of consultation under clause 6.4(a) the parties are unable to agree on the form or content of a particular part of the Scheme Booklet, then:
  - (i) if the relevant part of the Scheme Booklet is Cyan Information, MMA will make such amendments to that part of the Scheme Booklet (other than the Independent Expert's Report) as required by Cyan (acting reasonably and in good faith); and
  - (ii) in any other case, MMA (acting reasonably and in good faith) will decide the form and content of that part of the Scheme Booklet.
- (c) The parties agree that the Scheme Booklet will contain a responsibility statement to the effect that:
  - (i) MMA is responsible for the MMA Information contained in the Scheme Booklet;
  - (ii) Cyan is responsible for the Cyan Information contained in the Scheme Booklet;
  - (iii) (as applicable) the Independent Expert is responsible for the Independent Expert's Report and none of MMA, Cyan or their respective directors or officers assume any responsibility for the accuracy or completeness of the Independent Expert's Report or any other report or letter issued to MMA by a Third Party in connection with the Independent Expert's Report; and
  - (iv) (if the Scheme Booklet contains a tax opinion from a named tax adviser) that the named tax adviser is responsible for such tax opinion.
- (d) MMA must undertake appropriate due diligence and verification processes for the MMA Information to confirm the accuracy of that information and ensure (insofar as the MMA Information is concerned) the Scheme Booklet is not false, misleading or deceptive in any material respect or likely to mislead or deceive (whether by omission or otherwise) in any material respect.
- (e) Cyan must undertake appropriate due diligence and verification processes for the Cyan Information to confirm the accuracy of that information and ensure (insofar as the Cyan Information is concerned) the Scheme Booklet is not false, misleading or deceptive in any material respect or likely to mislead or deceive (whether by omission or otherwise) in any material respect.

#### 6.5 Access

- (a) Subject to clauses 6.5(c) and 6.5(d), between the Execution Date and the Implementation Date, each party must, provide the other party and its Representatives with reasonable access to its Representatives and documents, records, and other information reasonably requested by the other party or its Representatives, which the other party reasonably requires for the purpose of:
  - (i) the implementation of the Transaction and satisfying any of the Conditions Precedent;
  - (ii) obtaining an understanding, or furthering its understanding, of the MMA Group or its business, financial position, prospects or assets in order to allow Cyan to develop, finalise and implement its plan for the MMA Group following implementation of the Transaction;

- (iii) keeping that other party informed of material developments relating to the first party and its Subsidiaries; or
  - (iv) any other purpose that is agreed between the parties.
- (b) Each party must provide the other party with reasonable notice of any request for information or access and comply with the reasonable requirements of the other party in relation to any access granted.
- (c) Nothing in this clause 6.5 shall require a party to provide any information:
- (i) which would result in undue disruption to that party's (or its Subsidiaries') business;
  - (ii) in breach of an obligation of confidentiality to any person;
  - (iii) that will result in it breaching any applicable laws, regulatory requirement, authorisation or court order;
  - (iv) which contains or constitutes confidential, competitively sensitive or privileged information; or
  - (v) concerning consideration of the Scheme, the Transaction or any actual, proposed or potential Competing Proposal.
- (d) Each party agrees, and agrees to procure that its Representatives agree, to comply with the other party's reasonable requirements in relation to access provided by that other party pursuant to this clause 6.5 (including allowing oversight and participation by that other party's Representatives).

#### 6.6 Appointment of MMA Group Member directors

On the Implementation Date, but subject to the Scheme Consideration having been provided to Scheme Participants in accordance with the Scheme, MMA must:

- (a) cause the appointment to the MMA Board of such persons as were nominated by Cyan by written notice to MMA at least two Business Days prior to the Implementation Date, subject to those persons being appointed each having first provided to MMA a duly signed consent to act as a director of MMA and with each appointment becoming effective upon Implementation;
- (b) use reasonable endeavours to procure that the directors of the MMA Board which Cyan nominated for resignation by written notice to MMA at least two Business Days prior to the Implementation Date resign from the MMA Board effective immediately after Implementation; and
- (c) use reasonable endeavours to take all reasonable actions necessary to appoint or remove the persons nominated by Cyan in accordance with paragraphs (a) and (b) above.

#### 6.7 MMA Directors' recommendation

- (a) MMA represents and warrants to Cyan that as at the Execution Date each MMA Director has provided confirmation to MMA that:
  - (i) they recommend that Shareholders vote in favour of the Scheme at the Scheme Meeting; and
  - (ii) they intend to vote, or cause to be voted, all Shares they hold or control in favour of the Scheme at the Scheme Meeting,

in each case, in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Shareholders.

- (b) MMA must use reasonable endeavours during the Exclusivity Period to procure that, except to the extent that any one or more of the circumstances in clauses 6.7(c)(i) to 6.7(c)(iii) (inclusive) apply, the MMA Directors:
- (i) unanimously recommend that Shareholders vote in favour of the Scheme at the Scheme Meeting in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Shareholders; and
  - (ii) intend to vote, or cause to be voted, all Shares they hold or control in favour of the Scheme at the Scheme Meeting in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Shareholders,

and that the Scheme Booklet and any material public statement relating to the Transaction includes statements by the MMA Board and the MMA Directors (as applicable) to that effect or (as applicable) such equivalent statements which account for the Independent Expert having already issued its Independent Expert's Report.

- (c) MMA must use its reasonable endeavours to procure that the MMA Board collectively, and the MMA Directors individually, do not adversely change, withdraw or modify (including by making any public statement supporting, endorsing or recommending a Competing Proposal and/or to the effect that an MMA Director no longer supports the Scheme) its or their recommendation to Shareholders to vote in favour of the Scheme or their voting intentions unless:
- (i) the Independent Expert provides:
    - (A) a report to MMA that concludes (such as the Independent Expert's Report); or
    - (B) any replacement or update of, or any revision, amendment or supplement to, any such report, which replacement, update, revision, amendment or supplement concludes,
 

that the Scheme is not in the best interests of Shareholders (and if this conclusion of the Independent Expert has been determined by the Independent Expert based on a Competing Proposal, after completion of the matching right process set out in clause 8.7);
  - (ii) MMA has received a Competing Proposal and the MMA Board has determined that the Competing Proposal is, or could reasonably be expected to become or lead to, a Superior Proposal (including after completion of the matching right process set out in clause 8.7); or
  - (iii) an Abstain Requirement applies.
- (d) Despite any provision in this deed, a qualification contained in the Scheme Booklet or any public announcements or other documents relating to the Transaction to the recommendation by the MMA Board or any MMA Director to Shareholders to vote in favour of the Scheme by words to the effect of:
- (i) in respect of a public announcement or other document issued before the issue of the Scheme Booklet, 'in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's



Report (and continuing to conclude) that the Scheme is in the best interests of Shareholders'; or

- (ii) in respect of the Scheme Booklet or a public announcement or other document issued at or after the issue of the Scheme Booklet, 'in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Shareholders',

will not be regarded as a failure to make, or a change, withdrawal, modification or qualification of, a recommendation in favour of the Scheme.

- (e) Despite any provision in this deed, a statement by MMA, the MMA Board or any MMA Director to the effect that (or a similar statement):

- (i) the MMA Board or one or more MMA Directors has determined that a Competing Proposal is a Superior Proposal and commenced the matching right process set out in clause 8.7; or
- (ii) Shareholders should take no action pending the completion of the matching right process set out in clause 8.7,

does not of itself:

- (iii) constitute a change, withdrawal, modification or qualification of the recommendation by any MMA Director, or the MMA Board, or an endorsement of a Competing Proposal;
- (iv) give rise to a breach of, or non-compliance with, any provision of this deed;
- (v) give rise to a breach of any of the MMA Representations and Warranties;
- (vi) give rise to any right for Cyan to terminate this deed;
- (vii) trigger any liability of MMA;
- (viii) give rise to any obligation to pay the Break Fee Amount; or
- (ix) give rise to any rights of Cyan against MMA pursuant to this deed.

## 6.8 Debt financing arrangements

- (a) The parties acknowledge that Cyan may attempt to arrange third party debt financing for the purpose of funding the Transaction (the **Debt Financing**) and, if Cyan so chooses to seek the Debt Financing prior to the Implementation Date, subject to confidentiality arrangements acceptable to MMA (acting reasonably) and subject to compliance with applicable law and stock exchange rules, MMA agrees to provide reasonable assistance, in connection with any such Debt Financing, as may be requested in writing by Cyan, including using reasonable endeavours to:
  - (i) provide any documentation and other information with respect to the MMA Group reasonably required by financiers or bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, as required to satisfy the conditions of the Debt Financing;
  - (ii) promptly provide Cyan and its financing sources with such financial and operating data and other information with respect to the MMA Group as is reasonably requested by Cyan or the financiers in respect of the Debt Financing; and
  - (iii) providing reasonable assistance to Cyan to satisfy any of its reasonable obligations or any reasonable conditions of any financing to the extent it is within its reasonable control,

provided that no MMA Group Member will be required to enter into any agreement or (other than the existing remuneration of its employees) incur any liability in connection with any Debt Financing prior to Implementation of the Scheme that is not indemnified by Cyan.

- (b) Nothing in this clause 6.8 will require any MMA Group Member to do anything to the extent that it would:
- (i) unreasonably interfere with the ongoing business or operations of any MMA Group Member (having regard to, among other things, the reasonableness of the notice given to MMA by Cyan pursuant to this clause);
  - (ii) result in a breach of a contract, agreement, arrangement or commitment to which a member of the MMA Group is a party;
  - (iii) involve financial assistance pursuant to section 260A of the Corporations Act or otherwise require the approval of shareholders of any MMA Group Member under section 260B of the Corporations Act or an equivalent or analogous restriction in any jurisdiction or under the rules of any stock exchange or require the board of directors of any MMA Group Member to approve the granting of financial assistance by any member of the MMA Group;
  - (iv) require any MMA Group Member (or any Representative of any MMA Group Member) to execute prior to Implementation any agreements, including any credit or other agreements, pledge or security documents or other certificates, legal opinions or documents in connection with any Debt Financing;
  - (v) involve, or potentially trigger, any amendment, assignment or termination of any contract, agreement, arrangement or commitment to which a member of the MMA Group is a party;
  - (vi) result in a breach of an obligation of confidentiality to any person;
  - (vii) result in a breach of any applicable laws, stock exchange rules, constituent documents, regulatory requirement, authorisation or court order;
  - (viii) cause any Condition Precedent to not be satisfied or otherwise cause a breach of this deed;
  - (ix) involve disclosure of, or compromise, any competitively sensitive or privileged information; or
  - (x) involve disclosure of, or compromise, any information concerning consideration of any actual, proposed or potential Competing Proposal.
- (c) Cyan must promptly reimburse MMA for all reasonable and documented costs incurred by any MMA Group Member in connection with any cooperation provided under this clause 6.8 (including reasonable advisers' fees and expenses).
- (d) Between the Execution Date and the Implementation Date, MMA must:
- (i) use all reasonable endeavours to facilitate liaison between Cyan and all existing financiers, noteholders, transaction banking and derivative instrument counterparties of the MMA Group for the purposes of Cyan notifying and discussing change of control procedures and post-acquisition financing related matters with those financiers; and
  - (ii) provide reasonable assistance requested by Cyan in connection with discussing the repayment after Implementation and in the case of transaction banking and ordinary course derivative transactions, at the request of Cyan, discussing continuation of those financing arrangements on or after the Implementation Date and the efficient termination (or continuation as the case

may be) of their existing financing arrangements with MMA Group Members with effect from after the Implementation Date (including as to the release of any existing Permitted Encumbrances held by those counterparties over MMA Group Members).

- (e) Without limiting paragraph (d) above, MMA must provide reasonable assistance requested by Cyan in connection with the orderly transition after Implementation of any existing bank guarantee, guarantee, letter of credit, performance bond or similar instrument issued to any person at the request or direction of any MMA Group Member (**Instrument**), including:
  - (i) providing details of existing Instruments to Cyan; and
  - (ii) communicating with and providing information to the issuers of the Instruments to facilitate the replacement, cash backing or other arrangement for the transition of those Instruments after Implementation in connection with the Transaction.
- (f) For the avoidance of doubt, the parties agree that a breach of this clause 6.8 will not give rise to any right to terminate this deed under clause 14.1.
- (g) Cyan indemnifies, and holds harmless, MMA (in MMA's own right and separately as trustee or nominee for each MMA Indemnified Party) against any Claim of whatever nature and however arising, suffered or incurred by any of them in connection with any third party Claim related to Debt Financing undertaken by or on behalf of any Cyan Group Member and any information utilised in connection with any Debt Financing undertaken by or on behalf of any Cyan Group Member, in each case other than remuneration of its employees or to the extent any of the foregoing arises from the fraud of MMA or of the MMA Indemnified Party.

## **7 Conduct of business and change of control consents**

---

### **7.1 Conduct of business**

- (a) Subject to clause 7.1(b), from the Execution Date up to and including the earlier to occur of the date of termination of this deed in accordance with its terms or the Implementation Date, MMA must (and must procure that each other MMA Group Member):
  - (i) conduct the businesses and operations of the MMA Group in the ordinary and usual course generally consistent with the manner in which such businesses and operations have been conducted in the 12-month period prior to the Execution Date;
  - (ii) keep Cyan reasonably informed of material developments concerning the conduct of the MMA Group's business, assets, operations, insurance and financial affairs;
  - (iii) not enter into, dispose of or acquire, any line of business in which the MMA Group is not engaged as at the Execution Date;
  - (iv) use reasonable endeavours to ensure that no Prescribed Occurrence occurs;
  - (v) use reasonable endeavours, and (to the extent within its power to do so) procure that each other MMA Group Member uses reasonable endeavours, to:
    - (A) maintain the value of the MMA Group's businesses and assets;

- (B) maintain their relationships with Regulatory Authorities, customers, suppliers, landlords, licensors, licensees and others having material business dealings with the MMA Group; and
- (C) comply with applicable laws and the Listing Rules and Material Contracts of the MMA Group (as applicable);
- (vi) not acquire or dispose of, agree to acquire or dispose of, or announce or propose a bid, or tender for, any business, material assets, entity or undertaking, other than in the ordinary course of carrying on its business;
- (vii) not provide financial accommodation (irrespective of what form of Financial Indebtedness that accommodation takes), other than to a member of the MMA Group or any entity partly owned by the MMA Group in the ordinary course;
- (viii) not waive any Third Party default where the financial impact of the waiver on the MMA Group as a whole will, or would be more likely than not to be, in excess of \$2 million individually or \$10 million in aggregate;
- (ix) not:
- (A) enter into any contract or commitment (including in respect of Financial Indebtedness) requiring payments by the MMA Group in excess of \$2 million individually or \$10 million in aggregate over the term of the contract or commitment other than any payment required by law, in the ordinary course of business, Fairly Disclosed in the Disclosure Materials, or which is otherwise permitted by this deed or any payment pursuant to any contract or commitment relating to capital expenditure which is dealt with in paragraph (B) below;
- (B) other than as Fairly Disclosed in the Disclosure Materials or as otherwise permitted by this deed,
- (I) agree to incur or incur Growth Capital Expenditure of more than \$5 million; or
- (II) agree to incur or incur unscheduled Maintenance Capital Expenditure of more than \$5 million;
- (C) obtain any bank guarantee in respect of the MMA Group other than as consented to by Cyan (such consent not to be unreasonably withheld or delayed more than five Business Days from the date of any request from MMA); or
- (D) terminate or amend in a material manner any contract material to the conduct of the MMA Group's business or which involves revenue or requires expenditure of more than \$2 million individually or \$10 million in aggregate over the term of the contract, other than in the ordinary course of business,
- but excluding for the avoidance of doubt any actions in paragraphs (A) to (C) (inclusive) of this paragraph which are also contemplated by any of paragraphs 7.1(a)(vi), 7.1(a)(vii) or 7.1(a)(viii) above;
- (x) not compromise or settle any legal proceedings, claim, investigation, arbitration or like proceeding (or series of related legal proceedings, claims, investigations, arbitrations or like proceedings) where the claimed or settlement amount (or, in the case of a series of related legal proceedings, claims, investigations, arbitrations or like proceedings, aggregate claimed or settlement amount) is in excess of \$2.5 million, other than as claimant in

respect of the collection of trade debts in the ordinary course of MMA Group's business;

- (xi) maintain (and where necessary, use reasonable efforts to renew) each of its Authorisations that are material to the operations of the MMA Group, promptly notify Cyan if any such renewal is refused by a relevant Regulatory Authority or if a member of the MMA Group receives any notice of termination, revocation or material adverse variation of any Authorisation issued or granted to a MMA Group Member;
  - (xii) maintain (and where necessary, use reasonable efforts to renew) insurance materially consistent with the insurance held by the MMA Group in force at the Execution Date and promptly notify Cyan if any insurance which is material to the operations of the MMA Group is not accepted for renewal by the relevant insurer;
  - (xiii) promptly notify Cyan of any notice or other communication from any Regulatory Authority or counterparty to any Material Contract alleging that the consent (or waiver, permit, exemption, order, approval, agreement or confirmation) of that person (or another person) is or may be required in connection with this deed or the Transaction; and
  - (xiv) subject to compliance with applicable laws, provide to Cyan and/or its Affiliates a copy of the register of information that is required to be maintained by MMA in accordance with section 672DA of the Corporations Act, each time an updated copy of such register is received by MMA.
- (b) Nothing in clause 7.1 restricts or prevents any MMA Group Member from taking any action:
- (i) which is required or permitted by this deed or the Scheme;
  - (ii) which is agreed to in writing by Cyan (which agreement must not be unreasonably withheld or delayed more than five Business Days from the date of the request from MMA);
  - (iii) which is required by any applicable law, stock exchange rule, regulation or contract (provided the contract was entered into prior to the Execution Date) or by a Regulatory Authority;
  - (iv) which is Fairly Disclosed in the Disclosure Materials (including as being an action that the MMA Group will or may carry out between (and including) the Execution Date and the End Date);
  - (v) which is Fairly Disclosed in the 24 months prior to the Execution Date in an announcement made by MMA to ASX, or in a publicly available document lodged by an MMA Group Member with ASIC (or with any Foreign Corporate Regulatory Authority within a jurisdiction in which an MMA Group Member is incorporated);
  - (vi) to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property, or a disease epidemic or pandemic, affecting the business of MMA or an MMA Group Member;
  - (vii) to reasonably and prudently respond to changes in market conditions affecting the business of MMA or another MMA Group Member;
  - (viii) to reasonably and prudently respond to regulatory or legislative changes (including without limitation changes to subordinate legislation) affecting the business of MMA or another MMA Group Member to a material extent;

- (ix) which is necessary in order for MMA to avoid a breach of a contractual obligation or to avoid a Material Adverse Event or a Prescribed Occurrence; or
- (x) which is undertaken as permitted by clause 8.

## 7.2 Change of control consents

As soon as practicable after the Execution Date, MMA and Cyan must seek to identify in the Material Contracts any:

- (a) change of control consent requirements which benefit parties to Material Contracts who are not MMA Group Members; or
- (b) contractual termination rights exercisable unilaterally by parties to Material Contracts who are not MMA Group Members,

which may be triggered by or exercised in response to Implementation. In respect of those contracts:

- (c) MMA and Cyan will use their reasonable endeavours to agree a proposed course of action (which, among other things, will have due regard to applicable legal restrictions) and then (if agreed and applicable) MMA will initiate contact, including joint discussions if required, with any relevant counterparties to relevant Material Contracts and request that they provide any such consents or confirmations required or appropriate;
- (d) if required pursuant to clause 7.2(c), MMA must request in writing to the relevant counterparties, prior to the Second Court Date, any such required consents or confirmations identified before the Second Court Date pursuant to clause 7.2(c) (but the parties agree that a failure by MMA or any other MMA Group Member to obtain any required consents or confirmations, or the exercise of a termination right (or other right) by a relevant counterparty, will not constitute a breach of this deed by MMA and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this deed);
- (e) Cyan must procure that no Cyan Group Member (nor any Representative of a Cyan Group Member) contacts any counterparty to a Material Contract to discuss the Transaction, this deed or any related matter without prior written consent of MMA; and
- (f) Cyan must cooperate with, and provide reasonable assistance to MMA, to obtain such written consents or other confirmations, including by promptly providing any information reasonably required by counterparties,

but nothing in this clause 7.2:

- (g) obligates MMA to compromise or forfeit any rights or entitlements pursuant to any Material Contract;
- (h) obligates MMA to amend, assign or terminate any Material Contract (or to take any other action adverse to MMA); or
- (i) requires MMA or Cyan to incur material expense.

## 8 Exclusivity

---

### 8.1 No continuing discussions

MMA represents and warrants that, separate to the discussions with Cyan Group Members or Representatives of Cyan Group Members in respect of the Scheme or matters and discussions pursuant to the Confidentiality Deed, as at the Execution Date:

- (a) MMA is not a party to any agreement, arrangement or understanding with any Third Party in respect of any Competing Proposal;
- (b) MMA is not, directly or indirectly, participating in any negotiations or discussions that concern or that could reasonably be expected to lead to, any actual, proposed or potential Competing Proposal; and
- (c) any due diligence access granted to any Third Party for the purposes of such Third Party making, formulating, developing or finalising, or assisting in the making, formulation, development or finalisation of, a Competing Proposal has been terminated,

except that (and for the avoidance of doubt) this clause is not breached by any matters Fairly Disclosed in the Disclosure Materials.

## 8.2 **No-shop**

During the Exclusivity Period, MMA must ensure that neither it nor any of its Representatives, directly or indirectly:

- (a) solicits, invites, encourages or initiates any enquiries, negotiations, proposals or discussions or other communication; or
- (b) communicates to any person an intention to do any of these things,

with any Third Party in relation to, or that may reasonably be expected to lead to the making of a Competing Proposal.

## 8.3 **No-talk**

Subject to clause 8.13, during the Exclusivity Period, MMA must ensure that neither it nor any of its Representatives, directly or indirectly:

- (a) facilitates, negotiates or accepts or enters into or agrees to negotiate, accept or enter into; or
- (b) facilitates, participates or continues in negotiations or discussions with any Third Party regarding,

a Competing Proposal or any agreement, proposal, understanding or arrangement that may be reasonably expected to lead to a Competing Proposal, even if that Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by MMA or any of its Representatives or the Third Party proposing the Competing Proposal has publicly announced the Competing Proposal.

## 8.4 **Due diligence information**

Without limiting the general nature of clause 8.3, but subject to clause 8.13, during the Exclusivity Period, MMA must ensure that neither it nor any of its Representatives, directly or indirectly:

- (a) enables any Third Party to undertake due diligence investigations on any MMA Group Member or their businesses or operations, in connection with, or which would reasonably be expected to lead to such Third Party formulating, developing or finalising or assisting in the formulation, development or finalisation or announcement of a Competing Proposal; or
- (b) discloses or otherwise makes available to any Third Party, or permits any Third Party to receive (in the course of due diligence investigations or otherwise) any material non-public information relating to the business or operations of any MMA Group Member, in connection with, or which would reasonably be expected to lead to a Third

Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.

#### 8.5 Response to approaches

Notwithstanding the other provisions of this clause 8, nothing in this deed prevents or restricts any MMA Group Member, or any Representative of any MMA Group Member, from responding to a Third Party in respect of an inquiry, expression of interest, offer, proposal or discussion by that Third Party to make, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Proposal to merely:

- (a) acknowledge receipt; and
- (b) advise that Third Party that MMA is bound by the provisions of this deed,

and none of the above matters will constitute a breach of any provision of this deed by MMA.

#### 8.6 Notification of unsolicited approach

- (a) During the Exclusivity Period, MMA must promptly (and in any event within two Business Days of when MMA becomes aware of the same) notify Cyan in writing if during the Exclusivity Period it, any other MMA Group Member or any of their respective Representatives:
  - (i) receives any approaches or proposals in connection with, or in respect of any exploration or completion of, an actual, proposed or potential Competing Proposal;
  - (ii) receives any requests for the provision of non-public information relating to any MMA Group Member or any of their businesses or operations in respect of any exploration or completion of, an actual, proposed or potential Competing Proposal; or
  - (iii) provides any material non-public information concerning the business or operations of MMA or the MMA Group to any Third Party in connection with an actual, proposed or potential Competing Proposal,

whether direct or indirect, solicited or unsolicited and in writing or otherwise.

- (b) Subject to clause 8.13, a notification given under clause 8.6(a) must also include the identity of the proponent of the Competing Proposal and material terms and conditions of the actual, proposed or potential Competing Proposal (including price and form of consideration, conditions precedent, deal protection requirements, break fees and timetable), in each case to the extent known by the MMA Group or its Representatives.
- (c) During the Exclusivity Period, MMA must promptly (and in any event within two Business Days) give to Cyan any non-public information relating to any member of the MMA Group or their businesses or operations which an MMA Group Member or its Representatives provides (during the Exclusivity Period) to any person with respect to any Competing Proposal in reliance on clause 8.13 that has not already been provided or made available to Cyan (including in the Disclosure Materials or pursuant to clause 6.5).

#### 8.7 Matching right

During the Exclusivity Period, MMA must not, and must procure that other MMA Group Members do not, enter into any legally binding agreement, arrangement or understanding, whether or not in writing, committing to implement an actual, proposed or potential Competing Proposal unless:



- (a) the MMA Board determines, after consultation with external financial and legal advisers, that the actual, proposed or potential Competing Proposal is, or could reasonably be expected to become or lead to, a Superior Proposal;
- (b) MMA has provided Cyan with the information required to be given to Cyan pursuant to clause 8.6 (to the extent applicable) in respect of the actual, proposed or potential Competing Proposal;
- (c) MMA has given Cyan at least five Business Days after the date of the provision of the information referred to in clause 8.7(b) (**Relevant Period**) to provide a matching or superior proposal to the terms of the actual, proposed or potential Competing Proposal; and
- (d) either:
  - (i) Cyan has not provided a Cyan Counterproposal to MMA within the Relevant Period; or
  - (ii) Cyan has provided a Cyan Counterproposal to MMA within the Relevant Period, but MMA and Cyan have not (despite MMA complying with clause 8.8(a)) agreed the amendments to this deed and, if applicable, the Scheme and Deed Poll pursuant to clause 8.8(a) within three Business Days after MMA receives the Cyan Counterproposal,

in which case any one or more MMA Group Members may (without MMA being deemed to have breached any provision of this deed) enter into any such legally binding agreement, arrangement or understanding and the MMA Board (and each MMA Director) may make any public statement they wish, including in relation to the actual, proposed or potential Competing Proposal (including recommendations to Shareholders), without MMA being deemed to have breached any provision of this deed.

#### 8.8 **Cyan Counterproposal**

If Cyan proposes to MMA amendments to the Scheme or a new proposal that would in the opinion of the MMA Board (acting in good faith) constitute a matching or superior proposal to the terms of the actual, proposed or potential Competing Proposal (**Cyan Counterproposal**) by the expiry of the Relevant Period, then:

- (a) MMA and Cyan must use reasonable endeavours to agree the amendments to this deed and, if applicable, the Scheme and Deed Poll that are reasonably necessary to reflect the Cyan Counterproposal and to implement the Cyan Counterproposal, in each case as soon as reasonably practicable; and
- (b) provided such agreement is reached, MMA must (except to the extent that any one or more of the circumstances in clauses 6.7(c)(i) to 6.7(c)(iii) (inclusive) apply) use its reasonable endeavours to procure that each of the MMA Directors continues to recommend the Scheme (as modified by the Cyan Counterproposal) to Shareholders (in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme (as modified by the Cyan Counterproposal) is in the best interests of Shareholders), and not the applicable Competing Proposal.

#### 8.9 **Material modifications of Competing Proposal**

Each successive material modification to the terms of any Competing Proposal will constitute a new Competing Proposal for the purposes of clauses 8.6 to 8.8 and clauses 8.6 to 8.8 will apply in respect of any new Competing Proposal.

#### 8.10 **Legal advice**

MMA represents and warrants that it has received legal advice from its legal advisers on the operation of this clause 8.

**8.11 Compliance with law**

- (a) If it is finally determined by a court, or the Takeovers Panel, that the agreement by the parties under this clause 8 or any part of it:
- (i) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the MMA Board;
  - (ii) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
  - (iii) was, or is, or would be, unlawful for any other reason,
- then, only to the extent determined by the court or Takeovers Panel, MMA will not be obliged to comply with that part of the provision of clause 8, and such non-compliance will not constitute a breach of any provision of this deed by MMA.
- (b) Each party must not make any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 8.11.

**8.12 Usual provision of information**

Notwithstanding the other provisions of this clause 8, nothing in this deed prevents MMA or any of its Representatives from:

- (a) providing any information to any MMA Group Member or to any Representative of an MMA Group Member;
- (b) providing any information to any Regulatory Authority;
- (c) providing any information required to be provided by any applicable law, the Listing Rules or any Regulatory Authority;
- (d) providing any information to its auditors, customers, financiers, joint venturers, suppliers and other persons, in the ordinary course of business; and
- (e) making presentations to, or responding to enquiries from, brokers, portfolio investors, analysts and other third parties, and engaging with financiers and potential financiers in the ordinary course of business or promoting the merits of the Scheme or the MMA Group's business generally,

and none of the above matters will constitute a breach of any provision of this deed by MMA.

**8.13 Fiduciary and other carve-out**

- (a) Clauses 8.3 and 8.4 do not apply to the extent that they restrict MMA, the MMA Board or any Representative of MMA from taking or refusing to take any action with respect to an actual, proposed or potential Competing Proposal if the MMA Board determines:
- (i) after consultation with external financial and legal advisers, that the actual, proposed or potential Competing Proposal is, or could reasonably be expected to become or lead to, a Superior Proposal; and
  - (ii) after receiving written advice from external legal advisers, that (as applicable) failing to respond to the actual, proposed or potential Competing Proposal or otherwise complying with one or both of those clauses in respect of the actual, proposed or potential Competing Proposal would, or would be reasonably likely to, constitute a breach of any of the fiduciary or statutory duties of the MMA Directors,

provided that the actual, proposed or potential Competing Proposal was not directly or indirectly brought about by, or facilitated by, a breach of clause 8.2.

- (b) The obligations in clause 8.6(b), do not apply to the extent that the MMA Board determines, after receiving written advice from external legal advisers, that complying with one or more such obligations in respect of the Competing Proposal would, or would be reasonably likely to, constitute a breach of any of the fiduciary or statutory duties of the MMA Directors.

## 9 Break Fee

---

### 9.1 Break Fee

#### (a) Background

Cyan represents and warrants to MMA that it would not have entered into this deed or otherwise agreed to implement the Scheme without the benefit of this clause 9.1 and it would not have entered into and continued the negotiations unless Cyan had a reasonable expectation that MMA would agree to enter into a clause of this kind.

#### (b) Acknowledgments

- (i) The fee payable under clause 9.1(d) has been calculated to reimburse Cyan for the following:

- (A) external advisory costs;
- (B) costs of undertaking due diligence;
- (C) out of pocket expenses; and
- (D) reasonable opportunity costs incurred by Cyan in pursuing the Transaction or in not pursuing other alternative acquisitions or strategic initiatives,

in relation to the Transaction and Cyan will incur further costs if the Transaction is not successful (**Cyan Costs**).

- (ii) MMA represents and warrants to Cyan that:

- (A) prior to entering into this deed, it has received legal advice from its external legal advisers on the operation of this clause 9.1; and
- (B) it and the MMA Board considers that it is appropriate to agree to the terms in this clause 9.1 in order to secure the significant benefits to it, and Shareholders, resulting from the Transaction.

#### (c) Agreement on Cyan Costs

The parties acknowledge that the amount of the Cyan Costs is inherently unascertainable and that, even after termination of this deed, the Cyan Costs will not be able to be accurately ascertained. As a genuine and reasonable pre-estimate of the costs that Cyan will suffer if the Transaction does not proceed, the parties agree that, for the purposes of this clause 9.1, the Cyan Costs will be equal to the amount of the Break Fee Amount.

#### (d) Reimbursement of Cyan Costs

- (i) Subject to the other provisions of this clause 9 and of this deed, MMA agrees to pay to Cyan the Break Fee Amount if:
- (A) during the Exclusivity Period Cyan validly terminates this deed in accordance with its terms and, during the part of the Exclusivity

Period which occurred prior to such termination, one or more MMA Directors (**Defaulting Director**):

- (I) fails to recommend that Shareholders vote in favour of the Scheme or maintain that recommendation, in each case in the manner described in clause 6.7;
- (II) publicly withdraws, adversely changes or adversely modifies that recommendation; or
- (III) publicly recommends that Shareholders:
  - (a) accept or vote in favour of; or
  - (b) otherwise, during the part of the Exclusivity Period which occurred prior to such termination, publicly supports or endorses,

a Competing Proposal of any kind that is announced during the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions),

except that no such Break Fee Amount is or will be payable to Cyan (and MMA does not agree to pay such Break Fee Amount):

- (IV) if the Independent Expert concludes in the Independent Expert's Report (or in any replacement or update of, or revision, amendment or supplement to, that report) that the Scheme is not in the best interests of Shareholders, prior to 8:00am on the Second Court Date, other than where the conclusion is due wholly or primarily to the existence of a Competing Proposal;
  - (V) if the Defaulting Director abstains from making a recommendation to Shareholders (or publicly withdraws, adversely changes or adversely modifies a recommendation) in accordance with an Abstain Requirement that relates to the Defaulting Director; or
  - (VI) to the extent of any statement or statements made by MMA, the MMA Board or one or more MMA Directors to the effect that:
    - (a) a Competing Proposal is or may be a Superior Proposal;
    - (b) no action should be taken by Shareholders pending the assessment of a Competing Proposal by the MMA Board; or
    - (c) Shareholders should take no action pending the completion of the matching right process set out in clause 8.7;
- (B) a Competing Proposal is announced during the Exclusivity Period and within 12 months of the announcement, the Third Party proponent of the Competing Proposal or any Associate of that Third Party:
- (I) completes the Competing Proposal of a kind referred to in any of paragraphs (b), (c), or (d) of the definition of Competing Proposal;

- (II) without limiting clause 9.1(d)(i)(B)(I), acquires pursuant to that Competing Proposal (either alone or together with that Third Party's Associates) a Relevant Interest in more than 50% of the Shares (other than as custodian, nominee or bare trustee) under a transaction that is or has become wholly unconditional; or
- (C) Cyan validly terminates this deed under clause 14.1(a) or clause 14.1(c)(i) following a material and wilful breach of this deed by MMA.
- (ii) The payment of the Break Fee Amount to Cyan provided for in this clause 9.1(d) must be made within 10 Business Days of receipt by MMA from Cyan of a written demand for payment where Cyan is entitled under this clause 9.1 to payment of the Break Fee Amount.

## 9.2 No amounts payable

- (a) Notwithstanding the occurrence of any event in clause 9.1(d), no Break Fee Amount is payable (and if the Break Fee Amount or any part of it has already been paid by MMA to Cyan it must be refunded by Cyan to MMA) if:
  - (i) the Scheme becomes Effective;
  - (ii) (at any time or times) one or more transactions are completed pursuant to which any Cyan Group Member acquires a Relevant Interest in 100% of the issued Shares; or
  - (iii) prior to or at the time that the Break Fee Amount becomes (otherwise) payable under clause 9.1, one or both of the following apply:
    - (A) MMA was entitled to terminate this deed under clause 14.1(a) or clause 14.1(d)(i); or
    - (B) a party was entitled to terminate this deed under clause 3.8 in the case of an actual or anticipated breach or non-fulfilment of the FIRB Condition Precedent, and that actual or anticipated breach or non-fulfilment was contributed to by, or resulted from, Cyan breaching any of its obligations set out in clause 3.
- (b) No Break Fee Amount is payable by MMA, merely by reason of the Shareholders not approving the Scheme at the Scheme Meeting.
- (c) The Break Fee Amount is only payable to Cyan once, and if a Break Fee Amount has become payable to Cyan under clause 9.1 and has actually been paid, Cyan cannot make any claim against MMA for payment of any subsequent or additional Break Fee Amount.

## 9.3 Compliance with law

If all or any part of the Break Fee Amount payable to Cyan:

- (a) is declared by the Takeovers Panel to constitute unacceptable circumstances within the meaning of the Corporations Act;
- (b) is determined by a court to be unenforceable or unlawful; or
- (c) is determined by a court to involve a breach of any fiduciary or statutory duty of MMA Directors,

then, provided all reasonable and proper avenues of appeal and review (judicial and otherwise) have been exhausted, MMA will not be obliged to pay all or such part of the Break Fee Amount (as applicable) and, if such fee has already been paid, then Cyan must within

five Business Days after receiving written demand from MMA refund to MMA that part, or all, (as applicable) of the Break Fee Amount. To avoid doubt, any part of such Break Fee Amount that would not constitute unacceptable circumstances or that is not unenforceable or unlawful or that does not involve a breach of any fiduciary or statutory duty of MMA Directors (as applicable) must be paid by MMA to Cyan if applicable under this clause 9.

#### 9.4 Limitation of MMA liability

- (a) Notwithstanding any other provisions of this deed (but subject to clauses 9.3 and 9.4(b)) and without expanding the circumstances in which the Break Fee Amount or any other amount is payable under this deed:
- (i) the maximum aggregate liability of MMA to Cyan, and to all other persons, under or in connection with this deed (including in respect of any breach of this deed or any other Claim) will be, in aggregate, the Break Fee Amount;
  - (ii) a payment by MMA of the Break Fee Amount in accordance with this clause 9 represents the maximum liability of MMA under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by MMA in connection with this deed;
  - (iii) the amount of the Break Fee Amount paid to Cyan under this clause 9 shall be reduced by the amount of any loss or damage recovered by Cyan (in its own right and separately as trustee or nominee for any other member of the Cyan Group) in relation to a breach of this deed; and
  - (iv) where the Break Fee is paid to Cyan in accordance with this clause 9 (or would be payable if a demand was made), Cyan cannot make any Claim under this deed in relation to any event or occurrence, or other matter, referred to in clause 9.1.
- (b) The limit in clause 9.4(a) does not apply in respect of fraud or a wilful or intentional breach of this deed by MMA.

## 10 Reverse Break Fee

---

### 10.1 Reverse Break Fee

(a) **Background**

MMA represents and warrants to Cyan that it would not have entered into this deed or otherwise agreed to implement the Scheme without the benefit of this clause 10.1 and it would not have entered into and continued the negotiations unless MMA had a reasonable expectation that Cyan would agree to enter into a clause of this kind.

(b) **Acknowledgments**

- (i) The fee payable under clause 10.1(d) has been calculated to reimburse MMA for the following:
- (A) external advisory costs;
  - (B) some internal costs of a similar kind (including directors and management time costs, risk management costs and capital costs);
  - (C) costs of providing due diligence;
  - (D) out of pocket expenses; and

- (E) reasonable opportunity costs incurred by MMA in pursuing the Transaction or in not pursuing other alternative transactions or strategic initiatives,

in relation to the Transaction and MMA will incur further costs if the Transaction is not successful (**MMA Costs**).

- (ii) Cyan represents and warrants to MMA that:
  - (A) prior to entering into this deed, it has received legal advice from its external legal advisers on the operation of this clause 10.1; and
  - (B) it and the Cyan Board considers that it is appropriate to agree to the terms in this clause 10.1 in order to secure the significant benefits to it resulting from the Transaction.

(c) **Agreement on MMA Costs**

The parties acknowledge that the amount of the MMA Costs is inherently unascertainable and that, even after termination of this deed, the MMA Costs will not be able to be accurately ascertained. As a genuine and reasonable pre-estimate of the costs that MMA will suffer if the Transaction does not proceed, the parties agree that, for the purposes of this clause 10.1, the MMA Costs will be equal to the amount of the Reverse Break Fee Amount.

(d) **Reimbursement of MMA Costs**

- (i) Subject to the other provisions of this clause 10 and of this deed, Cyan agrees to pay to MMA the Reverse Break Fee Amount if:
  - (A) MMA terminates this deed under clause 14.1(a) or clause 14.1(d)(i); or
  - (B) the Scheme becomes Effective but Cyan does not pay the total Scheme Consideration payable in consideration for all Scheme Shares in accordance with its obligations under this deed and the Deed Poll.
- (ii) The payment of the Reverse Break Fee Amount to MMA provided for in this clause 10.1(d) must be made within 10 Business Days of receipt by Cyan from MMA of a written demand for payment where MMA is entitled under this clause 10.1 to payment of the Reverse Break Fee Amount.

10.2 **No amounts payable**

- (a) Notwithstanding the occurrence of the event in clause 10.1(d)(i)(A) (but noting that this clause 10.2(a) does not apply in relation to the occurrence of an event in clause 10.1(d)(i)(B)), no Reverse Break Fee Amount is payable under clause 10.1(d)(i)(A) (and if the Reverse Break Fee Amount or any part of it has already been paid by Cyan to MMA under clause 10.1(d)(i)(A) it must be refunded by MMA to Cyan) if:
  - (i) the Scheme becomes Effective;
  - (ii) (at any time or times) a transaction is completed pursuant to which any Cyan Group Member acquires a Relevant Interest in 100% of the issued Shares; or
  - (iii) prior to or at the time that the Reverse Break Fee Amount becomes (otherwise) payable under clause 10.1, Cyan was entitled to terminate this deed under clause 14.1(a) or clause 14.1(c)(i).
- (b) The Reverse Break Fee Amount is only payable to MMA once, and if a Reverse Break Fee Amount has become payable to MMA under clause 10.1 and has actually

been paid, MMA cannot make any claim against Cyan for payment of any subsequent or additional Reverse Break Fee Amount.

### 10.3 Compliance with law

If any part of the Reverse Break Fee Amount payable to MMA:

- (a) is declared by the Takeovers Panel to constitute unacceptable circumstances within the meaning of the Corporations Act; or
- (b) is determined by a court to be unenforceable or unlawful,

then, provided all reasonable and proper avenues of appeal and review (judicial and otherwise) have been exhausted, Cyan will not be obliged to pay such part of the Reverse Break Fee Amount and, if such fee has already been paid, then MMA must within five Business Days after receiving written demand from Cyan refund to Cyan that part of the Reverse Break Fee Amount. To avoid doubt, any part of such Reverse Break Fee Amount that would not constitute unacceptable circumstances or that is not unenforceable or unlawful (as applicable) must be paid by Cyan to MMA if applicable under this clause 10.

### 10.4 Limitation of Cyan liability

- (a) Notwithstanding any other provisions of this deed (but subject to clauses 10.3, 10.4(b) and 10.4(c)) and without expanding the circumstances in which the Reverse Break Fee Amount or any other amount is payable under this deed:
  - (i) the maximum aggregate liability of Cyan to MMA, and to all other persons, under or in connection with this deed (including in respect of any breach of this deed or any other Claim) will be, in aggregate, the Reverse Break Fee Amount;
  - (ii) a payment by Cyan of the Reverse Break Fee in accordance with this clause 10 represents the maximum liability of Cyan under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by Cyan in connection with this deed;
  - (iii) the amount of the Reverse Break Fee Amount paid to MMA under this clause 10 shall be reduced by the amount of any loss or damage recovered by MMA (in its own right and separately as trustee or nominee for any other member of the MMA Group) in relation to a breach of this deed; and
  - (iv) where the Reverse Break Fee is paid to MMA under this clause 10 (or would be payable if a demand was made), MMA cannot make any claim against Cyan or any other Cyan Indemnified Party in relation to any event or occurrence referred to in clause 9.1.
- (b) The limit in clause 10.4(a) does not apply in respect of fraud or a wilful or intentional breach of this deed by Cyan.
- (c) Nothing in clause 10.4(a) or otherwise in this deed will limit Cyan's liability under or in connection with (and clause 10.4(a) does not apply in respect of) a breach of clause 4.3 or clause 4.4 of this deed or a breach of the Deed Poll.

## 11 Representations, warranties and undertakings

---

### 11.1 MMA's representations and warranties

Subject to clause 11.2 and 11.7, MMA represents and warrants to Cyan (in its own right and separately as trustee or nominee for each Cyan Indemnified Party) that each of the MMA Representations and Warranties are true and correct in all material respects.



## 11.2 Qualifications on MMA Representations and Warranties

The MMA Representations and Warranties under clause 11.1 and Schedule 2 are subject to and qualified by matters that:

- (a) have been Fairly Disclosed in the Disclosure Materials;
- (b) have been Fairly Disclosed in an announcement by MMA to ASX, or a publicly available document lodged by an MMA Group Member with ASIC (or with any Foreign Corporate Regulatory Authority within a jurisdiction in which an MMA Group Member is incorporated), prior to the Execution Date;
- (c) have been disclosed in a publicly available document which would be accessible via a search of:
  - (i) the PPS Register;
  - (ii) the registry of either Landgate or any other Australian state or territory land titles agency;
  - (iii) the registry of the High Court, the Federal Court, the Federal Circuit Court, and the Supreme Courts in each state and territory of Australia;
  - (iv) IP Australia; or
  - (v) any other similar public registries or databases within the jurisdictions in which any MMA Group Member is incorporated,

had each such search been conducted on the Business Day before the Execution Date;
- (d) are expressly contemplated, required or permitted by this deed or the Scheme;
- (e) are required by any applicable law, stock exchange rule, regulation or any Regulatory Authority; or
- (f) are within the knowledge of Cyan on or before the Execution Date.

## 11.3 MMA's indemnity

MMA agrees to indemnify Cyan (in its own right and separately as trustee or nominee for each Target Indemnified Party) against any Claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Cyan suffers, incurs or is liable for arising out of any breach of any of the MMA Representations and Warranties.

## 11.4 Cyan's representations and warranties

Cyan represents and warrants to MMA (in its own right and separately as trustee or nominee for each MMA Indemnified Party) that each of the Cyan Representations and Warranties are true and correct.

## 11.5 Cyan's indemnity

Cyan agrees to indemnify MMA (in its own right and separately as trustee or nominee for each MMA Indemnified Party) against any Claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that MMA suffers, incurs or is liable for arising out of any breach of any of the Cyan Representations and Warranties.

## 11.6 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitute or may constitute a breach of any of the representations or warranties given by it under clause 11.1 or clause 11.4 (as applicable).

**11.7 Timing of representations and warranties**

Each representation and warranty made or given under clause 11.1 or clause 11.4 is given at the Execution Date, on the first date of despatch of the Scheme Booklet to Shareholders, at 5:00pm on the Business Day immediately prior to the Second Court Date and at 8:00am on the Second Court Date, unless that representation or warranty is expressed to be given at a particular time or times, in which case it is provided at that time or times.

**11.8 Survival of representations and warranties**

Each representation and warranty in clause 11.1 or clause 11.4:

- (a) is severable;
- (b) survives termination of this deed;
- (c) is to be construed independently of all other representations and warranties; and
- (d) is not limited by any other representation or warranty.

**11.9 Survival of indemnities**

Each indemnity in this deed (including those in clauses 11.3 and 11.5):

- (a) is severable;
- (b) survives termination of this deed; and
- (c) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed.

**11.10 No representation or reliance**

- (a) Each party acknowledges that the other party (and any person acting on its behalf) has not made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of the other party, except for any representation or inducement expressly set out in this deed.

**11.11 Notifications**

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes a material breach of the representations or warranties given by it under whichever of clause 11.1 or clause 11.4 is applicable.

**12 Releases****12.1 Release of MMA Indemnified Parties**

- (a) Subject to clause 12.1(b), Cyan releases any and all rights that it may have, and agrees with MMA that it will not make any Claim, against any MMA Indemnified Party as at the Execution Date and from time to time in connection with:
  - (i) MMA's execution or delivery of this deed;

- (ii) any breach of any covenant, representation or warranty given by MMA under this deed;
- (iii) the conduct of the Scheme and Implementation;
- (iv) any disclosures containing any statement which is false or misleading (whether in content or by omission or otherwise); or
- (v) any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the MMA Indemnified Party has engaged in fraud, gross negligence, wilful breach, wilful misconduct, wilful concealment or has acted in bad faith.

- (b) The release in clause 12.1(a) is subject to any restriction imposed by law (including, but not limited to, the Corporations Act) and will be read down to the extent that any such restriction applies.
- (c) MMA receives and holds the benefit of clause 12.1(a) to the extent that they relate to each MMA Indemnified Party as trustee or nominee for that MMA Indemnified Party.

## 12.2 Release of Cyan Indemnified Parties

- (a) Subject to clause 12.2(b), MMA releases any and all rights that it may have, and agrees with Cyan that it will not make any Claim, against any Cyan Indemnified Party as at the Execution Date and from time to time in connection with:
  - (i) Cyan's execution or delivery of this deed;
  - (ii) any breach of any covenant, representation or warranty given by Cyan under this deed;
  - (iii) the conduct of the Scheme and Implementation;
  - (iv) any disclosures containing any statement which is false or misleading (whether in content or by omission or otherwise); or
  - (v) any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Cyan Indemnified Party has engaged in fraud, gross negligence, wilful breach, wilful misconduct, wilful concealment or has acted in bad faith.

- (b) The release in clause 12.2(a) is subject to any restriction imposed by law (including, but not limited to, the Corporations Act) and will be read down to the extent that any such restriction applies.
- (c) Cyan receives and holds the benefit of clause 12.2(a) to the extent that they relate to each Cyan Indemnified Party as trustee or nominee for that Cyan Indemnified Party.

## 12.3 Survival of releases

Each release in this clause 12:

- (a) is severable;
- (b) survives termination of this deed;
- (c) is a continuing obligation; and

- (d) constitutes a separate and independent obligation of the party giving the release from any other obligation of that party under this deed.

### 13 Deed of Access, Indemnity and Insurance

---

- (a) Cyan acknowledges that, notwithstanding any other provision of this deed, MMA may, prior to or on the Implementation Date, enter into arrangements to secure directors and officers run-off insurance for any and all directors and officers of each member of the MMA Group for up to a seven year period from their respective retirement dates (**D&O Run-off Policy**), and that any actions taken by any member of the MMA Group (or any Representative of any member of the MMA Group) or any other person, to facilitate that insurance or in connection therewith (including paying any amounts to ensure such maintenance upfront) will not be a Prescribed Occurrence, a Material Adverse Event, a breach of any provision of this deed or give rise to any right to terminate this deed (notwithstanding any other provision of this deed).
- (b) MMA must have used all reasonable endeavours to obtain attractive commercial terms for the D&O Run-off Policy from a reputable insurer.
- (c) MMA must keep Cyan informed of material progress in relation to the D&O Run-off Policy and the premium for the D&O Run-off Policy and (without MMA being obliged to comply with any directions from Cyan) consult with Cyan in good faith in relation to the D&O Run-off Policy.
- (d) Subject to the Scheme becoming Effective and the Scheme being implemented, Cyan undertakes in favour of the MMA Group Members and each person who is a director or officer of an MMA Group Member that Cyan will:
- (i) for a period of seven years from the Implementation Date, ensure that the constitutions of MMA and each other MMA Group Member continue to contain such rules as are contained in those constitutions at the Execution Date that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than an MMA Group Member;
  - (ii) procure that MMA and each other MMA Group Member complies with, preserves and carries out all of their respective obligations under any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time, and, without limiting the foregoing, not take any action which would prejudice or adversely affect any directors' and officers' runoff insurance cover taken out prior to, or on, the Implementation Date; and
  - (iii) procure that MMA and each other member of the MMA Group maintains all insurance the subject of this clause and continues to pay all premiums and other costs of such insurance for the full period (of up to seven years after the respective retirement of the directors and officers of the members of the MMA Group) agreed or arranged on or prior to the Implementation Date and does not permit such insurance to be used for purposes contrary to such agreements or arrangements.
- (e) The provisions contained in this clause 13 are subject to any Corporations Act restriction, or any restriction in the applicable law of a jurisdiction in which a relevant entity is incorporated, and will be read down accordingly.
- (f) MMA receives and holds the benefit of this clause 13 to the extent it relates to a director or officer of a member of the MMA Group, for and on behalf of, and as trustee for, them.

## 14 Termination rights

---

### 14.1 Termination events

- (a) A party (**non-defaulting party**) may terminate this deed by notice in writing to the other party at any time prior to 8:00am on the Second Court Date if each of the following has occurred:
- (i) the other party (**defaulting party**) is in material breach of this deed (other than for a breach of a representation or warranty in Schedule 2 or Schedule 3 which is dealt with in clauses 14.1(c)(i) and 14.1(d)(i)) at any time prior to 8:00am on the Second Court Date;
  - (ii) the non-defaulting party has given notice to the defaulting party setting out the relevant circumstances of the breach and stating an intention to terminate this deed; and
  - (iii) the material breach has continued to exist for 10 Business Days (or any shorter period ending at 8:00am on the Second Court Date) from the time the notice in clause 14.1(a)(ii) is given.
- (b) Either party may terminate this deed by notice in writing to the other party if the Scheme has not become Effective by the End Date.
- (c) Cyan may terminate this deed by notice in writing to MMA at any time prior to 8:00am on the Second Court Date, if:
- (i) at any time prior to 8:00am on the Second Court Date, MMA breaches any MMA Representation and Warranty given pursuant to clause 11.1 (and the relevant breach is material in the context of the Scheme taken as a whole) and:
    - (A) MMA fails to remedy that breach within five Business Days of receipt by it of a notice in writing from Cyan setting out details of the relevant breach and requesting MMA to remedy the breach; or
    - (B) the MMA Representation and Warranty cannot be remedied by subsequent action on the part of MMA before 8:00am on the Second Court Date; or
  - (ii) any MMA Director:
    - (A) fails to recommend that Shareholders vote in favour of the Scheme in the manner described in clause 6.7;
    - (B) at any time prior to 8:00am on the Second Court Date, publicly withdraws, adversely changes or adversely modifies that recommendation; or
    - (C) at any time prior to 8:00am on the Second Court Date, makes a public statement indicating that they no longer support the Scheme or that they support or endorse a Competing Proposal,

other than (in each case):

    - (D) if the relevant MMA Director abstains from making a recommendation to Shareholders (or publicly withdraws, adversely changes or adversely modifies a recommendation to Shareholders (or makes a public statement indicating that they no longer support the Scheme)) due to any Abstain Requirement; or

- (E) to the extent of any statement or statements made by MMA, the MMA Board or one or more MMA Directors to the effect that:
  - (I) a Competing Proposal is or may be a Superior Proposal;
  - (II) no action should be taken by Shareholders pending the assessment of a Competing Proposal by the MMA Board; or
  - (III) Shareholders should take no action pending the completion of the matching right process set out in clause 8.7.
- (d) MMA may terminate this deed by notice in writing to Cyan if:
  - (i) at any time prior to 8:00am on the Second Court Date, Cyan breaches any Cyan Representation and Warranty given pursuant to clause 11.4 (and the relevant breach is material in the context of the Scheme taken as a whole) and:
    - (A) Cyan fails to remedy that breach within five Business Days of receipt by it of a notice in writing from MMA setting out details of the relevant breach and requesting Cyan to remedy the breach; or
    - (B) the Cyan Representation and Warranty cannot be remedied by subsequent action on the part of Cyan before 8:00am on the Second Court Date; or
  - (ii) at any time prior to 8:00am on the Second Court Date:
    - (A) the MMA Board or all or a majority of the MMA Directors has adversely changed, withdrawn or adversely modified their recommendation of the Scheme after making a determination contemplated by clause 8.13(a)(i) in respect of a Competing Proposal; or
    - (B) the Independent Expert has concluded in the Independent Expert's Report (or in any replacement or update of, or revision, amendment or supplement to, that report) that the Scheme is not in the best interests of Shareholders and, if this conclusion in the Independent Expert's Report has been determined by the Independent Expert based on a Competing Proposal, after MMA has complied with any applicable obligations under clause 8 (including the matching right process set out in clause 8.7).
- (e) This deed may be terminated pursuant to and in accordance with clause 3.8.
- (f) Either party may terminate this deed if the other party consents to do so and both parties confirm it in writing.

#### 14.2 Notice of breach

Each party must give notice to the other as soon as practicable after it becomes aware of a breach by it of this deed or if it becomes aware of a right of the other party to terminate this deed.

#### 14.3 Termination right

- (a) Any right to terminate this deed that arises before the Second Court Date ceases at 8:00am on the Second Court Date.
- (b) Subject to clause 14.3(a), any right to terminate this deed ceases when the Scheme becomes Effective.

#### 14.4 Effect of termination

- (a) In the event of termination of this deed in accordance with its terms, this deed will become void and have no effect, except that the provisions of clauses 1, 9, 10, 13 (other than clauses 13(b) and 13(c)), 14.4, 15, 16, 17, 18 and 19 (other than 19.9) (inclusive) and any other provision of this deed expressed to come into effect or survive after termination, survive termination.
- (b) Termination of this deed does not affect any accrued rights of a party in respect of a breach of this deed prior to termination.

### 15 Public announcements

---

#### 15.1 Announcement of transaction

As soon as reasonably practicable after execution of this deed by the parties, MMA must release the Agreed Public Announcement to the ASX.

#### 15.2 Public announcements

- (a) Subject to clause 15.2(b), no public announcement or public disclosure in relation to the Transaction or the Scheme may be made other than in a form approved by each party (acting reasonably and without delay). For the avoidance of doubt, this clause 15.2(a) does not apply to any announcement or disclosure relating to an actual, proposed or potential Competing Proposal.
- (b) Where either party is required by applicable law, the Listing Rules and/or a Regulatory Authority to make any public announcement or disclosure in relation to the Transaction or the Scheme, it may do so despite clause 15.2(a) but must use all reasonable endeavours, to the extent practicable and lawful, to consult with the other party prior to making the relevant disclosure and take account of any reasonable comments received from the other party in relation to the form and content of the announcement or disclosure (but for the avoidance of doubt, no such consultation is required where it would cause, or contribute to, a breach of applicable law, any applicable Listing Rule and/or an applicable requirement of a Regulatory Authority).

### 16 Confidentiality

---

Cyan hereby agrees, in favour of MMA, to comply with the Confidentiality Deed (from and after the Execution Date) as though Cyan is a party in its own right to (and bound by) the Confidentiality Deed (except that this deed prevails over those obligations, to the extent of any inconsistencies between this deed and those obligations).

### 17 Notices

---

#### 17.1 Manner of giving notice

Any notice, demand, consent or other communication to be given under this deed must be in writing (which includes email) and may be delivered or sent by hand or email to the party to be served as follows:

- (a) **MMA:**

Address	Level 10, 12 The Esplanade, Perth WA 6000
Email	<span style="background-color: black; color: black;">[REDACTED]</span>
Attention	David Ross, Managing Director and Chief Executive Officer;

Tim Muirhead, Company Secretary and Executive General Manager  
- Legal

Copy to: Hedley Roost, Partner, Thomson Geer (hroost@tglaw.com.au);  
Cameron Bill, Special Counsel, Thomson Geer  
(cbill@tglaw.com.au)

(b) **Cyan:**

Address 9 Raffles Place, #22-02 Republic Plaza, Singapore 048619

Email [REDACTED]

Attention James Chern, Managing Partner and CIO, Seraya Partners and  
Kangyu Chia, Vice President Legal, Cyan Renewables

Copy to: Noah Obradovic, Partner, Allens (noah.obradovic@allens.com.au);  
Katherine Tsatsaklas, Senior Associate, Allens  
(katherine.tsatsaklas@allens.com.au)

or at any such other address or email address notified for this purpose to the other party under this clause.

**17.2 When notice given**

Any notice or other communication is deemed to have been given:

- (a) if delivered by hand, on the date of delivery; or
- (b) if sent by email, on the earlier of the sender receiving an automated message confirming delivery or, provided no automated message is received stating that the email has not been delivered, three hours after the time the email was sent by the sender, such time to be determined by reference to the device from which the email was sent,

but if the notice or other communication would otherwise be taken to be received after 5:00pm or on a Saturday, Sunday or public holiday in the place of receipt then the notice or communication is taken to be received at 9:00am on the next day that is not a Saturday, Sunday or public holiday.

**17.3 Proof of service**

In proving service of a notice or other communication, it shall be sufficient to prove that delivery was made or that the email was properly addressed and transmitted by the sender's server into the network and there was no apparent error in the operation of the sender's email system, as the case may be.

**17.4 Documents relating to legal proceedings**

This clause 17 does not apply in relation to the service of any claim form, notice, order, judgment or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with this deed.

**18 Entire agreement**

---

**18.1 Entire agreement**

This deed and the Confidentiality Deed contain the entire agreement between the parties relating to the Transaction and supersede all previous agreements, whether oral or in writing,



between the parties relating to the Transaction.

## 18.2 No reliance

Each party acknowledges that in agreeing to enter into this deed it has not relied on any express or implied representation, warranty, collateral contract or other assurance (except those expressly set out in this deed) made by or on behalf of the other party before the entering into of this deed. Each party waives all rights and remedies which, but for this clause 18.2 might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.

## 18.3 Termination rights

Except for the express rights of termination contained in clauses 3.8 and 14, no party has any right to terminate this deed and the parties waive their rights (if any) to annul, rescind, dissolve, withdraw from, cancel or terminate this deed in any other circumstances.

## 19 General

---

### 19.1 Amendments

This deed may only be amended in writing and where such amendment is signed by both of the parties.

### 19.2 Assignments

None of the rights or obligations of a party under this deed may be assigned or transferred without the prior written consent of the other party.

### 19.3 Costs

Except as otherwise provided in this deed, each party will pay its own costs and expenses in connection with the negotiation, preparation, execution, and performance of this deed and the Scheme Booklet and the proposed, attempted or actual implementation of this deed, the conduct of the Scheme and Implementation.

### 19.4 Stamp duty

Cyan must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this deed, the Scheme, the Deed Poll and the steps to be taken under this deed, the Scheme and the Deed Poll (including without limitation the acquisition or transfer of Scheme Shares under the Scheme).

### 19.5 GST

- (a) If GST is or becomes payable, or notionally payable, on a supply made under or in connection with this deed, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply (the **GST Amount**) as calculated by the party making the supply in accordance with the GST law. Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same and in the same manner time that the other consideration for the supply is provided. This clause 19.5 does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.
- (b) Notwithstanding any other provision in this deed, where any indemnity, reimbursement or similar payment under this deed is based on any cost, expense or other liability incurred by a party, it may be reduced by any input tax credit entitlement, or notional input tax credit entitlement, of that party (or its representative member) in relation to the relevant cost, expense or other liability.

- (c) If an adjustment event occurs in relation to a supply under or in connection with this deed, the GST Amount will be recalculated in accordance with the GST law to reflect that adjustment and an appropriate payment will be made between the parties.
- (d) Unless otherwise expressly stated, all costs, expenses, prices or other sums payable or consideration to be provided under or in accordance with this deed are exclusive of GST.

#### 19.6 Consents

Except as otherwise expressly provided in this deed a party may give or withhold its consent to any matter referred to in this deed in its absolute discretion. A party that gives its consent to any matter referred to in this deed is not taken to have made any warranty or representation as to any matter or circumstance connected with the subject matter of that consent.

#### 19.7 Execution and counterparts

This deed may be executed electronically and may be executed in counterparts. This deed is binding on the parties on the exchange of duly executed counterparts. The parties agree that a copy of an original executed counterparty sent by email to the email address of the other party specified in clause 17, instead of the original, is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.

#### 19.8 Exercise and waiver of rights

The rights of each party under this deed:

- (a) may be exercised as often as necessary;
- (b) except as otherwise expressly provided by this deed, are cumulative and not exclusive of rights and remedies provided by law; and
- (c) may be waived only in writing and specifically,

and delay in exercising or non-exercise of any such right is not a waiver of that right.

#### 19.9 Further assurance

Each party undertakes, at the request of the other party, to sign all documents and to do all other acts, which may be necessary to give full effect to this deed.

#### 19.10 No merger

Each of the obligations, warranties and undertakings set out in this deed (excluding any obligation which is fully performed at the Implementation Date) must continue in force after the Implementation Date.

#### 19.11 Severability

The provisions contained in each clause and sub clause of this deed shall be enforceable independently of each of the others and their validity shall not be affected if any of the others is invalid.

#### 19.12 Governing law

This deed and any non-contractual obligations arising out of or in connection with it is governed by the law applying in New South Wales.

#### 19.13 Jurisdiction

The courts having jurisdiction in New South Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute relating to any non-contractual obligations arising out of or in connection with this deed) and each party

irrevocably submits to the non-exclusive jurisdiction of the courts having jurisdiction in Western Australia.

For personal use only

**Schedule 1****Timetable**

Event	Dates
Release of Agreed Public Announcement	25 March 2024
Regulator's Draft provided to ASIC	Early-Mid May 2024
First Court Hearing	Late May-Early June 2024
Scheme Meeting	Late June-Mid July 2024
Second Court Hearing	Late June-Mid July 2024
Effective Date	Early-Mid July 2024
Record Date	Early-Late July 2024
Implementation Date	Mid-Late July 2024

## Schedule 2

### MMA Representations and Warranties

- 1.1 **status:** MMA is a company limited by shares and is validly existing under the Corporations Act and each other member of the MMA Group is a corporation validly existing under the laws of its place of incorporation;
- 1.2 **subsidiaries:** MMA has no Subsidiaries other than those disclosed in the Disclosure Materials. All of the outstanding shares of capital stock and other ownership interests in MMA's Subsidiaries are validly issued and are not subject to, nor were they issued in violation of, any pre-emptive rights;
- 1.3 **corporate power:** MMA has full legal capacity to enter into this deed and, subject to the fulfilment of the Conditions Precedent:
- (a) to carry out the Transaction and any other transactions contemplated by this deed and the Scheme; and
  - (b) to perform or cause to be performed its obligations hereunder and thereunder;
- 1.4 **corporate authorisations:** MMA has taken all necessary corporate action to authorise the entry into this deed and, subject to the fulfilment of the Conditions Precedent, to carry out the transactions contemplated by this deed and no other corporate proceedings on the part of MMA are necessary to authorise the execution and delivery of this deed and, subject to the fulfilment of the Conditions Precedent, the performance by MMA of its obligations under this deed, the Deed Poll or the Scheme;
- 1.5 **binding obligations:** this deed has been duly executed and delivered by MMA and, subject to the fulfilment of the Conditions Precedent, constitutes legal, valid and binding obligations of MMA, enforceable against it, in accordance with its terms;
- 1.6 **no contravention:** this deed does not, and the consummation of the Scheme does not constitute any breach of or default under:
- (a) any provision of MMA's constitution; or
  - (b) any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it or any other MMA Group Member is bound,
- and it is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this deed;
- 1.7 **issued securities:**
- (a) the issued MMA securities and rights to be issued with MMA securities as of the Execution Date is as follows:
    - (i) 379,021,627 Shares; and
    - (ii) 15,572,579 Performance Rights,

and there are, as of the Execution Date, no other MMA options, performance rights, shares, warrants, convertible notes or other securities (or offers or agreements to issue any of the foregoing) that may convert into Shares;
  - (b) all of the issued and outstanding shares in MMA and each member of the MMA Group have been duly authorised and validly issued, and are fully paid and non-assessable;
  - (c) all of the issued and outstanding shares of each Subsidiary of MMA are owned, directly or indirectly, by MMA other than:

- (i) MMA Offshore Services Malaysia Sdn Bhd; and
  - (ii) MMA Global Projects Pte Ltd;
  - (d) the issued and outstanding shares of each Subsidiary in the MMA Group are owned free and clear of all Encumbrances other than Permitted Encumbrances;
- 1.8 **solvency:** no member of the MMA Group (other than a dormant entity) is subject to an Insolvency Event;
- 1.9 **regulatory action:** as at the Execution Date, no member of the MMA Group is aware of any regulatory action of any nature taken, or to be taken, in relation to any member of the MMA Group which would be reasonably likely to prevent, inhibit or otherwise have a material adverse effect on MMA's ability to fulfil its material obligations under this deed;
- 1.10 **compliance with laws:** so far as MMA is aware, each member of the MMA Group is, as at the Execution Date, in compliance in all material respects with all laws and regulations applicable to them;
- 1.11 **litigation:** other than as Fairly Disclosed in the Disclosure Materials, so far as MMA is aware, no litigation, prosecution, regulatory investigation, arbitration, mediation, or other proceedings relating to the MMA Group and which is material to the business of the MMA Group is current or pending or threatened;
- 1.12 **Disclosure Materials:**
- the Disclosure Materials have been collated in good faith and:
- (a) so far as MMA is aware, are accurate in all material respects and not misleading in any material respect, whether by way of omission or otherwise; and
  - (b) MMA has not intentionally withheld from the Disclosure Materials any information which would reasonably be expected to be material to a reasonable bidder's decision whether to acquire MMA pursuant to the Scheme;
- 1.13 **MMA Information:** the MMA Information:
- (a) will be prepared and included in the Scheme Booklet in good faith; and
  - (b) will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations, applicable Takeovers Panel Guidance notes, Listing Rules and RG 60,
- and all information provided by or on behalf of MMA to the Independent Expert will be prepared and provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report;
- 1.14 **despatch of Scheme Booklet:** as at the first date when the Scheme Booklet is despatched to Shareholders, the MMA Information in the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act will be accurate in all material respects and will not be misleading or deceptive in any material respect (with any statement of belief or opinion forming part of the MMA Information in the Scheme Booklet being honestly held and formed on a reasonable basis);
- 1.15 **new information:** to the extent necessary to comply with the Corporations Act, Corporations Regulations, Listing Rules and RG 60, MMA will, as a continuing obligation, ensure that the MMA Information contained in the Scheme Booklet is updated to include all further or new material information which arises in respect of the Scheme Booklet, after the date it has been despatched to Shareholders until the date of the Scheme Meeting, which are necessary to

ensure that the MMA Information contained in the Scheme Booklet is not misleading or deceptive in any material respect (including by way of omission);

1.16 **Material Contracts:**

- (a) MMA has Fairly Disclosed a copy of each Material Contract in the Disclosure Materials;
- (b) each Material Contract is in full force and effect and is valid and binding on the applicable member of the MMA Group;
- (c) as at the Execution Date, MMA is not aware of, and has not received notice of, any material breach of any Material Contract by any of the other parties thereto; and
- (d) as at the Execution Date, no member of the MMA Group is in material breach of any Material Contract;

1.17 **material Authorisations:** so far as MMA is aware, the MMA Group has all material Authorisations necessary for it to conduct the business of the MMA Group materially as it is being conducted as at the Execution Date, or that is necessary for the ownership, use and occupation of its material properties or other material assets;

1.18 **insurance:**

- (a) each member of the MMA Group maintain policies of insurance with reputable insurers and in amounts covering such risks and with those deductibles as are adequate and usual for companies of a similar size operating in their industry; and
- (b) the policies and the coverage provided thereunder are in full force and effect and the relevant member of the MMA Group is in good standing under each policy;

1.19 **continuous disclosure:** as at the Execution Date, so far as MMA is aware, MMA is in compliance with its continuous disclosure obligations under Listing Rule 3.1 and, other than for this Transaction and any other relevant content of the Agreed Public Announcement, it is not relying on the carve-out in Listing Rule 3.1A to withhold any material information from public disclosure;

1.20 **listing:** the Shares are listed on the ASX and are not listed or traded on any other stock exchange; and

1.21 **adviser fees:** as at the date of this deed, MMA has Fairly Disclosed in the Disclosure Materials the aggregate amount of any amounts expected to be payable by an MMA Group Member to any financial, legal, accounting and other adviser in connection with the Transaction.

### Schedule 3

#### Cyan Representations and Warranties

- 1.1 **status:** Cyan is a company duly formed and validly existing under the Corporations Act and each other member of the Cyan Group is a corporation duly formed and validly existing under the laws of its place of incorporation;
- 1.2 **corporate power:** Cyan has full legal power and capacity to enter into this deed and carry out the transactions contemplated by this deed, the Deed Poll and the Scheme and perform its obligations hereunder and thereunder;
- 1.3 **corporate authorisations:** Cyan has taken all necessary corporate action to authorise the entry into this deed and to carry out the transactions contemplated by this deed and no other corporate proceedings on the part of Cyan are necessary to authorise the execution and delivery of this deed and the performance by Cyan of its obligations under this deed, the Deed Poll or the Scheme;
- 1.4 **binding obligations:** this deed has been duly executed and delivered by Cyan and constitutes legal, valid and binding obligations of Cyan, enforceable against it, in accordance with its terms;
- 1.5 **no contravention:** neither this deed, nor the carrying out by Cyan of the transactions contemplated by this deed, constitutes any breach of or default under:
- (a) any provision of Cyan's constituent documents; or
  - (b) any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it is bound,
- and it is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this deed;
- 1.6 **solvency:** Cyan is not subject to an Insolvency Event;
- 1.7 **regulatory action:** Cyan is not aware of any regulatory action of any nature taken, or to be taken, in relation to Cyan which would be reasonably likely to prevent, inhibit or otherwise have a material adverse effect on Cyan's ability to fulfil its obligations under this deed;
- 1.8 **Scheme Booklet:** the Cyan Information contained in the Scheme Booklet:
- (a) will be prepared and included in the Scheme Booklet in good faith; and
  - (b) will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations, Listing Rules and RG 60;
- 1.9 **despatch of Scheme Booklet:** as at the first date when the Scheme Booklet is despatched to Shareholders, the Cyan Information in the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- 1.10 **new information:** to the extent necessary to comply with the Corporations Act, Corporations Regulations, Listing Rules and RG 60, Cyan will, as a continuing obligation, ensure that the Cyan Information contained in the Scheme Booklet is updated to include all further or new material information which arises in respect of the Scheme Booklet, after the date it has been despatched to Shareholders until the date of the Scheme Meeting, which are necessary to ensure that the Cyan Information in the Scheme Booklet is not false, misleading or deceptive (including by way of omission) in any material respect; and
- 1.11 **financing:** during the period commencing on the Execution Date and ending on (and including) the Implementation Date, Cyan Renewables has, and will maintain, sufficient funds available to it on an unconditional basis to enable Cyan to satisfy its obligations to provide the



total Scheme Consideration in consideration for all Scheme Shares in accordance with the terms of this deed, the Scheme and the Deed Poll.

- 1.12 **Cyan Renewables:** during the period commencing on the Execution Date and ending on (and including) the business day after Implementation is completed, Cyan is, and will remain, a wholly owned Subsidiary of Cyan Renewables.

For personal use only

**Schedule 4**  
**Scheme of Arrangement**

For personal use only

## Scheme of Arrangement

between

**MMA Offshore Limited**  
ACN 083 185 693  
(MMA)

and

### Scheme Participants

## Table of contents

<b>1</b>	<b>Defined terms &amp; interpretation .....</b>	<b>68</b>
1.1	Defined terms .....	68
1.2	Interpretation.....	71
<b>2</b>	<b>Conditions precedent.....</b>	<b>71</b>
2.1	Conditions precedent.....	71
2.2	Certificates.....	72
<b>3</b>	<b>The Scheme .....</b>	<b>72</b>
3.1	Effective Date .....	72
3.2	End Date .....	72
<b>4</b>	<b>Implementation of the Scheme.....</b>	<b>72</b>
4.1	Lodgement of Scheme Order with ASIC .....	72
4.2	Transfer of Scheme Shares.....	73
4.3	Entitlement to Scheme Consideration .....	73
<b>5</b>	<b>Scheme Consideration.....</b>	<b>73</b>
5.1	Scheme Consideration .....	73
5.2	Provision of Scheme Consideration .....	73
5.3	Joint holders .....	74
5.4	Orders of a court or other Regulatory Authority .....	74
5.5	Unclaimed monies .....	75
<b>6</b>	<b>Dealings in Scheme Shares.....</b>	<b>75</b>
6.1	Determination of Scheme Participants .....	75
6.2	Share Register.....	75
6.3	No disposals after Record Date.....	75
6.4	Maintenance of Share Register .....	75
6.5	Effect of Holding Statements .....	76
6.6	Details of Scheme Participants.....	76
6.7	Quotation of Shares.....	76
<b>7</b>	<b>General Scheme provisions .....</b>	<b>76</b>
7.1	Scheme Participant's agreements and consents .....	76
7.2	Warranty by Scheme Participants .....	76
7.3	Authority given to MMA.....	77
7.4	Further assurances.....	77
7.5	Scheme binding .....	78
7.6	Beneficial entitlement to Scheme Shares.....	78
7.7	Appointment of Cyan as agent, attorney and sole proxy in respect of Scheme Shares .....	78
7.8	Withholding .....	78
7.9	Notices.....	79
7.10	Alterations and conditions.....	79
7.11	Stamp Duty .....	79
7.12	No liability when acting in good faith .....	79
7.13	Governing Law.....	79

**This scheme of arrangement** is made under section 411 of the *Corporations Act 2001* (Cth)

between **MMA Offshore Limited** ACN 083 185 693 of Level 10, 12 The Esplanade, Perth WA 6000 (**MMA**)

and the **Scheme Participants**

## **1 Defined terms & interpretation**

---

### **1.1 Defined terms**

In this Scheme, except where the context otherwise requires:

**ADI** means an authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cth)).

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited (ABN 98 008 624 691) or the Australian Securities Exchange, as the context requires.

**ASX Operating Rules** means the official operating rules of ASX.

**ASX Settlement** means ASX Settlement Pty Ltd ABN 49 008 504 532.

**ASX Settlement Rules** means ASX Settlement Operating Rules of ASX Settlement.

**Business Day** means a business day as defined in the Listing Rules.

**CGT Withholding Amount** has the meaning given to that term in clause 7.8.

**CHES** means the clearing house electronic sub-register system of share transfers operated by ASX Settlement.

**CHES Holding** has the meaning given in the ASX Settlement Rules.

**Commissioner of Taxation** means the Australian Commissioner of Taxation.

**Condition Precedent** means a condition precedent to the Scheme in clause 3.1 of the Scheme Implementation Deed.

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

**Court** means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Cyan and MMA.

**Cyan** means Cyan MMA Holdings Pty Limited (ACN 675 840 196) of Level 12, 680 George Street, Sydney NSW 2000.

**Deed Poll** means the deed poll to be executed by Cyan in the form of the deed poll contained in Schedule 5 to the Scheme Implementation Deed, or in such other form as agreed in writing between MMA and Cyan.

**Effective** means, when used in relation to the Scheme, the coming into effect pursuant to section 411(10) of the Corporations Act of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme.

**Effective Date** means the date on which the Scheme becomes Effective.

**Encumbrance** means any encumbrance, mortgage, pledge, charge, lien, assignment, hypothecation, security interest, title retention, right of first refusal and any other security arrangement of any kind given or created and including any possessory lien in the ordinary course of business whether arising by law or contract.

**End Date** means whichever one of the following applies:

- (a) if the FIRB Condition Precedent has been satisfied by 5:00pm on the second Business Day prior to the date that is six months after the Execution Date, the date which is six months after the Execution Date;
- (b) if the FIRB Condition Precedent has not been satisfied by 5:00pm on the second Business Day prior to the date that is six months after the Execution Date and the FIRB Condition Precedent is still capable of satisfaction at such time, the date which is seven months after the Execution Date; or
- (c) if the FIRB Condition Precedent has not been satisfied by 5:00pm on the second Business Day prior to the date that is seven months after the Execution Date and the FIRB Condition Precedent is still capable of satisfaction at such time, the date which is eight months after the Execution Date.

**Execution Date** means the date of the Scheme Implementation Deed.

**FIRB Condition Precedent** has the meaning given to that term in the Scheme Implementation Deed.

**Foreign Corporate Regulatory Authority** means the Singaporean Accounting and Corporate Regulatory Authority, the Taiwanese Financial Supervisory Commission and the Malaysian Companies Commission of Malaysia.

**Immediately Available Funds** means by immediate electronic funds transfer or other form of cleared funds acceptable to MMA.

**Implementation** means the implementation of this Scheme, in accordance with its terms, after this Scheme becomes Effective.

**Implementation Date** means the fifth Business Day after the Record Date, or such other date agreed to in writing by MMA and Cyan.

**Issuer Sponsored Holding** has the meaning given in the ASX Settlement Rules.

**Listing Rules** means the official listing rules of the ASX.

**MMA Group** means MMA and its Subsidiaries.

**Performance Right** means a performance right issued by MMA under employee incentive arrangements (or similar) of the MMA Group to, subject to the terms of that performance right, acquire a Share.

**Record Date** means 5:00pm on the fifth Business Day following the Effective Date, or such other date (after the Effective Date) as ASX requires or that Cyan and MMA may agree in writing.

**Registered Address** means, in relation to a Scheme Participant, the address of that Scheme Participant shown in the Share Register as at the Record Date.

**Regulatory Authority** includes:

- (a) a foreign or Australian government or governmental, semi-governmental, administrative, fiscal, tax or judicial entity or authority;
- (b) a minister, department, office, commission, delegate, instrumentality, tribunal, agency, board, authority or organisation of any government;
- (c) any regulatory organisation established under statute;
- (d) any applicable securities commission or stock or securities exchange;

- (e) in particular, ASX, ASIC, FIRB, the Takeovers Panel and Foreign Corporate Regulatory Authorities; and
- (f) any authorised representative of any of the above.

**Scheme** means the scheme of arrangement pursuant to Part 5.1 of the Corporations Act between MMA and the Scheme Participants, as set out in this document, together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by MMA and Cyan.

**Scheme Consideration** means the consideration to be provided by Cyan to each Scheme Participant for the transfer of each Scheme Share under the Scheme, being \$2.60 per Scheme Share.

**Scheme Implementation Deed** means the scheme implementation deed entered into between Cyan and MMA dated 24 March 2024, with respect to the Scheme and associated matters.

**Scheme Meeting** means the meeting of Shareholders ordered by the Court to be convened in relation to the Scheme pursuant to section 411(1) of the Corporations Act and includes any meeting convened following any adjournment or postponement of that meeting.

**Scheme Order** means the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable and subject to clause 7.10, section 411(6) of the Corporations Act) in relation to the Scheme.

**Scheme Participant** means a Shareholder recorded in the Share Register as holding one or more Scheme Shares as at the Record Date.

**Scheme Shares** means all of the Shares on issue on the Record Date.

**Scheme Transfer** means, for each Scheme Participant, a duly completed and executed proper instrument of transfer of the Scheme Shares held by that Scheme Participant for the purposes of section 1071B of the Corporations Act, which may be a master transfer for all Scheme Shares.

**Second Court Date** means the first day on which the application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the first day on which the adjourned application is heard or scheduled to be heard.

**Second Court Hearing** means the hearing at which the application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the hearing at which the adjourned application is heard.

**Share** means a fully paid ordinary share in the capital of MMA.

**Share Register** means the register of holders of Shares maintained by or on behalf of MMA in accordance with the Corporations Act.

**Share Registry** means Automic Pty Ltd ACN 152 260 814, or any replacement share registry services provider to MMA.

**Shareholder** means a person who is registered in the Share Register as the holder of one or more Shares, from time to time.

**Subdivision 14-D** has the meaning given to that term in clause 7.8.

**Subsidiary** has the meaning given to that term in section 9 of the Corporations Act.

**Takeovers Panel** means the Australian Takeovers Panel.

## 1.2 Interpretation

In this Scheme:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, or schedule is to a clause or paragraph of, or schedule to, this Scheme, and a reference to this Scheme includes any schedule;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, dollar, Australian dollar or \$ is to Australian currency;
- (f) a reference to time is to Perth, Western Australia time, unless otherwise noted;
- (g) a reference to a party is to a party to this Scheme, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a reference to the Listing Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;
- (k) a word or expression defined in the Corporations Act and not otherwise defined in this Scheme has the meaning given to it in the Corporations Act;
- (l) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Scheme or any part of it; and
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day unless otherwise required by the Corporations Act or the Listing Rules.

## 2 Conditions precedent

---

### 2.1 Conditions precedent

This Scheme is conditional upon, and will have no force or effect unless and until, each of the following conditions precedent are satisfied:

- (a) all of the Conditions Precedent having been satisfied or (if permitted) waived (other than the condition in clause 3.1(c) (Court Approval of Scheme) of the Scheme Implementation Deed), in each case in accordance with the Scheme Implementation Deed;



- (b) as at 8:00am on the Second Court Date, the Scheme Implementation Deed not having been terminated in accordance with its terms;
- (c) as at 8:00am on the Second Court Date, the Deed Poll not having been terminated in accordance with its terms;
- (d) approval of the Scheme by the Court pursuant to section 411(4)(b) of the Corporations Act having been obtained and, if applicable, MMA and Cyan having both consented to (in accordance with clause 7.10) any modification made or required by the Court under section 411(6) of the Corporations Act;
- (e) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme and consented to by both MMA and Cyan (in accordance with clause 7.10) having been satisfied or waived (if any); and
- (f) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the Scheme Order on or before the End Date (or any later date MMA and Cyan agree in writing in accordance with the Scheme Implementation Deed).

## 2.2 Certificates

- (a) At the Second Court Hearing, each of MMA and Cyan must provide a certificate to the Court confirming (in respect of matters within their knowledge) whether or not all the conditions in clauses 2.1(a), 2.1(b) and 2.1(c) have been satisfied or waived as at 8:00am on the Second Court Date.
- (b) The certificate referred to in this clause 2.2 will constitute conclusive evidence of whether the conditions in clauses 2.1(a), 2.1(b) and 2.1(c) have been satisfied or waived.

## 3 The Scheme

---

### 3.1 Effective Date

Subject to clauses 2 and 3.2, this Scheme will come into effect pursuant to section 411(10) of the Corporations Act on and from the Effective Date.

### 3.2 End Date

Without limiting any rights under the Scheme Implementation Deed, this Scheme will lapse and be of no further force or effect (and each of MMA and Cyan are released from any obligations and any liability in connection with this Scheme or the Deed Poll) if:

- (a) the Effective Date has not occurred on or before the End Date; or
- (b) the Scheme Implementation Deed or the Deed Poll are terminated in accordance with their respective terms,

unless MMA and Cyan otherwise agree in writing (and, if required, as approved by the Court).

## 4 Implementation of the Scheme

---

### 4.1 Lodgement of Scheme Order with ASIC

If the conditions precedent set out in clause 2.1 of this Scheme (other than the condition precedent in clause 2.1(f) of this Scheme) are satisfied, MMA must lodge with ASIC in accordance with section 411(10) of the Corporations Act, an office copy of the Scheme Order as soon as possible after the Court makes that Scheme Order and in any event by 5:00pm on the first Business Day after the date on which the Court makes that Scheme Order (or such later time agreed in writing by MMA and Cyan).

#### 4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the Scheme having become Effective, the provision of the Scheme Consideration in accordance with clause 5 and Cyan having provided MMA with written confirmation of the provision of those funds, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Cyan, without the need for any further act by any Scheme Participant (other than acts performed by MMA or its directors, officers and secretaries as agent and attorney of the Scheme Participants under clauses 7.1, 7.2 and 7.3 or otherwise), by:
  - (i) MMA delivering to Cyan a duly completed registrable Scheme Transfer, duly executed on behalf of the Scheme Participants (being the transferors) by MMA as agent and attorney of the Scheme Participants; and
  - (ii) Cyan duly executing that Scheme Transfer as transferee, attending to the stamping of the Scheme Transfer (if required) and delivering it to MMA for registration; and
- (b) MMA, immediately after receipt of the Scheme Transfer in accordance with clause 4.2(a)(ii), must attend to registration of the Scheme Transfer and enter, or procure the entry of, the name of Cyan in the Share Register as holder of all the Scheme Shares transferred to Cyan in accordance with this Scheme.

#### 4.3 Entitlement to Scheme Consideration

On the Implementation Date, in consideration of the transfer of the Scheme Shares to Cyan, each Scheme Participant will be entitled to receive the Scheme Consideration in respect of the Scheme Shares held by them on the Record Date in accordance with clause 5 of this Scheme.

### 5 Scheme Consideration

---

#### 5.1 Scheme Consideration

On the Implementation Date, Cyan must provide the Scheme Consideration to each Scheme Participant in accordance with this clause 5.

#### 5.2 Provision of Scheme Consideration

- (a) Cyan must, by no later than the Business Day before the Implementation Date, deposit, or procure the deposit of, in Immediately Available Funds an amount (in Australian currency) equal to the aggregate amount of the Scheme Consideration payable to all Scheme Participants into an Australian dollar denominated trust account (with an ADI) operated by MMA (or, if notified in writing by MMA to Cyan, operated by the Share Registry) as trustee for the Scheme Participants (provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Cyan's account).
- (b) On the Implementation Date, subject to funds having been deposited in accordance with clause 5.2(a), MMA must pay (or procure the payment) to each Scheme Participant, from the trust account referred to in clause 5.2(a), such amount of cash as is due to that Scheme Participant as Scheme Consideration in respect of all of that Scheme Participant's Scheme Shares.
- (c) The obligations of MMA under clause 5.2(b) will be satisfied by MMA (in its absolute discretion, and despite an election referred to in clause 5.2(c)(i) or authority referred to in clause 5.2(c)(ii) made or given by the Scheme Participant):
  - (i) if a Scheme Participant has, before the Record Date, made a valid election in accordance with the requirements of the Share Registry to receive dividend

payments from MMA by electronic funds transfer to a bank account nominated by the Scheme Participant, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election;

- (ii) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Participant by an appropriate authority from the Scheme Participant to MMA; or
  - (iii) dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Participant by prepaid ordinary post (or, if the Scheme Participant's Registered Address is outside Australia, by pre-paid airmail post) to their Registered Address (as at the Record Date), such cheque being drawn in the name of the Scheme Participant (or in the case of joint holders, in accordance with the procedures set out in clause 5.3).
- (d) To the extent that, following satisfaction of MMA's obligations and Scheme Participants' rights under clauses 5.2(c), there is a surplus in the amount held by MMA as trustee for the Scheme Participants in the trust account referred to in this clause 5.2, that surplus (less bank fees and other charges) must be paid by MMA to Cyan as soon as practicable.

### 5.3 Joint holders

In the case of Scheme Shares held in joint names:

- (a) the Scheme Consideration is payable to the joint holders and any cheque required to be sent to Scheme Participants under this Scheme will be made payable to the joint holders (as applicable) and sent to either (at the sole discretion of MMA) the Registered Address of the holder whose name appears first in the Share Register on the Record Date or to the Registered Address of the joint holders on the Record Date; and
- (b) any other document required to be sent under this Scheme will be sent to either (at the sole discretion of MMA) the Registered Address of the holder whose name appears first in the Share Register on the Record Date or to the Registered Address of the joint holders on the Record Date.

### 5.4 Orders of a court or other Regulatory Authority

- (a) If MMA (or the Share Registry) or Cyan receives written notice of an order or direction made by a court of competent jurisdiction or by another Regulatory Authority that:
  - (i) requires payment to be provided to a third party of a sum in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable to that Scheme Participant in accordance with clause 5.2 of this Scheme, then MMA must procure that payment is made in accordance with that order or direction; or
  - (ii) prevents MMA from dispatching payment to any particular Scheme Participant in accordance with clause 5.2 of this Scheme, or the payment is otherwise prohibited by applicable law, MMA will retain an amount, in Australian currency, equal to the number of Scheme Shares held by that Scheme Participant multiplied by the Scheme Consideration, until such time as payment in accordance with clause 5.2 of this Scheme is permitted by that (or another) order or direction or otherwise permitted by law.
- (b) To the extent that amounts are so paid or withheld in accordance with clause 5.4(a), such paid or withheld amounts will be treated for all purposes under this Scheme as having been paid to the person in respect of which such payment or withholding was made, provided that such paid or withheld amounts are actually remitted as required by that clause.

## 5.5 Unclaimed monies

- (a) MMA may cancel a cheque issued under this clause 5 if the cheque:
  - (i) is returned to MMA; or
  - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Participant to MMA (or the Share Registry) (which request may not be made until the date which is 10 Business Days after the Implementation Date), MMA must reissue a cheque that was previously cancelled under this clause 5.5.
- (c) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).

## 6 Dealings in Scheme Shares

---

### 6.1 Determination of Scheme Participants

To establish the identity of Scheme Participants, dealings in Scheme Shares or other alterations to the Share Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Share Register as the holder of the relevant Scheme Shares on or before the Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in registrable form in respect of those dealings, or valid requests in respect of other alterations, are received on or before the Record Date at the place where the Share Register is kept,

and for the purpose of establishing the persons who are Scheme Participants, MMA must not accept for registration, nor recognise for any purpose (except a transfer to Cyan under this Scheme and any subsequent transfer by Cyan or its successors in title), any transfer or transmission application or other request (in each case) received after the Record Date, or received by the Record Date but not in registrable or actionable form, as appropriate.

### 6.2 Share Register

MMA must register any registrable transmission applications or transfers of the Scheme Shares that MMA received in accordance with clause 6.1 by the Record Date provided that, to avoid doubt, nothing in this clause 6.2 requires MMA to register a transfer that would result in a Shareholder holding a parcel of Shares that is less than a 'marketable parcel' (for the purposes of this clause, a 'marketable parcel' has the meaning given to that term in the procedures of the ASX Operating Rules).

### 6.3 No disposals after Record Date

If this Scheme becomes Effective, each Scheme Participant, and any person claiming through that Scheme Participant, must not dispose of or transfer, or purport or agree to dispose of or transfer, any Scheme Shares or any interest in them after the Record Date otherwise than pursuant to this Scheme, and any attempt to do so will be void and of no legal effect whatsoever and MMA is entitled to disregard any such disposal, transfer or purported disposal or transfer.

### 6.4 Maintenance of Share Register

For the purpose of determining entitlements to the Scheme Consideration, MMA must maintain, or procure the maintenance of, the Share Register in accordance with the provisions

of this clause 6 until the Scheme Consideration has been paid to the Scheme Participants. The Share Register in this form will solely determine entitlements to the Scheme Consideration.

#### 6.5 Effect of Holding Statements

All statements of holding in respect of Scheme Shares (other than statements of holding in favour of Cyan) will cease to have effect after the Record Date as documents of title (or evidence thereof) in respect of those Scheme Shares and, after the Record Date, each entry in respect of Scheme Shares current at that date on the Share Register (other than entries on the Share Register in respect of Cyan) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

#### 6.6 Details of Scheme Participants

As soon as possible after the Record Date, and in any event within two Business Days after the Record Date, MMA must provide to Cyan (or procure the provision to Cyan of) details of the names, registered addresses and holdings of Scheme Shares for each Scheme Participant, as shown in the Share Register on the Record Date.

#### 6.7 Quotation of Shares

- (a) After the Court makes the orders under section 411(4)(b) of the Corporations Act approving the Scheme, MMA must apply to ASX to suspend trading on ASX of the Shares with effect from the close of trading on ASX on the Effective Date.
- (b) On a date after the Implementation Date to be agreed with Cyan, MMA must apply to ASX to have MMA removed from the official list of ASX, and quotation of Shares on ASX terminated.

## 7 General Scheme provisions

---

### 7.1 Scheme Participant's agreements and consents

Each Scheme Participant:

- (a) agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares as at the Implementation Date, to Cyan in accordance with the terms of this Scheme;
- (b) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by, or resulting from, this Scheme (if any); and
- (c) acknowledges and agrees to MMA and Cyan doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it,

in each case without the need for any further act by that Scheme Participant.

### 7.2 Warranty by Scheme Participants

Each Scheme Participant is taken to have warranted to MMA and Cyan on the Implementation Date, and to have appointed and authorised MMA as its attorney and agent to warrant to Cyan on the Implementation Date, that:

- (a) all Scheme Shares held by that Scheme Participant (including any rights and entitlements attaching to those Scheme Shares as at the Implementation Date) which are transferred to Cyan under the Scheme will, as at the date of the transfer, be fully paid and free from:

- (i) all Encumbrances and interests of third parties of any kind, whether legal or otherwise; and
- (ii) restrictions on transfer of any kind; and
- (b) the Scheme Participant has full power and capacity to sell and to transfer their Scheme Shares (together with any rights and entitlements attaching to those Scheme Shares as at the Implementation Date) to Cyan under the Scheme (and MMA undertakes that it will provide such warranty to Cyan as agent and attorney of each Scheme Participant); and
- (c) the Scheme Participant has no existing right to be issued any Shares, Performance Rights or any other MMA equity securities (and MMA undertakes that it will provide such warranty to Cyan as agent and attorney of each Scheme Participant).

### 7.3 Authority given to MMA

- (a) On this Scheme becoming Effective, each Scheme Participant, without the need for any further act, is deemed to have irrevocably appointed MMA and each of MMA's directors, officers and secretaries (jointly and severally) as its attorney and agent for the purposes of:
  - (i) enforcing the Deed Poll against Cyan, and MMA undertakes in favour of each Scheme Participant to enforce the Deed Poll against Cyan on behalf of and as agent and attorney for each Scheme Participant;
  - (ii) in the case of Scheme Shares in a CHESS Holding:
    - (A) causing a message to be transmitted to ASX Settlement in accordance with the ASX Settlement Rules so as to transfer the Scheme Shares held by the Scheme Participant from the CHESS sub-register of MMA to the issuer sponsored sub-register operated by MMA or the Share Registry at any time after Cyan has provided the Scheme Consideration which is due to Scheme Participants under this Scheme; and
    - (B) completing and signing on behalf of Scheme Participants any required form of transfer of Scheme Shares;
  - (iii) in the case of Scheme Shares registered in the issuer sponsored sub-register operated by MMA or the Share Registry, completing and signing on behalf of Scheme Participants any required form of transfer; and
  - (iv) doing all things and executing any agreements, instruments, transfers or other documents as may be necessary or desirable to give full effect to this Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or the execution and delivery of any Scheme Transfers) as contemplated by clause 4.2.
- (b) MMA:
  - (i) accepts the appointment under clause 7.3(a); and
  - (ii) as attorney and agent of each Scheme Participant, may sub delegate its functions, authorities or powers under this clause 7.3 to all or any of its directors, officers and secretaries (jointly, severally or jointly and severally).

### 7.4 Further assurances

Each Scheme Participant and MMA will do all things and execute all deeds, instruments, transfers or other documents as may be necessary and desirable to give full effect to the terms of this Scheme and the transactions contemplated by it.

## 7.5 Scheme binding

This Scheme binds MMA and all Scheme Participants from time to time (including, to avoid doubt, those who do not attend the Scheme Meeting and those who do not vote at that meeting or who vote against this Scheme) and, to the extent of any inconsistency overrides the constitution of MMA.

## 7.6 Beneficial entitlement to Scheme Shares

Immediately upon the provision of the aggregate amount of the Scheme Consideration for the Scheme Shares as contemplated by clause 5 of this Scheme:

- (a) Cyan will be beneficially entitled to the Scheme Shares transferred to it under this Scheme, pending registration by MMA of Cyan in the Share Register as the holder of all the Scheme Shares; and
- (b) to the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares as at the Implementation Date) transferred under this Scheme to Cyan will, at the time of transfer to Cyan, vest in Cyan free from all:
  - (i) Encumbrances and interests of third parties of any kind, whether legal or otherwise; and
  - (ii) restrictions on transfer of any kind.

## 7.7 Appointment of Cyan as agent, attorney and sole proxy in respect of Scheme Shares

- (a) Immediately upon the provision of the aggregate amount of the Scheme Consideration for the Scheme Shares as contemplated by clause 5 of this Scheme, on and from the Implementation Date and until registration by MMA of Cyan in the Share Register as the holder of all the Scheme Shares, each Scheme Participant, without the need for any further act by that Scheme Participant:
  - (i) is deemed to have irrevocably appointed Cyan as attorney and agent (and directs Cyan in each capacity) solely to appoint any director, officer, secretary or agent nominated by Cyan as its sole proxy and, where applicable, its corporate representative to attend shareholder meetings of MMA, exercise the votes attached to the Scheme Shares registered in the name of the Scheme Participant and sign any shareholders resolution of MMA (whether in person, by proxy or by corporate representative);
  - (ii) undertakes not to attend or vote at any such meetings or sign any such resolutions, whether in person, by proxy or by corporate representative other than pursuant to clause 7.7(a)(i);
  - (iii) must take all other actions in the capacity of a registered holder of Scheme Shares as Cyan reasonably directs; and
  - (iv) acknowledges and agrees that, in exercising the powers conferred by clause 7.7(a)(i), Cyan and any director, officer, secretary or agent nominated by Cyan under that clause may act in the best interests of Cyan as the intended registered holder of the Scheme Shares.

## 7.8 Withholding

If Cyan is required by Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (Cth) (**Subdivision 14-D**) to pay an amount to the Commissioner of Taxation under section 14-200 in Subdivision 14-D (**CGT Withholding Amount**) in respect of the acquisition of Scheme Shares from certain Scheme Participants under this Scheme, then Cyan:

- (a) is permitted to deduct the relevant CGT Withholding Amount from the Scheme Consideration paid to those Scheme Participants, and (as referred to in clause 7.8(c)) remit such amounts to the Commissioner of Taxation;

- (b) will not be obliged to increase the aggregate sum paid to Scheme Participants by the amount of the deduction in respect of any CGT Withholding Amount and the net aggregate sum payable to those Scheme Participants shall be taken to be in full and final satisfaction of Cyan's obligation to pay the Scheme Consideration to those Scheme Participants; and
- (c) must pay any such CGT Withholding Amount to the Commissioner of Taxation within the time required by law and, if requested in writing by the relevant Scheme Participant, must provide a receipt or other appropriate evidence of such payment (or procure the provision of such receipt or other evidence) to the relevant Scheme Participant.

#### 7.9 Notices

- (a) Where a notice, transfer, transmission application or other communication referred to in this Scheme is sent by post to MMA, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at MMA's registered office or at the office of the Share Registry.
- (b) The accidental omission to give notice of the Scheme Meeting to any Shareholders, or the non-receipt of such a notice by any Shareholders, will not, unless ordered by the Court, invalidate the Scheme Meeting, this Scheme or the proceedings at the Scheme Meeting.

#### 7.10 Alterations and conditions

If the Court proposes to approve this Scheme subject to any conditions or alterations under section 411(6) of the Corporations Act:

- (a) MMA may, by its counsel on behalf of all persons concerned, consent to such conditions or alterations to this Scheme; and
- (b) each Scheme Participant agrees to any such conditions or alterations which counsel for MMA has consented to,

provided Cyan has, in its sole and absolute discretion, consented to those conditions or alterations in writing.

#### 7.11 Stamp Duty

Cyan:

- (a) will pay all duty (including stamp duty) and any related fines, penalties and interest in respect of this Scheme and the Deed Poll (including the acquisition or transfer of Scheme Shares pursuant to this Scheme), the performance of the Deed Poll and each transaction effected by or made under this Scheme and the Deed Poll; and
- (b) indemnifies each Scheme Participant against any liability arising from failure to comply with clause 7.11(a).

#### 7.12 No liability when acting in good faith

Each Scheme Participant agrees that neither MMA or Cyan nor any of their respective directors, officers, secretaries or employees is liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

#### 7.13 Governing Law

- (a) This Scheme is governed by and will be construed according to the laws of New South Wales.



- (b) Each party irrevocably:
  - (i) submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales and of the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Scheme; and
  - (ii) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if the venue of those proceedings fall within clause 7.13(b)(i).

**Schedule 5**

**Deed Poll**

For personal use only

---

# Thomson Geer

Lawyers

Level 29, Central Park Tower  
152-158 St Georges Terrace  
Perth WA 6000 Australia

T +61 8 9404 9100 | F +61 8 9300 1338

## Deed Poll

**Cyan MMA Holdings Pty Limited**  
(ACN 675 840 196)

For personal use only

## Table of contents

<b>1</b>	<b>Definitions and interpretation</b> .....	<b>84</b>
1.1	Definitions .....	84
1.2	Interpretation.....	85
<b>2</b>	<b>Nature of Deed Poll</b> .....	<b>85</b>
<b>3</b>	<b>Condition and termination</b> .....	<b>86</b>
3.1	Condition.....	86
3.2	Termination.....	86
3.3	Consequences of termination .....	86
<b>4</b>	<b>Scheme obligations</b> .....	<b>86</b>
<b>5</b>	<b>Representations and warranties</b> .....	<b>86</b>
<b>6</b>	<b>Continuing obligations</b> .....	<b>87</b>
<b>7</b>	<b>General</b> .....	<b>87</b>
7.1	Amendment .....	87
7.2	Waiver.....	87
7.3	Cumulative rights, powers and remedies .....	88
7.4	Assignment .....	88
7.5	Expenses and duty .....	88
7.6	Further action.....	88
7.7	Governing law.....	88
<b>8</b>	<b>Notices</b> .....	<b>88</b>
8.1	Manner of giving notice.....	88
8.2	When notice given .....	89
8.3	Proof of service.....	89

By **Cyan MMA Holdings Pty Limited** (ACN 675 840 196) of Level 12, 680 George Street, Sydney NSW 2000 (**Cyan**)

In favour of Each Scheme Participant

## Recitals

- A Cyan and MMA Offshore Limited (ACN 083 185 693) (**MMA**) have entered into the Scheme Implementation Deed.
- B In the Scheme Implementation Deed, Cyan agreed to make this Deed Poll.
- C Cyan is entering into this Deed Poll for the purpose of covenanting in favour of the Scheme Participants that it will observe and perform obligations and actions contemplated of it under the Scheme Implementation Deed and the Scheme.

**Now it is covenanted and agreed** as follows:

## 1 Definitions and interpretation

---

### 1.1 Definitions

In this Deed Poll:

- (a) **First Court Date** means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard;
- (b) **Insolvency Event** means in relation to a person:
- (i) **(insolvency official)** the appointment of an Insolvency Official to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
  - (ii) **(arrangements)** the entry by the person into a compromise or arrangement with its creditors generally;
  - (iii) **(winding up)** the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
  - (iv) **(suspends payments)** the person suspends or threatens to suspend payment of its debts as and when they become due;
  - (v) **(ceasing business)** the person no longer carries on any business;
  - (vi) **(insolvency)** the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act, or other law applicable to such person;
  - (vii) **(deregistration)** the person being deregistered (or equivalent) as a company or otherwise dissolved;

- (viii) **(deed of company arrangement)** the person executing a deed of company arrangement;
- (ix) **(person as trustee or partner)** the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
  - (A) a breach of trust or obligation as partner by the person;
  - (B) the person acting outside the scope of its powers as trustee or partner;
  - (C) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability; or
  - (D) the assets of the trust or partnership being insufficient to discharge the liability; or
- (x) **(analogous events)** anything analogous to those set out in any of paragraphs (i) to (ix) (inclusive) occurs in relation to the person under the laws of a foreign jurisdiction;
- (c) **Insolvency Official** means a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law);
- (d) **MMA** has the meaning given to that term in Recital A;
- (e) **Related Body Corporate** has the meaning given to that term in the Corporations Act;
- (f) **Scheme** means the scheme of arrangement pursuant to Part 5.1 of the Corporations Act between MMA and the Scheme Participants in respect of all Scheme Shares, the form of which is contained in Schedule 1 of this Deed Poll (as amended by MMA and Cyan in writing from time to time), together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by MMA and Cyan;
- (g) **Scheme Implementation Deed** means the scheme implementation deed entered into between Cyan and MMA dated 24 March 2024, with respect to the Scheme and associated matters; and
- (h) unless the context requires otherwise, terms defined in the Scheme have the same meaning when used in this Deed Poll.

## 1.2 Interpretation

The provisions of clause 1.2 of the Scheme form part of this Deed Poll as if set out in full in this Deed Poll, except that references to 'this Scheme' in that clause are to be read as references to 'this Deed Poll'.

## 2 Nature of Deed Poll

---

Cyan acknowledges and agrees that:

- (a) this Deed Poll may be relied on and enforced by any Scheme Participant in accordance with its terms, even though the Scheme Participants are not party to it; and

- (b) under the Scheme, each Scheme Participant irrevocably appoints MMA and each of MMA's directors, officers and secretaries (jointly and severally) as its agent and attorney to enforce this Deed Poll against Cyan.

### **3 Condition and termination**

---

#### **3.1 Condition**

The obligations of Cyan under clause 4 are subject to the Scheme becoming Effective.

#### **3.2 Termination**

The obligations of Cyan to Scheme Participants under this Deed Poll will automatically terminate and, subject to clause 3.3, the terms of this Deed Poll will be of no further force or effect, if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme is not Effective by the End Date,
- unless Cyan and MMA otherwise agree in writing (and, if required, as approved by the Court).

#### **3.3 Consequences of termination**

If this Deed Poll is terminated under clause 3.2, then in addition, and without prejudice to any other rights, powers or remedies available to them:

- (a) Cyan is released from its obligations to further perform this Deed Poll, except those obligations under clause 7.5; and
- (b) each Scheme Participant retains the rights, powers and remedies which that Scheme Participant has against Cyan in respect of any breach of this Deed Poll which occurs before this Deed Poll is terminated.

### **4 Scheme obligations**

---

Subject to clause 3, Cyan covenants and undertakes in favour of each Scheme Participant to:

- (a) provide the Scheme Consideration to each Scheme Participant in accordance with the terms of the Scheme; and
- (b) perform all other obligations and actions attributed to Cyan under the Scheme and comply with the Scheme, and do all acts and things necessary or desirable on its part to give full effect to the Scheme, as if Cyan were a party to the Scheme.

### **5 Representations and warranties**

---

Cyan represents and warrants in favour of each Scheme Participant that:

- (a) Cyan is a corporation validly existing under the laws of the place of its incorporation;
- (b) Cyan has the corporate power and capacity to enter into and perform its obligations under this Deed Poll and to carry out the transactions contemplated by this Deed Poll;
- (c) Cyan has taken all necessary corporate action to authorise its entry into this Deed Poll and has taken and will continue to take all necessary corporate action to authorise the performance of this Deed Poll and to carry out the transactions contemplated by this Deed Poll;

- (d) this Deed Poll is valid and binding on Cyan and enforceable against Cyan in accordance with its terms;
- (e) the execution and performance by Cyan of this Deed Poll does not and will not violate, conflict with, or result in any breach of or default under:
  - (i) any term or provision of any of Cyan's constituent or constating documents;
  - (ii) any writ, order or injunction, judgment, law, rule or regulation to which Cyan is a party or subject or by which it is bound; or
  - (iii) any other document which is binding on Cyan or on any of its assets; and
- (f) Cyan is not subject to, or affected by, an Insolvency Event.

## **6 Continuing obligations**

---

This Deed Poll is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of:

- (a) Cyan having fully performed its obligations under this Deed Poll; or
- (b) termination of this Deed Poll under clause 3.2.

## **7 General**

---

### **7.1 Amendment**

A provision of this Deed Poll may not be varied, altered or otherwise amended:

- (a) before the First Court Date, unless the variation, alteration or other amendment is agreed to in writing by MMA and Cyan (which agreement may be given or withheld without reference to, or approval by, any Shareholder); or
- (b) on or after the First Court Date, unless the variation, alteration or other amendment is agreed to in writing by MMA and Cyan (which agreement may be given or withheld without reference to, or approval by, any Shareholder), and the Court indicates that the amendment would not of itself preclude approval of the Scheme,

in which event Cyan must promptly enter into a further deed poll in favour of each Scheme Participant giving effect to that variation, alteration or other amendment.

### **7.2 Waiver**

- (a) Neither a Scheme Participant nor Cyan waives a right, power or remedy under or in connection with this Deed Poll if it fails to exercise, partially exercises or delays in exercising the right, power or remedy.
- (b) A single or partial exercise by a Scheme Participant or Cyan of a right, power or remedy under or in connection with this Deed Poll does not prevent another or further exercise of that or another right, power or remedy.
- (c) A right, power or remedy of a Scheme Participant or Cyan under or in connection with this Deed Poll may not be treated as waived unless it is waived by that Scheme Participant or Cyan in writing, signed by that Scheme Participant or Cyan (as applicable).
- (d) Cyan may not rely on any conduct of another person as a defence to the exercise of a right, power or remedy by that other person.



**7.3 Cumulative rights, powers and remedies**

The rights, powers and remedies of Cyan and each Scheme Participant under this Deed Poll are cumulative, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

**7.4 Assignment**

- (a) The rights and obligations of Cyan and each Scheme Participant under this Deed Poll are personal. They cannot be assigned, encumbered, charged or otherwise dealt with and no person may attempt, or purport, to do so without the prior written consent of Cyan and MMA.
- (b) Any purported assignment, encumbrance, charge or other dealing, or other action, in contravention of clause 7.4(a) is invalid.

**7.5 Expenses and duty**

Cyan:

- (a) must pay all duty (including stamp duty) and any related fines, penalties and interest in respect of the Scheme and this Deed Poll (including the acquisition or transfer of Scheme Shares pursuant to the Scheme), the performance of this Deed Poll and each transaction effected by or made under or pursuant to the Scheme and this Deed Poll; and
- (b) indemnifies each Scheme Participant against, and agrees to reimburse and compensate each Scheme Participant for, any liability arising from any failure to comply with clause 7.5(a).

**7.6 Further action**


Cyan must, at its own expense, do all things necessary or expedient to be done by it to give full effect to this Deed Poll and the transactions contemplated by it, and to implement the Scheme.

**7.7 Governing law**

- (a) This Deed Poll is governed by the law in force in New South Wales.
- (b) Cyan irrevocably:
  - (i) submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings arising out of or in connection with this Deed Poll; and
  - (ii) waives any objection to the venue of any proceedings in these courts on the basis that the process has been brought in an inconvenient forum.

**8 Notices****8.1 Manner of giving notice**

Any notice or other communication to be given to Cyan under this Deed Poll must be in writing (which includes email) and may be delivered or sent by hand or email to Cyan as follows:

Address	Level 12, 680 George Street, Sydney NSW 2000
Email	
Attention	James Chern and Kangyu Chia

With a copy to: noah.obradvoic@allens.com.au;  
katherine.tsatsaklas@allens.com.au

or at any such other address or email address notified for this purpose by Cyan to MMA.

## 8.2 When notice given

Any notice or other communication to Cyan under this Deed Poll is deemed to have been given:

- (a) if delivered by hand, on the date of delivery; or
- (b) if sent by email, on the earlier of the sender receiving an automated message confirming delivery or, provided no automated message is received stating that the email has not been delivered, three hours after the time the email was sent by the sender, such time to be determined by reference to the device from which the email was sent,

but if the notice or other communication would otherwise be taken to be received after 5:00pm or on a Saturday, Sunday or public holiday in the place of receipt then the notice or communication is taken to be received at 9:00am on the next day that is not a Saturday, Sunday or public holiday.

## 8.3 Proof of service

In proving service of a notice or other communication, it shall be sufficient to prove that delivery was made or that the email was properly addressed and transmitted by the sender's server into the network and there was no apparent error in the operation of the sender's email system, as the case may be.

**Schedule 1 – Scheme**

For personal use only

**Executed and delivered as a deed poll**

**Executed by Cyan MMA Holdings Pty Limited** ACN 675 840 196 in accordance with section 127 of the *Corporations Act 2001* (Cth):

---

Sole Director

---

Name of Sole Director  
BLOCK LETTERS

For personal use only

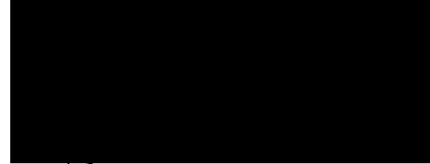
**EXECUTION**

Executed as a deed.

**Executed by MMA Offshore Limited** ACN 083  
185 693 in accordance with section 127 of the  
*Corporations Act 2001* (Cth):



Director



\*Director/\*Company Secretary

**IAN MACLIVER**

Name of Director  
BLOCK LETTERS

**DAVID ROSS**

Name of \*Director/\*Company Secretary  
BLOCK LETTERS  
\*please strike out as appropriate

For personal use only

Executed as a deed.

**Executed by Cyan MMA Holdings Pty  
Limited** ACN 675 840 196 in accordance with  
section 127 of the *Corporations Act 2001* (Cth):



---

Sole Director

SWAPNA KESKAR

---

Name of Director  
BLOCK LETTERS

For personal use only