

DECLARATION OF TRUST

Date: 4 December 2020

By: EML Payment Solutions Limited incorporated in Australia (ACN 131 436 532) (**EML**)

In favour of: the Holders

Background

EML issues Securities to the Holders. It opens Trust Accounts from time to time with ANZ Bank New Zealand Limited (**Bank**) to hold the Credit Amounts of each Holder. EML enters in this deed to declare that it holds the Trust Property on trust for the benefit of Holders.

1. INTERPRETATION

- 1.1 Unless the context otherwise requires, terms defined in the Trust Deed have the same meaning in this deed and:

"Required Minimum Balance" means, on any date, an amount equal to:

- (a) the aggregate Credit Amounts of all Securities on that date; or
- (b) if the Trust Accounts so operate, the reported aggregate Credit Amounts of all Securities on the previous day.

"Trust Accounts" means each trust account opened in the name of EML with the Bank in connection with the Securities and designated by EML from time to time as a Trust Account for the purposes of this deed including as at the date of this deed bank account numbers 01 1839 0936490 000, 263916AED00001, 263916AUD00001, 263916CAD00001, 263916EUR00001, 263916GBP00001, 263916HKD00001, 263916JPY00001, 263916SGD00001 and 263916USD00001.

"Trust Account Balance" means, in respect of a Trust Account at any time, the balance standing to the credit of that Trust Account at that time.

"Trust Deed" means the trust deed dated on or about the date of this deed between EML and the Supervisor.

"Trust Property" means, on any date, all of EML's right, title and interest in the Trust Account Balances on that date (excluding, for the avoidance of doubt, any amounts that cease to be Trust Property in accordance with clause 2.4).

2. DECLARATION OF TRUST

- 2.1 EML declares that it holds the Trust Property on trust for the benefit of the Holders on the terms of this deed.

- 2.2 Subject to clause 2.3, EML agrees to ensure that all payments into and withdrawals from the Trust Accounts will be:
- (a) from/to Mastercard and correspond to payments or withdrawals made by Holders in connection with Securities;
 - (b) to/from EML:
 - (i) to the extent required, on any date, to ensure that the aggregate balance of the Trust Accounts is not less than the Required Minimum Balance on that date; or
 - (ii) to withdraw any balance of the Trust Accounts in excess of the Required Minimum Balance on any date (for EML's own account).
- 2.3 EML undertakes to use its reasonable endeavours to ensure that the Bank does not make payments to or withdrawals (or deductions) from the Trust Accounts in connection with interest, fees costs, expenses and any other amounts payable in connection with the operation of the Trust Accounts. However, if the Bank does make any such payment or withdrawal (or deduction) from the Trust Accounts EML shall not be in breach of trust (and there shall be no breach of trust) provided that EML remains at all times in compliance with clause 2.6.
- 2.4 Any amount that is:
- (a) permitted to be withdrawn from the Trust Accounts in accordance with clause 2.2; or
 - (b) withdrawn or deducted as contemplated by clause 2.3 (and in compliance with clause 2.3), shall cease to be Trust Property on the making of that withdrawal or deduction.
- 2.5 EML covenants that it has given notice to the Bank that the balance of each Trust Account is held on trust for the Holders.
- 2.6 EML will ensure that:
- (a) its records are able to separately identify the Credit Amount attributable to each Holder held in a Trust Account at any time (which, for the avoidance of doubt, does not include any interest accrued on the Credit Amount in respect of any Security);
 - (b) on any date, the aggregate Trust Account Balance of each Trust Account is equal to or greater than the Required Minimum Balance; and
 - (c) the Credit Amounts held in the Trust Accounts are not included as assets in any of its financial statements or, if they are, are clearly identified as trust assets in accordance with appropriate accounting principles.
- 2.7 EML will not:
- (a) except as permitted by the terms and conditions of the Securities, make or permit deductions from a Holder's Credit Amount held in a Trust Account or exercise or permit any set-off in respect of the Holder's Credit Amount (and acknowledges that it has no right of set-off because it holds the Holders' Credit Amounts in the Trust Accounts as trustee); or
 - (b) grant or permit to subsist any security interest over the Trust Property.

- 2.8 To the fullest extent permitted by law, any non-mandatory or default duties of trustees implied into this deed by the operation of any law applicable to EML or to trustees generally from time to time (including, without limitation, under the Trusts Act) shall not apply.

3. WIND UP

- 3.1 The trust created under clause 2 will terminate and be wound up on the earlier of:

- (a) the date nominated by EML from time to time; and
- (b) the date falling:
 - (i) subject to clause 3.1(b)(ii), 80 years less one day after the date of this deed; or
 - (ii) with effect from the coming into force of the Trusts Act, 125 years less one day after the date of this deed.

4. DELIVERY

- 4.1 Without limiting any other mode of delivery this deed will be delivered by EML on the earlier of:

- (a) physical delivery of an original of this deed, executed by EML, into the custody of the Supervisor or its solicitors; or
- (b) transmission by EML, its solicitors or any other person authorised in writing by EML of a photocopied or scanned copy of an original of this deed, executed by EML, to the Supervisor or its solicitors.

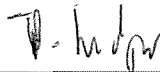
Executed as a deed by **EML Payment Solutions Limited** ABN 30 131 436 532 in accordance with section 127(1) of the *Corporations Act 2001 (Cth)* by authority of its directors:



Signature of director

TOM CREGAN

Name of director



Signature of director/~~company secretary~~*

RACHELLE A. KENNEDY

Name of director/~~company secretary~~*

* Delete whichever is not applicable