

L A W Y E R S

---

# Promissory Note Deed Poll

**M101 HOLDINGS PTY LTD (ACN 629 777 402)**

**Date:** 22 June 2019

KHQ Lawyers  
Level 15, 440 Collins Street  
Melbourne VIC 3000  
PO Box 597  
Collins Street West VIC 8007

03 9663 9877  
[contact@khq.com.au](mailto:contact@khq.com.au)  
[www.khq.com.au](http://www.khq.com.au)

## PROMISSORY NOTE DEED POLL

---

---

### Details

---

<b>Company Details</b>	Name	M101 HOLDINGS PTY LTD
	ACN	629 777 402
	Address	Level 27, 101 Collins St, Melbourne, VIC 3000 Australia

---

**In favour of** The Company and each Noteholder.

---

### Background

---

- A. The Company has decided to issue unsecured, redeemable promissory Notes.
- B. Each Note will belong to a particular Note Class, which specifies the Note's Face Value, Note Term, Maturity Date and Interest Rate.
- C. The terms of issue of the Notes are as set out in this Deed Poll.

## 1. DEFINITIONS AND INTERPRETATION

---

### 1.1 Definitions

In this Deed Poll, unless the context otherwise requires:

**Acceptance** means the notice of acceptance of an Application Form signed by the Company substantially in the form set out in Schedule 1.

**Application Form** means an application form dated on or after the date of this Deed Poll between the Company and a person who is making an application to subscribe for Notes in the Company substantially in the form set out in Schedule 1.

**Business Day** means a day which is not a Saturday, Sunday, bank holiday or public holiday:

- (a) for the purpose of sending or receiving a notice in the city where the notice is received; and
- (b) for all other purposes in Victoria, Australia.

**Closing Date** means the date notified by the Company to a Noteholder or Potential Noteholder by which the Noteholder or Potential Noteholder must pay its Subscription Price for the subscription and issue of its Notes.

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

**Deed Poll** means this deed poll.

**Default Event** means:

- (a) the Company fails to pay within 45 Business Days from the due date (or any extended due date hereunder), any amount payable by it in respect of any Notes;

## PROMISSORY NOTE DEED POLL

---

- (b) the Company otherwise materially breaches a provision of this Deed Poll which is capable of remedy (and it is agreed that failure to perform an obligation by a particular time is a breach capable of remedy) and fails to remedy the breach within 45 Business Days from receipt of a written notice of default from a Noteholder; or
- (c) an Insolvency Event occurs in relation to the Company after the date of this Deed Poll.

**Dispute Notice** has the meaning given in clause 7.2(a).

**Early Withdrawal** has the meaning given in clause 5.2(a).

**Early Withdrawal Date** means the date described in clause 5.2(a), or any later date described in clause 5.2(c)(i).

**Face Value** means:

- (a) with respect to a Note, the face value for the Note, as determined by its Note Class; and
- (b) with respect to a number of Notes, the aggregate amount of the “Face Value” of those Notes.

**Insolvency Event** means with respect to a party:

- (a) the party is dissolved, wound up or placed into bankruptcy or an order is made by a court or an application is made to a court for an order or a resolution is passed or the party gives notice of its intention that the party be dissolved, wound up or placed into bankruptcy;
- (b) a liquidator, provisional liquidator or trustee in bankruptcy is appointed in respect of the party or any property of the party or an application is made to a court for an order that a liquidator, provisional liquidator or trustee in bankruptcy be appointed in respect of the party or any property of the party;
- (c) a controller or administrator is appointed in respect of the party or any property of the party or takes possession or gains control of any property of the party;
- (d) except to reconstruct or amalgamate while solvent, the party enters into, or resolves to enter into, a scheme of arrangement, administration, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them;
- (e) the party is (or states that it is) insolvent or an insolvent under administration (each as defined in the Corporations Act);
- (f) as a result of the operation of section 459F(1) of the Corporations Act, the party is taken to have failed to comply with a statutory demand;
- (g) execution or other process issued on a judgment, decree or order of a court (whether an Australian Court or not) in favour of a creditor against the party, or another party authorised to be sued as nominal defendant on behalf of the party, is returned wholly or partly unsatisfied, or the party makes a statement from which it may be reasonably deduced that such an event has occurred;

## PROMISSORY NOTE DEED POLL

---

- (h) the party takes any step to obtain protection or is granted protection from its creditors under any applicable legislation; or
- (i) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

**Interest Rate** means the interest rate which applies to the debt obligation arising under the Note, which is determined by its Note Class.

**Liquidity** means the availability of cash or other liquid assets of the Company which can be applied by the Company to pay the Monies Owing on the redemption of any Notes.

**Monies Owing** means, the amount owing by the Company to a Noteholder pursuant to a Note, being the sum of the Face Value and any other amounts payable by the Company to the Noteholder under this Deed, less any part of the forgoing amounts which have been paid or repaid by the Company to the Noteholder.

**Maturity Date** means, with respect to a Note, the last day of the Note Term.

**Note** means an unsecured redeemable promissory note issued or to be issued by the Company under, and on and subject to the terms of, this Deed Poll. The Notes may be designated by the Company from time to time with a particular label or name, such as the "M1 Notes".

**Note Certificate** means a certificate in respect of a Note issued by the Company in substantially the form set out in Schedule 2.

**Noteholder** or **Holder** means a person entered in the Register as the holder of a Note for the time being and, with respect to any Notes, means the person so registered as the holder of those Notes for the time being.

**Note Class** means an individual class of Notes which has its own unique:

- (a) name;
- (b) Face Value;
- (c) Maturity Date;
- (d) Note Term; and
- (e) Interest Rate.

**Note Term** means the period of the loan conferred by the Note which is specified by its Note Class, and which commences from the date the Note is issued.

**Payment Date** means the later of:

- (a) the date which is 10 Business Days following the conclusion of the calendar month in which the Withdrawal Date falls; and
- (b) any extension to that date made under clause 5.6.

**Potential Noteholder** has the meaning in clause 3.4(a).

**Register** means the register of Noteholders kept or to be kept by the Company in accordance with clause 3.7.

## PROMISSORY NOTE DEED POLL

---

**Subscription Price** has the meaning given in clause 3.4(d)(ii). **Withdrawal Cut Off Date** has the meaning given in clause 5.1(b).

**Withdrawal Date** means the redemption date of a Note which is determined under clauses 5.1(d), 5.2(d)(i), 5.3(b) or 5.4(b) (as applicable).

**Withdrawal Notice** means a notice in the form of Schedule 3 which a Noteholder must submit to the Company to request a redemption of their Notes.

### 1.2 Interpretation

In this Deed Poll, unless otherwise indicated by the context:

- (a) words importing the singular include the plural and vice versa;
- (b) headings are for convenience only and do not affect interpretation of this Deed Poll;
- (c) a reference to a clause, paragraph or schedule is a reference to a clause, paragraph or schedule of this Deed Poll;
- (d) where any word or phrase is given a definite meaning in this Deed Poll any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (e) an expression importing a natural person includes a body corporate, partnership, joint venture, association or other legal entity;
- (f) a reference to a statute, statutory provisions or regulation includes all amendments, consolidations or replacements thereof;
- (g) a reference to a party to a document includes that party's legal personal representatives, successors and permitted assigns;
- (h) a covenant or agreement on the part of or for the benefit of two or more persons binds or benefits them jointly and severally; and
- (i) a reference to a body, whether statutory or not:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to another body,

is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

## 2. BINDING NATURE OF DEED POLL

---

### 2.1 Binding

This Deed Poll binds the Company for the benefit of each Noteholder as if each such person were a party to this Deed Poll, whether or not the person is in existence at the time of execution of this Deed Poll.

### 2.2 Noteholder rights and benefits

The rights and benefits of a Noteholder under this Deed Poll are subject to the Noteholder complying with the provisions of this Deed Poll which are, or are intended to be, binding on the Noteholder.

## PROMISSORY NOTE DEED POLL

---

### 3. NOTES

---

#### 3.1 Issue of Notes

The Company may, in its discretion, agree to the issue of a Note or a number of Notes as determined by the Company from time to time.

#### 3.2 Note Class

- (a) The Company may from time to time, determine to create a Note Class which will provide for all Notes issued under that Note Class to have the same:
  - (i) name;
  - (ii) Face Value;
  - (iii) Note Term (which must not be less than one calendar month);
  - (iv) Maturity Date; and
  - (v) Interest Rate.
- (b) The Company may determine to create a Note Class at any time. It may designate each Note Class with its own name to distinguish it from each other Note Class.

#### 3.3 Basic Terms

Each Note on its issue will:

- (a) be part of a specific Note Class;
- (b) have the name, Face Value, Note Term, Maturity Date and Interest Rate which applies to its Note Class;
- (c) have a nominal or face value equal to the Face Value representing the amount provided (or taken to be provided) by way of loan to the Company in exchange for the issue of the Note;
- (d) be redeemable in accordance with clause 5; and
- (e) grant all other rights and powers which are stated to be vested in a Noteholder under this Deed Poll.

#### 3.4 Application for and issue of Notes

- (a) Subject to clause 3.10, the Company may provide an Application Form to a person (**Potential Noteholder**), who may or may not be an existing Noteholder, for the Potential Noteholder to subscribe for Notes of a particular Note Class.
- (b) If a Potential Noteholder wishes to apply for and subscribe for Notes, then the Potential Noteholder must complete, execute and deliver to the Company an Application Form specifying (amongst other things) the maximum number of Notes it wishes to apply for.
- (c) An Application Form is only effective when it is accepted and countersigned by the Company by issuing an Acceptance. The Company may refuse to accept an Application Form, or provide an Acceptance, for any reason in its sole and absolute discretion.

## PROMISSORY NOTE DEED POLL

---

- (d) An Acceptance of an Application Form by the Company will specify (amongst other things):
  - (i) how many Notes will be issued to the Potential Noteholder (which must be less than or equal to the maximum number applied for); and
  - (ii) the total subscription price payable by the Potential Noteholder for the Notes (which will be calculated by taking the number of Notes to be issued, multiplied by their Face Value) (**Subscription Price**).
- (e) The Company will advise the Potential Noteholder of the Closing Date for the issue of the Notes. The Potential Noteholder must pay the Subscription Price to the Company on or before the Closing Date. Within 5 Business Days following receipt of the Subscription Price, the Company will issue the relevant Notes to the Potential Noteholder, who will be entered into the Register as a Holder of those Notes.
- (f) Without limiting the Company's remedies against a Potential Noteholder, if the Potential Noteholder fails to pay the Subscription Price by the Closing Date, then the Company may (in its sole and absolute discretion) refuse to issue the relevant Notes to the Potential Noteholder.

### 3.5 Nature of Note obligations

- (a) The Notes are debt obligations of the Company owing under this Deed Poll, take the form of entries in the Register and are evidenced by Note Certificates. Each entry in the Register constitutes a separate and individual acknowledgement to the relevant Noteholder of the indebtedness of the Company to that Noteholder.
- (b) Subject to this Deed Poll, the obligations of the Company in respect of each Note constitute separate and independent obligations which the Noteholder is entitled to enforce without having to join any other Noteholder or any predecessor in title of the Noteholder.

### 3.6 Notes unsecured

The Notes are unsecured promissory notes.

### 3.7 Register

- (a) The Company must establish and maintain the Register, and must ensure that the Register records, in respect of each Note issued by the Company:
  - (i) the date of issue of the Note;
  - (ii) the Note Class for the Note;
  - (iii) the terms specified by the Note Class for the Note, including its name, Face Value, Note Term, Maturity Date and Interest Rate; and
  - (iv) the Noteholder's name and address,

in addition to any other details required to be contained in the Register under the Corporations Act, and must ensure that these details and any changes to them notified by the Noteholder to the Company in writing are promptly and accurately recorded in the Register.

## PROMISSORY NOTE DEED POLL

---

- (b) Entries in the Register in relation to a Note constitute conclusive evidence that the person so entered is the registered owner of the Note, subject to rectification for fraud or error.
- (c) The person whose name is entered in the Register as the Holder of a Note is deemed to be and may be treated as absolute owner of the Note in all circumstances, and regardless of any notice of ownership, trust or interest in respect of the Note and no person is, except as ordered by a court or as required by statute, obliged to take notice of any other claim to the Note.
- (d) Subject to this Deed Poll, on a person acquiring title to a Note by virtue of becoming registered as the Holder of the Note, all rights and entitlements arising under or by virtue of this Deed Poll in respect of that Note vest absolutely in the registered holder of the Note, such that no person who has previously been registered as the Holder of the Note has or is entitled to assert against the Company or the registered Holder of the Note for the time being and from time to time any rights, benefits or entitlements in respect of the Note except for a right or remedy against the Company arising due to a breach by the Company which occurred whilst that person was registered as the Holder of the Note.
- (e) If requested by a Noteholder, the Company must as soon as reasonably practicable after, but in any case, within 5 Business Days from receiving the request, provide to the Noteholder a copy of the Noteholder's individual record on the Register.

### 3.8 Joint Holders

- (a) If two or more persons are registered as the Holders of a Note, then they hold it as joint tenants.
- (b) A payment in respect of a jointly held Note may be made to the joint Holder of the Note first named in the Register or another joint Holder notified in writing to the Company for this purpose by all joint Holders, and any one joint Holder may give an effective receipt for any such payment.
- (c) Delivery of a Note Certificate for a jointly held Note to any one joint Holder of the Note is sufficient, and taken to be, delivery to all joint Holders.
- (d) The Company is not bound to register more than three persons as joint Holders of a Note.

### 3.9 Note Certificates

- (a) The Company must promptly after issuing any Notes deliver to the Noteholder a Note Certificate evidencing the Noteholder's title to the Notes.
- (b) If a Note Certificate for any Notes is lost or destroyed and the Noteholder provides the Company with a declaration by or on behalf of the Noteholder to that effect and satisfies any other reasonable requirement of the Company as to the lost or destroyed certificate, the Company must as soon as reasonably practicable after receipt of the declaration and satisfaction of any other reasonable requirement deliver to the Noteholder a replacement Note Certificate for the Notes.
- (c) If the Company cancels a Note Certificate which partly relates to Notes which have been redeemed, the Company must promptly deliver to the Noteholder another Note Certificate for the balance of the Noteholder's Notes.



## PROMISSORY NOTE DEED POLL

---

### 3.10 Restrictions on issue of Notes

- (a) The Company may only issue Notes in accordance with the Company's Acceptance of a Noteholder's Application Form.
- (b) The Company may only issue Notes to Noteholders who are sophisticated investors, professional investors or wholesale clients (as defined in the Corporations Act).
- (c) The Company must not issue any Notes if that issue results in the Company:
  - (i) having to make disclosure under Part 6.2D of the Corporations Act; or
  - (ii) being required to convert to a public company limited by shares.

## 4. INTEREST

---

- (a) Interest on the Monies Owing in respect of each Note shall be calculated daily on the balance of the Monies Owing, on the basis of an annual interest rate equal to the Interest Rate.
- (b) Interest in respect of each Note will accrue through each calendar month, commencing from the earlier of:
  - (i) the first day of the calendar month, or if a Note is issued during the calendar month, then the day of issue; and
  - (ii) until the last day of the calendar month, or if a Note is redeemed during the calendar month, then until the Withdrawal Date.
- (c) Interest which accrues under clauses 4(a) and 4(b) shall be paid by the Company to the Noteholder, on a calendar monthly basis, with payment due within 5 Business Days following the end of the relevant calendar month. Interest which is not paid by the date it is due shall be capitalised and added to the Monies Owing.
- (d) Interest shall be calculated by the Company individually in respect of each Note, and then in aggregate in respect of all Notes held by a Noteholder. The Company shall keep a record of its calculations and provide those calculations to a Noteholder within 10 Business Days of receiving a written request from the Noteholder.

## 5. WITHDRAWAL (REDEMPTION)

---

### 5.1 Withdrawal and rollover of Notes

- (a) A Noteholder may notify the Company in writing that it requires all or a number of the Noteholder's Notes to be redeemed on the Maturity Date, by submitting a Withdrawal Notice.
- (b) The Notes will automatically rollover at the end of the Note Term, for a further term equal to the Note Term, if a Withdrawal Notice is not received by the Company by 30 days prior to the Maturity Date (**Withdrawal Cut Off Date**).
- (c) If the Notes rollover then:
  - (i) the Note Term will recommence on the day after the Maturity Date;
  - (ii) the new Maturity Date of the Notes will be the last day of the further Note Term; and

## PROMISSORY NOTE DEED POLL

---

- (iii) the Notes will again be subject to further rollover under this clause 5.1, until such time as they are redeemed under this clause 5.
- (d) If a Withdrawal Notice is provided:
  - (i) prior to or on the Withdrawal Cut Off Date, then the Notes will be redeemed, with a Withdrawal Date which is the Maturity Date; and
  - (ii) after the Withdrawal Cut Off Date, then the Notes will be redeemed, with a Withdrawal Date which is the Maturity Date for the subsequent Note Term, as described in clause 5.1(c)(ii).

### 5.2 Early Withdrawal request

- (a) A Noteholder may request that the Company redeem all or a number of the Noteholder's Notes on a date which is prior to the Maturity Date (**Early Withdrawal Date**), by submitting a Withdrawal Notice (**Early Withdrawal Request**).
- (b) The Noteholder acknowledges that the Company is under no obligation to agree to an Early Withdrawal Request, and may refuse to do so for any reason in the Company's sole and absolute discretion, with or without stating its reasons.
- (c) The Company may determine to agree to the Early Withdrawal, but on the basis that:
  - (i) the Early Withdrawal Date is at a later date specified by the Company (which must be prior to the Maturity Date); and/or
  - (ii) the Noteholder pays an early withdrawal fee, in an amount not exceeding 1.5% of the balance of the Monies Owing on the Early Withdrawal Date. The early withdrawal fee will then be credited as a repayment against the Monies Owing.
- (d) If the Company agrees to the Early Withdrawal, then:
  - (i) the Company must redeem the Notes on the Early Withdrawal Date; and
  - (ii) the Company will provide written notice to the Noteholder advising of the Early Withdrawal Date, and the balance of the Monies Owing (net of any Early Withdrawal Fee) which will be redeemed on that date.

### 5.3 Early repayment by the Company

- (a) The Company may, at any time, notify a Noteholder that the Company will redeem some or all of the Noteholder's Notes. The notice of the Company will specify a date upon which the Company intends the redemption to take effect.
- (b) Subject to the terms of this Deed Poll, on the provision by the Company a notice of redemption under clause 5.3(a), the Company must redeem the Notes with the Withdrawal Date being the relevant date specified in the notice.

### 5.4 Early withdrawal by the Noteholder on a Default Event

- (a) If a Default Event occurs, a Noteholder may, at any time after the occurrence of the Default Event notify the Company in writing that it requires all or a number of the Noteholder's Notes to be redeemed immediately.
- (b) Subject to the terms of this Deed Poll, on receipt of a notice of redemption from a Noteholder in accordance with clause 5.4(a), the Company must redeem the Notes

with a Withdrawal Date which is 20 Business Days following the date the Company receives the notice.

**5.5 Payment**

- (a) Upon redemption of any Notes, the Company shall pay the Noteholder the total amount of the Monies Owing on those Notes calculated as at the Withdrawal Date. Payment shall be due on the Payment Date (or any extension to the Payment Date made under clause 5.6).
- (b) Payment shall be made, by the Payment Date (or any extended Payment Date under clause 5.6), by telegraphic transfer to a bank account specified by the Noteholder to the Company in writing.
- (c) Interest under clause 4 will continue to apply to the balance of the Monies Owing which are not paid by the Payment Date (or any extended Payment Date under clause 5.6), until such time as the Monies Owing are repaid in full.
- (d) There is no priority of payments between Noteholders. That is, the Company may (in its absolute and sole discretion) pay any one Noteholder in priority to any other Noteholder.
- (e) The repayment of Monies Owing to a Noteholder by the Company shall be applied as follows:
  - (i) firstly, towards the balance of the Monies Owing on all Notes which have been redeemed but not repaid in full (on a pro-rata basis across all such Notes);
  - (ii) secondly, towards the balance of the Monies Owing on all Notes which are yet to be redeemed as at the date of payment (on a pro-rata basis across all such Notes); and
  - (iii) finally towards payment of any other amounts owing by the Company to a Noteholder under this Deed Poll.

**5.6 Payment Date extension**

- (a) The Company may at any time, extend the Payment Date if:
  - (i) the Company, in its reasonable opinion, considers that it does not have sufficient Liquidity to fund the redemption;
  - (ii) the Company has received multiple Withdrawal Notices in a short period which will impact its Liquidity; or
  - (iii) the Company considers that if the redemption is paid on the Payment Date, it may affect the Company's Liquidity to pay future anticipated redemptions of other Noteholders' Notes.
- (b) Any extension of the Payment Date will be made until the time that the Company considers that it has sufficient Liquidity to pay the Monies Owing on the redemption of the Noteholders' Notes, and any other upcoming redemptions which the Company reasonably anticipates.
- (c) If the Company extends a Payment Date, the Company may, at its discretion, make part payments of the Monies Owing prior to the extended Payment Date.

## PROMISSORY NOTE DEED POLL

---

- (d) Subject to clause 5.5(c) if the Payment Date is extended, then Interest under clause 4 will continue to apply to the balance of the Monies Owing, calculated from the original Payment Date until until such time as the Monies Owing are repaid in full.

### 5.7 Delivery of Note Certificate

Within 10 Business Days from receipt by a Noteholder of the total amount payable in respect of the redemption of any of the Noteholder's Notes, the Noteholder must deliver to the Company the Note Certificate for those Notes or a declaration by the Noteholder or, (if the Noteholder is a body corporate) an officer of the Noteholder, that the Note Certificate has been lost or destroyed. If the Noteholder fails to return the Note Certificate (or declaration) as required by this clause, then the Company may at its discretion cancel the Note Certificate.

### 5.8 Notes cease to exist following redemption

Where the total amount payable in respect of the redemption of any Notes is paid by the Company, then those Notes will then cease to exist and cease to be on issue.

### 5.9 When a Noteholder ceases to be a party

- (a) Upon redemption of all Notes held by a Noteholder, the Noteholder will cease to be a party to, and take the benefit of this Deed Poll. This Deed Poll shall then continue between the Company and all other Noteholders.
- (b) For the avoidance of doubt, if a person ceases to be a Noteholder under clause 5.9(a), they may again become a Noteholder after that date by subscribing for further Notes.

## 6. GST

---

- (a) If the whole or any part of any amount payable to a Noteholder in connection with any Notes is the consideration for a taxable supply for which the Noteholder is liable to pay GST, the Noteholder may charge the Company, and the Company must pay the Noteholder, concurrently with the payment of that amount, an additional amount equal to the GST payable in respect of the taxable supply calculated on the basis that the value of the taxable supply is the amount payable for the taxable supply excluding any GST.
- (b) The recovery of consideration for any taxable supply is subject to the Noteholder issuing to the Company a tax invoice in respect of the supply.
- (c) Any reference to a cost or expenses incurred by the Noteholder which is payable by the Company excludes any amount of GST forming part of the relevant cost or expense when incurred by the Noteholder for which the Noteholder can claim a full input tax credit.
- (d) A word or term defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the same meaning in this clause 6 where used in connection with the GST imposed under that Act.

## PROMISSORY NOTE DEED POLL

---

### 7. RESOLUTION OF DISPUTES BY MEDIATION

---

#### 7.1 No proceedings

- (a) A party must not commence court proceedings in respect of a dispute or difference of opinion between the party and any of the other parties regarding the construction of this Deed Poll or the rights and obligations of the parties under this Deed Poll unless it has complied with clauses 7.1 and 7.2.
- (b) If a party in dispute commences court proceedings in contravention of this clause, the other parties need not comply with their obligations under this clause in respect of the relevant dispute.
- (c) This clause 7 will not apply to any court proceedings instituted for the purposes of seeking urgent relief.

#### 7.2 Referral to Mediation

- (a) If, 30 days after the date the dispute arises, the parties fail to settle the dispute, then either party may serve a dispute notice on the other party (**Dispute Notice**), requiring the other party to attempt to settle the dispute in accordance with this clause 7.2.
- (b) If a party serves a Dispute Notice on another party, then the party may require the other party to attempt to settle the dispute at mediation, with a mediator chosen by both of them. If they cannot agree on the identity of the mediator or the location and date and time of the mediation, the parties will request the President for the time being of the Law Institute of Victoria to nominate a mediator and the location and date and time of the mediation.
- (c) The cost of the mediator and the mediation (apart from each party's legal costs) will be borne equally between the parties to the dispute.

### 8. MISCELLANEOUS

---

#### 8.1 Assignment

- (a) The Company may assign, novate or transfer any of its rights or obligations arising under this Deed Poll to any person by written notice to each Noteholder.
- (b) A Noteholder may assign and transfer a Note only with the written consent of the Company (which may be withheld).
- (c) A Noteholder may only assign and transfer its rights and obligations under this Deed Poll with the written consent of the Company (which may be withheld).

#### 8.2 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this Deed Poll expressly states otherwise.

#### 8.3 Partial exercise of rights

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

## PROMISSORY NOTE DEED POLL

---

### 8.4 Remedies cumulative

The rights and remedies provided in this Deed Poll are in addition to other rights and remedies given by law independently of this Deed Poll.

### 8.5 Rights and obligations are unaffected

Rights given to the parties under this Deed Poll and the parties' liabilities under it are not affected by anything which might otherwise affect them by law.

### 8.6 Variation

A provision of this Deed Poll or a right created under it, may not be varied or amended except by a document in writing signed by the Company. If the Company effects an amendment or variation to this Deed Poll then:

- (a) the amendment or variation will only affect Holders of Notes issued after the date of the amendment or variation; and
- (b) however the amendment or variation can take immediate or retrospective effect against Holders of Notes issued prior to the date of the amendment or variation, if the amendment or variation is of an administrative nature, made to correct a genuine mistake or error, or made in response to a change in law which in the Company's reasonable opinion, is required to avoid an onerous obligation on the Company arising from the change in law.

### 8.7 Waiver

A provision of this Deed Poll or a right created under it, may not be waived except in writing, signed by the party or parties to be bound.

### 8.8 Further steps

Each party agrees, at its own expense, to do anything any other party reasonably requests (such as obtaining consents, signing and producing documents and getting documents completed and signed) as may be necessary or desirable to give full effect to the provisions of this Deed Poll and the transactions contemplated by it.

### 8.9 Entire agreement

This Deed Poll constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

### 8.10 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this Deed Poll or any part of it.

### 8.11 Governing law and jurisdiction

This Deed Poll is governed by the law in force in Victoria, Australia and each party submits to the non-exclusive jurisdiction of the courts of Victoria.

### 8.12 Counterparts

This Deed Poll may consist of a number of counterparts and if so the counterparts taken together constitute one and the same instrument.

**PROMISSORY NOTE DEED POLL**

**8.13 Relationship**

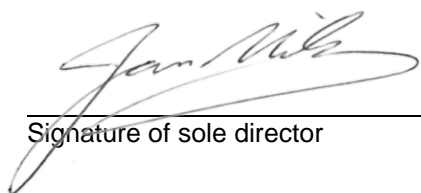
Nothing in this Deed Poll constitutes the Company and Noteholders as partners or agents of the other and none of them has any authority to bind the other legally or equitably except as expressly stated in this Deed Poll.

**8.14 Notices**

- (a) A person may send a notice in connection with this Deed Poll by hand delivery, pre-paid post, facsimile transmission or electronic form such as e-mail to another below mentioned person at the address details set out below or in such other way as the intended recipient may have last notified the sender in writing:
  - (i) Company – the address set out in the “Details” section of this Deed Poll, marked attention to the “CEO” or “Managing Director”.
  - (ii) A Noteholder - the address of the Noteholder appearing in the Register.
- (b) A notice is deemed to be received:
  - (i) if sent by pre-paid post, on the second Business Day after the date of posting;
  - (ii) if sent by facsimile transmission, on the date the facsimile was sent in its entirety as shown by the transmission report produced by the sending machine or, if that date was not a Business Day, on the next Business Day after that date; or
  - (iii) if sent by e-mail, when the addressee's e-mail system logs the e-mail message as having been received.

**Executed as a deed poll.**

**EXECUTED** by **M101 HOLDINGS PTY LTD** )  
**(ACN 629 777 402)** in accordance with the )  
*Corporations Act 2001* (Cth): )

  
 \_\_\_\_\_  
 Signature of sole director

**James Mawhinney**  
 \_\_\_\_\_  
 Name of sole director (please print)

Schedule 1 – Application Form

---

APPLICATION TO SUBSCRIBE FOR NOTES

M101 HOLDINGS PTY LTD (ACN 629 777 402) (“Company”)

TO: THE BOARD OF DIRECTORS OF THE COMPANY

1. [#insert subscriber name and ACN if applicable#] (**Applicant**) of [#insert subscriber address details #] applies for, and requests you to allot and issue to it up to [#insert number#] unsecured redeemable promissory notes in the capital of the Company (the **New Notes**), on and subject to the terms of the Promissory Note Deed Poll dated [#insert #] entered into by the Company.
2. The New Notes are part of the following Note Class:

<b>Note Class Name</b>	[#insert #]
<b>Note Term</b>	[#insert #]
<b>Maturity Date</b>	[#insert #]
<b>Face Value</b>	[#insert #]
<b>Interest Rate</b>	[#insert #]
3. The Applicant agrees to advance AUD \$[##] (**Application Monies**) to the Company being an amount equal to the aggregate Face Value for all New Notes which it has subscribed for.
4. This Application Form is an irrevocable offer by the Applicant to subscribe for Notes in the Company and to advance the Application Monies.
5. The Applicant acknowledges and agrees that the Company may in its discretion (but subject to clause 3.4 of the Promissory Note Deed Poll):
  - (a) accept the Applicant’s Application Form to subscribe for all of the New Notes;
  - (b) accept the Applicant’s Application Form to subscribe for a lesser number of Notes than the number of New Notes applied for by the Applicant; or
  - (c) reject the Applicant’s Application Form.
6. If the Company accepts this Application Form, it shall notify the Applicant of the number of New Notes that will be issued to it, the amount to be advanced by the Applicant for those Notes and the Closing Date, by completing and returning to the Applicant the signed acceptance notice below (**Acceptance**).
7. This Application Form will only be deemed accepted by the Company when the Company has completed and countersigned the Acceptance below.
8. The Applicant agrees to advance to the Company the amount specified in the Company’s Acceptance by the Closing Date specified in the Acceptance.



**PROMISSORY NOTE DEED POLL**

---

9. The Applicant acknowledges and agrees that, subject to the Applicant advancing the amount specified in the Acceptance by the Closing Date, the Notes will be issued by the Company within five (5) Business Days of the Company's Acceptance.
10. The Applicant agrees to be bound by the terms of the Promissory Note Deed Poll.
11. The Applicant provides the following bank account details for payment of interest and other Monies Owing by the Company:

**Account Name**

**Bank**

**BSB**

**Account Number**

**Swift Code**

**Date of Application:** \_\_\_\_\_

**Executed by the Applicant as a deed poll in favour of the Company:**

*[If Applicant is a company:]*

**EXECUTED** by [#insert Applicant name#] )  
 (**ACN ### ### ###**) in accordance with the )  
*Corporations Act 2001* (Cth): )  
 )

\_\_\_\_\_  
 Signature of director

\_\_\_\_\_  
 Signature of secretary/director

\_\_\_\_\_  
 Name of director (please print)

\_\_\_\_\_  
 Name of secretary/director (please print)

**PROMISSORY NOTE DEED POLL**

---

*[If Applicant is an individual:]*

**SIGNED SEALED AND DELIVERED** by [#insert )  
**Applicant name#]** in the presence of: )  
 )  
 )

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Name of Witness (please print)

\_\_\_\_\_  
Name of Applicant (please print)

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Dated

**Application accepted when countersigned by the Company:**

**PROMISSORY NOTE DEED POLL**

---

**ACCEPTANCE OF APPLICATION TO SUBSCRIBE FOR NOTES**

**M101 HOLDINGS PTY LTD (ACN 629 777 402) ("Company")**

The Company accepts the Applicant's application to subscribe for Notes in the Company on the following terms:

Class of Notes [insert name of the class#]

Number of Notes to be issued: [insert number#]

Closing Date [insert other date#]

Face Value of Notes: AUD \$[insert amount#]

Total amount to be advanced: AUD \$[insert amount#]

Subject to the Applicant advancing AUD \$[insert amount#] to the Company's bank account described below by the Closing Date, the Company will allot and issue to the Applicant a Note Certificate for [insert number#] Notes within five (5) Business Days of the Closing Date.

The Company's bank account details are as follows:

**Account Name**

**Bank**

**BSB**

**Account Number**

**Swift Code**

**Date of Acceptance :** \_\_\_\_\_

**EXECUTED** by **M101 HOLDINGS PTY LTD** )  
**(ACN 629 777 402)** in accordance with the )  
*Corporations Act 2001* (Cth): )  
)

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of secretary/director

\_\_\_\_\_  
Name of director (please print)

\_\_\_\_\_  
Name of secretary/director (please print)

Schedule 2 – Note Certificate

---

**NOTE CERTIFICATE**

**M101 HOLDINGS PTY LTD (ACN 629 777 402) (“Company”)**

This is to certify that [#insert subscriber name and ACN if applicable#] of [#insert subscriber address details #] (**Noteholder**) is the registered holder of [#insert number#] unsecured redeemable promissory notes in the capital of the Company (**Notes**).

The Notes are part of the following Note Class:

<b>Note Class Name</b>	[#insert #]
<b>Note Term</b>	[#insert #]
<b>Maturity Date</b>	[#insert #]
<b>Face Value</b>	[#insert #]
<b>Interest Rate</b>	[#insert #]

The Notes form part of an issue of Notes in an aggregate principal amount of AUD \$[#insert amount#]. The Notes were issued with the benefit of the rights and subject to the restrictions contained in the Promissory Note Deed Poll dated [#insert #] entered into by the Company and the Application Form of the Noteholder dated [#insert #].

Unless specified otherwise, terms defined in the Promissory Note Deed Poll and the Application Form have the same meaning in this certificate.

For value received, the Company promises to pay to the Noteholder the amounts payable in accordance with, and otherwise comply with the obligations contained in, the Promissory Note Deed Poll.

This certificate must be surrendered on redemption or repayment of any of the Notes comprised in this certificate.

The Note is governed by the laws of Victoria.

**PROMISSORY NOTE DEED POLL**

---

**Dated:** \_\_\_\_\_

**EXECUTED** by **M101 HOLDINGS PTY LTD** )  
**(ACN 629 777 402)** in accordance with the )  
*Corporations Act 2001* (Cth): )  
)

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of secretary/director

\_\_\_\_\_  
Name of director (please print)

\_\_\_\_\_  
Name of secretary/director (please print)

**PROMISSORY NOTE DEED POLL**

---

**Schedule 3 – Withdrawal Notice**

---

**APPLICATION TO WITHDRAW NOTES**

**M101 HOLDINGS PTY LTD (ACN 629 777 402) (“Company”)**

**TO: THE BOARD OF DIRECTORS OF THE COMPANY**

I/we the Noteholder named below, hereby request that the Company effect a redemption (or withdrawal) of my/our Notes described below:

**Noteholder name and address** [#insert #]

**Note Class Name** [#insert #]

**Number of Notes to Withdraw** [#insert #]

**Date of Withdrawal**  next Maturity Date

*(please tick one)*  Other date prior to the Maturity Date \_\_\_\_\_ (**Early Withdrawal**)

If an Early Withdrawal is requested, please state the reasons why:

\_\_\_\_\_

\_\_\_\_\_

(note that Early Withdrawals may attract an early withdrawal fee of up to 1.5% of Monies Owing)

**Bank account details** Please pay the Monies Owing to:

the account we have on file

the following bank account:

Name: [#insert #]

BSB: [#insert #]

Account Number: [#insert #]

Bank: [#insert #]

Swift Code: [#insert #]

**Further Feedback** Is there any further feedback you could give us to improve our services?

[#insert #]

**PROMISSORY NOTE DEED POLL**

---

Please attach a copy of your drivers licence or passport for verification purposes.

Terms used in this Withdrawal Notice have the same meaning as in the Promissory Note Deed Poll dated [#insert #].

**Signed by the Noteholder**

*[If Noteholder is a company:]*

**EXECUTED** by [#insert Noteholder name#] )  
**(ACN ### ### ###)** in accordance with the )  
*Corporations Act 2001* (Cth): )  
 )

\_\_\_\_\_  
 Signature of director

\_\_\_\_\_  
 Signature of secretary/director

\_\_\_\_\_  
 Name of director (please print)

\_\_\_\_\_  
 Name of secretary/director (please print)

*[If Noteholder is an individual:]*

**SIGNED SEALED AND DELIVERED** by [#insert )  
**Noteholder name#]** in the presence of: )  
 )  
 )

\_\_\_\_\_  
 Signature of Witness

\_\_\_\_\_  
 Signature of Applicant

\_\_\_\_\_  
 Name of Witness (please print)

\_\_\_\_\_  
 Name of Applicant (please print)

\_\_\_\_\_  
 Dated

\_\_\_\_\_  
 Dated