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Australian Abrasive Minerals Pty Ltd
(Administrators Appointed)

Australian Industrial Minerals Pty Ltd (in liquidation)

Rahul Goyal, John Bumbak and Richard Tucker

Remagen Lend AIM Pty Ltd

Deed of Company Arrangement – AAM

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Date 24 March 2020

Parties

Australian Abrasive Minerals Pty Ltd (administrators appointed) ACN 118 292 756 of c/o KordaMentha, Level 5, Chifley Tower, 2 Chifley Square, Sydney NSW 2000 (**Company**)

Australian Industrial Minerals Pty Ltd (in liquidation) ACN 623 197 142 of c/o KordaMentha, Level 5, Chifley Tower, 2 Chifley Square, Sydney NSW 2000 (**AIM**)

Rahul Goyal, John Bumbak and Richard Tucker of KordaMentha, Level 5, Chifley Tower, 2 Chifley Square, Sydney NSW 2000

Remagen Lend AIM Pty Ltd ACN 635 075 115 in its capacity as trustee of the Remagen Lend AIM Unit Trust of Level 7, 17 Castlereagh Street, Sydney NSW 2000 (**Proponent**)

Background

- A On 24 October 2019, the Deed Administrators were appointed as joint and several voluntary administrators of the Company pursuant to section 436A of the Corporations Act.
 - B Pursuant to section 439A of the Corporations Act, a meeting of Creditors of the Company was held on Wednesday, 4 March 2020 (**Meeting**) and it was resolved at that meeting that the Company should execute a deed of company arrangement on substantially the terms set out in this document.
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Agreed terms

1 Definitions

In this document these terms have the following meanings:

Administrators	Rahul Goyal, John Bumbak and Richard Tucker in their capacity as joint and several voluntary administrators of the Company, of KordaMentha, Level 5, Chifley Tower, 2 Chifley Square, Sydney NSW 2000.
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Administrators' Accounts	The bank accounts in the name of the Company or the Administrators or Deed Administrators.
Admitted Claim	Has the meaning given to that term in clause 14.3 .
Admitted Claimant	Any person who has an Admitted Claim.
AIM	Australian Industrial Minerals Pty Ltd (in liquidation) ACN 623 197 142.
Amendment Deed	The document entitled "Amendment and Restatement Deed – Australian Abrasive Minerals" between, among others, the Company and the Proponent.
Appointment Date	The date on which the Administrators were appointed as voluntary administrators of the Company, being 24 October 2019.
ASIC	The Australian Securities and Investments Commission.
Available Property	Moneys in the Administrators' Accounts on the Commencement Date.
Business Day	A day which is not a Saturday, Sunday or bank or public holiday in Sydney, NSW.
Claim	All debts payable by, and all claims against, the Company, whether present or future, certain or contingent, ascertained or sounding only in damages, being debts or claims the circumstances giving rise to which occurred on or before the Appointment Date and whether or not they would be admissible to prove in the event of winding up of the Company.
Commencement Date	The date of this document.
Company	The person so specified in the Parties section.
Conditions Precedent	The conditions precedent set out in clause 3 .
Controller	Has the meaning given to that term in the Corporations Act.
Conversion Amount	An amount of \$50,000.00 which is due and payable to the Secured Creditor by the Company and AIM pursuant to the Existing Finance Documents.
Corporations Act	The <i>Corporations Act 2001 (Cth)</i> .
Corporations Regulations	The <i>Corporations Regulations 2001 (Cth)</i> .
CP Satisfaction Date	The date on which the Proponent gives written notice to the Deed Administrators that the Conditions Precedent have been satisfied or waived by the Proponent in writing.

Creditor	A person who has a Claim.
Deed Administrators	Rahul Goyal, John Bumbak and Richard Tucker in their capacity as joint and several deed administrators of the Company.
Deed Administrators' Remuneration and Costs	The liabilities, debts, demands, claims, actions, losses, damages, charges, Taxes, costs, expenses and remuneration of the Administrators and Deed Administrators as approved by the Creditors in connection with the administration of the Company and the DOCA.
Directors	Each person who is appointed as a director of the Company in accordance with the Corporations Act from time to time.
DOCA	A deed of company arrangement for the purposes of Part 5.3A of the Corporations Act as constituted by this document.
DOCA Contribution	\$20,000.00.
DOCA Fund	The fund established by the Deed Administrators pursuant to clause 13.1(a) .
DOCA Period	The period commencing on the Commencement Date and which ends on the Termination Date.
DOCA Resolution	A resolution passed by the Creditors of the Company at the Meeting, that "pursuant to section 439C of the Corporations Act, the Company execute a deed of company arrangement"
Effectuation Date	The date which is 2 Business Days after the final distribution from the DOCA Fund is made.
Existing Finance Documents	The Finance Documents as defined in the document entitled "Syndicated Loan Note Subscription Agreement – Australian Industrial Minerals" dated 29 August 2019 between, amongst others, AIM, the Company and the Proponent.
Expense Payment	\$230,000.00.
GST Law	The meaning given to that term in <i>A New Tax System (Goods and Services Tax) Corporations Act 1999</i> (Cth) or, if that Act does not exist for any reason, means any legislation imposing or relating to the imposition or administration of a goods and services tax in Australia.
IPR	The <i>Insolvency Practice Rules (Corporations) 2016</i> (Cth).
IPS	The <i>Insolvency Practice Schedule (Corporations) 2016</i> being Schedule 2A of the Corporations Act.
Insured Claim	Any Claim to which an insurance policy responds to, but only to the extent the policy responds to the Claim.

Insured Claim Creditor	A Creditor who has an Insured Claim.
Liquidators	Rahul Goyal, John Bumbak and Richard Tucker in their capacity as joint and several liquidators of AIM.
New Finance Documents	(a) Amendment Deed; (b) a bank account control deed between, among others, the Company, the Proponent and National Australia Bank Limited; and (c) each other document designated as a "Finance Document" under or for the purposes of the Amendment Deed.
Non-Continuing Employee Creditor	A Creditor with a Claim as an employee pursuant to section 556 (1)(c) and sections 556(1)(e) to (h) of the Corporations Act and whose employment with the Company has been terminated on or before the Effectuation Date.
Non-Continuing Employee Creditors' Contribution	An amount equal to the priority entitlements for Admitted Claims of Non-Continuing Employee Creditors, confirmed in writing by the Deed Administrators to the Proponent and accepted in writing by the Proponent.
Officer	Each person who is an "officer" of the Company from time to time, as that term is defined by section 9 of the Corporations Act.
Participating Creditor	(a) Each Non-Continuing Employee Creditor. (b) Each Unsecured Creditor.
Prescribed Provisions	The provisions prescribed by section 444A(5) of the Corporations Act and as contained in Schedule 8A of the Corporations Regulations and, for the avoidance of doubt, includes section 553C of the Corporations Act.
Priority Creditors	Creditors, other than Non-Continuing Employee Creditors, that would, in a liquidation, be accorded a priority under section 556, section 560 or section 561 of the Corporations Act.
Proponent	The party specified in the Parties section.
Relevant Shares	All of the issued share capital of the Company which has been issued to AIM.
Secured Creditor	Any Creditor with a perfected Security Interest.
Secured Debt	Claims of a Secured Creditor.
Security Interest	(a) In relation to any personal property, has the same meaning as in the <i>Personal Property Securities Act 2009</i> (Cth); and

- (b) in relation to any other property, means any charge, mortgage, pledge, bill of sale, hypothecation, lien, arrangement concerning the deposit of documents evidencing title, trust, power, title retention arrangement or any other covenant or arrangement of any nature made to secure the payment of money or the observance of an obligation.

Share Register	The share register of the Company.
Share Transfer Forms	The share transfer form in substantially the same form as set out in schedule 2 in respect of the shares in the Company being transferred to the Proponent or its nominee in accordance with clause 12.1 .
Superannuation Contribution	Has the meaning given to that term in the Corporations Act.
Superannuation Guarantee Charge	Has the meaning given to that term in the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth).
Taxes	Charges, deductions, duties including stamp duty and transaction duty), fees, imposts, levies, taxes, including any consumption tax, goods and services tax and value added tax) and withholdings (together with any interest, penalties, fines and expenses in connection with any of them).
Termination Date	The date on which the DOCA is terminated in accordance with clause 11.7(a) .
Unsecured Creditor	A Creditor whose Claim is not secured by a perfected and enforceable Security Interest.

2 Objectives and Commencement Date

2.1 Objectives

The objectives of this DOCA are to:

- (a) to enable the Participating Creditors of the Company to receive a better return than would result from an immediate winding up of the Company;
- (b) to maximise the chances of as much as possible of the assets of the Company continuing in existence; and
- (c) to allow the Non-Continuing Employee Creditors to receive their entitlements in full.

2.2 Commencement Date and 444A(4)(i) day

- (a) This document takes effect on the Commencement Date.
- (b) For the purposes of section 444A(4)(i) of the Corporations Act, the relevant day is the Appointment Date.

3 Conditions precedent

3.1 CP Satisfaction Date

It is a condition to the CP Satisfaction Date occurring that the Proponent has received, in form and substance satisfactory to it (acting reasonably), each of the following (or has waived the provision of it in writing):

- (a) a copy of this document duly executed by all parties to it;
- (b) the New Finance Documents duly executed and delivered and, where applicable, in registrable form together with all executed documents necessary to register them; and
- (c) evidence the conditions precedent under the New Finance Documents have been satisfied or waived in writing.

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3.2 Benefit of Conditions Precedent

The Conditions Precedent are for the benefit of the Proponent and may be waived by the Proponent in writing to the Deed Administrator.

4 Prescribed Provisions

- (a) The Prescribed Provisions are incorporated by reference into this document and with such other modifications as may be necessary to give effect to the terms of the DOCA.
- (b) If there is any inconsistency between the Prescribed Provisions and this document, then to the extent permitted by law, the terms of the DOCA will prevail.
- (c) To the extent that the Corporations Act requires any provision to be included in this DOCA which is not expressly included in this DOCA, such provision will be deemed to be included in this DOCA, and all persons bound by this DOCA agree to sign all documents and do all things necessary to include such a provision in this DOCA, the costs of which will be borne by the Company.

5 Appointment of the Deed Administrators

- (a) The Deed Administrators are appointed joint and several administrators of the DOCA.
- (b) The Deed Administrators consent to, and accept, their appointment.

6 Duties and powers of the Deed Administrators

6.1 Powers, functions and duties of Deed Administrators

- (a) The DOCA will be administered by the Deed Administrators.
- (b) The Deed Administrators must exercise their powers, functions and duties conferred on them by the DOCA and the Corporations Act.

6.2 Agent for the Company

In exercising the powers conferred by the DOCA and carrying out the duties arising under the DOCA, the Deed Administrators will act as agent for and on behalf of the Company.

6.3 General responsibilities and powers

- (a) During the DOCA Period, the Deed Administrators will be responsible for the supervision and administration of the DOCA and will have:
 - (i) all the rights, powers, discretions and authorities that immediately prior to the Appointment Date were conferred by the constitution of the Company or otherwise by law on the Directors and Officers; and
 - (ii) such further powers as are necessary or convenient to achieve the DOCA objectives, including the power to establish and administer the DOCA Fund.
- (b) Without limiting the generality of **clause 6.3(a)**, the Deed Administrators will have all of the powers set out in paragraph 2 of the Prescribed Provisions.
- (c) Notwithstanding any other provision of this document and subject to the applicable law, the Deed Administrators are not obliged to take any action under this document in the event there are insufficient funds to pay the Deed Administrators' Remunerations and Costs.

6.4 Deed Administrator's termination or death

- (a) The appointment of a Deed Administrator may be terminated by a resolution at a meeting of Creditors held in accordance with this document.
- (b) In the event of the death of a Deed Administrator or in the event of their appointment being terminated in accordance with this document, the Creditors will have the power by resolution to appoint a substitute deed administrator or deed administrators to carry out their duties in accordance with this DOCA.
- (c) Such substitute deed administrator must accede to this DOCA and agree to be bound by its terms by delivering to the Proponent and the Company a deed poll in favour of each of them.
- (d) Nothing in this clause affects the Deed Administrators' accrued right to:

- (i) the Deed Administrators' Remuneration and Costs and any indemnity pursuant to this document or at law; or
- (ii) the Deed Administrators' supporting lien whether arising pursuant to this document or at law.

6.5 Deed Administrator's resignation

- (a) Subject to **clause 6.5(b)**, a Deed Administrator may resign at any time by giving written notice tendered to the Company.
- (b) If following the proposed resignation of a Deed Administrator there would be no remaining Deed Administrator, the Deed Administrator must prior to resigning:
 - (i) convene a meeting of Creditors in accordance with **clause 18**, alternatively approach the Court, for the purpose of appointing a replacement deed administrator or deed administrators of this DOCA; and
 - (ii) do all things reasonably necessary to give effect to the replacement of the deed administrator in accordance with the outcome of the meeting or order of the Court (as applicable).

7 Deed Administrators' Remuneration and Costs

- (a) The Administrators will be:
 - (i) remunerated by the Company and from the DOCA Fund in respect of any work done by the Administrators or any of them (in their capacity as the Administrators), and any partner or member of staff of the Administrators or any of them, in connection with the voluntary administration of the Company since the Appointment Date to the Commencement Date as approved by the creditors of the Company at the Meeting or otherwise as entitled under the Corporations Act; and
 - (ii) reimbursed by the Company or from the DOCA Fund in respect of all costs, fees, Taxes, liabilities and expenses incurred in connection with the performance of the Administrators' (or any of their) duties, obligations and responsibilities as the Administrators of the Company; and
- (b) The Deed Administrators will be:
 - (i) remunerated by the Company or from the DOCA Fund in respect of any work done by the Deed Administrators, and any partner or member of staff of the Deed Administrators, in connection with the DOCA at the scale of rates charged from time to time for the provision of services of this nature (the current rates of which were set out in the report to creditors of the Company tabled at the

Meeting) as approved by the Creditors from time to time or as otherwise entitled under the Corporations Act; and

- (ii) reimbursed by the Company or from the DOCA Fund in respect of all costs, fees, Taxes, liabilities and expenses incurred in connection with the performance of the Deed Administrators' duties, obligations and responsibilities under the DOCA.

8 Personal Liability and Indemnity

8.1 Personal liability of Deed Administrators

Except where the Corporations Act provides otherwise, the Deed Administrators are not and are not to be personally liable for anything in connection with the DOCA, including:

- (a) any debts incurred or any claims, demands, actions, losses, damages, costs, charges, Taxes, expenses or liabilities incurred, caused, suffered or sustained by any act, omission or default by or on behalf of the Deed Administrators in administering the DOCA or in discharging their duties and obligations under the DOCA; or
- (b) any debts incurred or any claims, demands, actions, losses, damages, costs, charges, Taxes, expenses or liabilities incurred, caused, suffered or sustained by any act, omission or default by or on behalf of the Company during the DOCA Period; or
- (c) any debts incurred or any claims, demands, actions, losses, damages, costs, charges, Taxes, expenses or liabilities caused, suffered, sustained or incurred by any Director, member, Officer, or Creditor of the Company during the DOCA Period.

8.2 Deed Administrators' and Administrators indemnity

In addition to any rights the Deed Administrators and Administrators may have under the Corporations Act or at law (whether as the administrators or as the deed administrators), the Deed Administrators and Administrators are jointly and severally entitled to be indemnified out of the property of the Company and the DOCA Fund:

- (a) from or against anything referred to in **clause 8.1**;
- (b) for debts, claims, demands, actions, losses, damages, costs, charges, Taxes, expenses or liabilities incurred, caused, suffered or sustained for which, notwithstanding **clause 8.1**, the Deed Administrators are liable; and
- (c) for the Deed Administrators' Remuneration and Costs.

9 Deed Administrators' and Administrators' Lien

- (a) To secure the Deed Administrators' and Administrators right of indemnity under **clause 8.2**, the Deed Administrators and Administrators will have a lien over the property of the Company and the DOCA Fund.
- (b) The indemnity under **clause 8.2** will not:
 - (i) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Administrators or Deed Administrators, and extends to all, actions, suits, proceedings, accounts, liabilities, Taxes, claims and demands arising in any way out of any defect in the appointment of the Administrators or Deed Administrators, the approval or execution of this document, or otherwise;
 - (ii) affect, limit or prejudice all or any rights that the Administrators or Deed Administrators may have against the Company in respect of costs, charges, Taxes, expenses and liabilities incurred by the Administrators or Deed Administrators in or incidental to the exercise or performance of any of the powers or authorities, in each case, conferred on the Deed Administrators by this document or as the Administrators or otherwise; or
 - (iii) be enforceable by the Administrators or Deed Administrators if the amount in respect of which the Administrators or Deed Administrators would otherwise be entitled to be indemnified arises out of any gross negligent act or omission by the Administrators or Deed Administrators.

10 Secured Creditors

10.1 Rights of Secured Creditors

- (a) Nothing in this document will restrict the right of a Secured Creditor to realise or otherwise deal with its security to the extent permitted by section 444D(2) of the Corporations Act.
- (b) Subject to **clause 10.2**, each Secured Creditor who votes in favour of the DOCA Resolution will be subject to the restrictions in **clause 11.2** and must not do anything to permit, procure or facilitate any person to do anything inconsistent with the restrictions in **clause 11.2**.
- (c) The restrictions in **clause 11.2** will cease to apply to a Secured Creditor who voted in favour of the DOCA Resolution or following the termination of the DOCA in accordance with **clause 11.7(a)**.

10.2 Security Interest not released

A Secured Creditor who voted in favour of the DOCA Resolution does not and should not be taken to release any Security Interest in respect of the Company

or forgive or discharge any Claim the Secured Creditor may have against the Company.

11 Nature and duration of the DOCA

11.1 Creditors bound

Subject to **clause 10**, this document binds:

- (a) in accordance with section 444D of the Corporations Act, all Creditors who have a Claim;
- (b) in accordance with section 444G of the Corporations Act, the Company, their Directors, Officers, members of the Company and the Deed Administrators; and
- (c) any other person named as a party to the DOCA.

11.2 Effect of moratorium

During the DOCA Period a Creditor must not and in respect of the Company, no current, future or past Director or Officer of the Company, no member of the Company, nor the Company itself may:

- (a) make or concur in an application for an order to wind up the Company;
- (b) proceed with an application to wind up the Company made before the DOCA became binding on such person;
- (c) begin or continue any proceeding (including any arbitration or enforcement proceedings) against the Company or in relation to any of its property or under any Security Interest;
- (d) make or continue in an application for the appointment of a Controller, receiver, receiver and manager, provisional liquidator or a court appointed receiver to the Company or any of its property; or
- (e) commence or take any additional step in any proceeding (including, without limitation, in a court, tribunal, commission or any other body of any kind whatsoever) or any arbitration against the Company or to which the Company is a party (including any application for an order under Part 5.1 of the Corporations Act),

except, in the case only of paragraph **(c)**, with the leave of a Court and in accordance with such terms (if any) as a Court imposes. For the purposes of this **clause 11.2** property includes property used or occupied by, or in the possession of, the Company.

11.3 Release of Admitted Claims

Each Admitted Claimant will, after distribution of the DOCA Fund in accordance with **clause 15**, properly execute and deliver to the Company such forms of release of its Admitted Claim as the Deed Administrator or the Company requires (if any).

11.4 Claims extinguished

On the date the last distribution is made from the DOCA Fund, the Claims of all Participating Creditors will be released and extinguished.

11.5 Control of the Company

Control of the Company will return to the Directors on the Commencement Date.

11.6 Effectuation of the DOCA

The DOCA will effectuate on the Effectuation Date.

11.7 Termination

- (a) The DOCA will terminate on the earlier of:
 - (i) the date on which a meeting of the Creditors, called pursuant to **clause 18**, votes to terminate the DOCA;
 - (ii) the date on which a Court orders that the DOCA be set aside or terminated; and
 - (iii) the Effectuation Date.
- (b) On the Termination Date the following will occur in the following order:
 - (i) the Deed Administrators will retire;
 - (ii) the Company will be placed into liquidation; and
 - (iii) the Deed Administrators will become the liquidators of the Company.
- (c) On or before the Effectuation Date the Deed Administrators must lodge with ASIC a notice in the prescribed form (ASIC form 5056).

12 Transfer of the Relevant Shares

12.1 Transfer of the Relevant Shares

In consideration for the debt forgiveness recorded in **clause 12.2**, on the CP Satisfaction Date, the Liquidators must procure the transfer of the Relevant Shares to the Proponent or its nominee free from any encumbrance or Security Interest to the extent permitted by law by delivering, to the Proponent in form and substance satisfactory to it:

- (a) the duly completed Share Transfer Forms in respect of the Relevant Shares and executed by AIM by its Liquidators; and
- (b) evidence that the name of the Proponent or its nominee has been entered into the Share Register in respect of all the shares transferred to the Proponent in accordance with this clause.

12.2 Debt forgiveness

Subject to the Relevant Shares being transferred in accordance with **clause 12.1**, on the CP Satisfaction Date, the Secured Creditor agrees to deliver a deed of release and forgiveness in favour of the Company and AIM in respect of which the Secured Creditor forgives the Conversion Amount and releases the Company and AIM in respect of the Conversion Amount only.

13 Establishment of DOCA Fund

13.1 Deed Administrators to establish DOCA Fund

- (a) The Deed Administrators will establish a fund in respect of the Company.
- (b) The DOCA Fund will be administered by the Deed Administrators.
- (c) The DOCA Fund will be comprised of:
 - (i) the DOCA Contribution;
 - (ii) the Non-Continuing Employee Creditors' Contribution;
 - (iii) Expense Payment; and
 - (iv) the Available Property.
- (d) No other property of the Company will be included as part of the DOCA Fund.

13.2 DOCA Contribution

- (a) The DOCA Contribution and Expense Payment are to be paid by the Proponent as directed by the Deed Administrators on the CP Satisfaction Date.
- (b) Subject to the CP Satisfaction Date having occurred, the Proponent will transfer the Non-Continuing Employee Creditors Contribution to an account nominated by the Deed Administrators on or before the date which is within 5 Business Days of confirmation of the Non-Continuing Employee Creditors' Contribution.

13.3 DOCA Fund available

The DOCA Fund will be available to pay Admitted Claims in accordance with **clause 15**.

13.4 DOCA Fund returned

If the DOCA is terminated in accordance with **clause 11.7(a)(i)** or **clause 11.7(a)(ii)**, the Deed Administrators will, if the Deed Administrators are holding the DOCA Contribution in part or whole, hold the then balance of the DOCA Contribution on trust for the Proponent and, subject to the Corporations Act, will pay the balance of the DOCA Contribution at the direction of the Proponent.

14 Creditor Claims

14.1 Proof of Debt

- (a) Each Participating Creditor will be entitled to submit a proof of debt and prove against the DOCA Fund in accordance with this **clause 14**.
- (b) Where a Creditor has one or more Claims against the Company, that Creditor may only submit one proof of debt for the aggregate of all of its Claims against the Company.

14.2 Determination of Creditors' Claims

Each Claim by a Participating Creditor will be determined in accordance with this **clause 14**.

14.3 Entitlement of Creditors

If a Claim is admitted by the Deed Administrator, the Participating Creditor will have that Claim replaced by a right to participate in a distribution from the DOCA Fund, but only to the extent and for the value that such Claim is admitted by the Deed Administrators (**Admitted Claims**).

14.4 Claims procedure

Subject to the terms of this document, which prevail to the extent of any inconsistency, subdivisions A, B, C and E of Division 6 of Part 5.6 of the Corporations Act will apply to each Claim to be adjudicated by the Deed Administrators as if the references to the 'Liquidator' were references to the Deed Administrator, references to "winding up" were references to administration under the DOCA, references to the "relevant date" were references to the Appointment Date, and with such other modifications as may be necessary to give effect to the objects of this document.

14.5 Timing for Claims

- (a) On or before the CP Satisfaction Date, the Deed Administrators will take all reasonable steps to, by writing to each known Non-Continuing Employee Creditor, call for Claims to be made and set a date (no less than 30 days after the date of the notice) by which Claims must be made and a proof of debt submitted by Non-Continuing Employee Creditors.
- (b) On or before the CP Satisfaction Date, the Deed Administrators will take all reasonable steps to, by writing to each known Creditor (other than a Non-Continuing Employee Creditor), call for Claims to be made and set a date (no more than 3 months after the date of the notice) by which Claims must be made and a proof of debt submitted by Creditors (other than Non-Continuing Employee Creditors).

14.6 Bar to Claims

- (a) Subject to **clause 14.6(b)**, a Creditor who makes a Claim after the date set by the Deed Administrators pursuant to **clause 14.5**:

- (i) is not entitled to any distribution from the DOCA Fund and is deemed to have abandoned their Claim; and
 - (ii) is otherwise bound by the DOCA, including but not limited to the provisions for the release of Claims.
- (b) The Deed Administrators may, at their discretion, acting reasonably, admit a Claim made after the date set by the Deed Administrators pursuant to **clause 14.5**.
- (c) This DOCA may be pleaded and tendered by the Company as a total bar and defence to any legal proceeding brought at any time in breach of the terms of this DOCA.

14.7 Evidence of Claim

If so required by the Deed Administrators, at their discretion, each Creditor must provide the Deed Administrators with such proof, evidence or information in support of its asserted Claim as the Deed Administrators may reasonably require.

14.8 Adjudication

- (a) The Deed Administrators will adjudicate upon all Claims by Participating Creditors.
- (b) The Deed Administrators will commence the adjudication process for formal proofs of debt or claim as soon as reasonably practicable and, in doing so, may have regard to sections 553C, 554A, 554B and 554C of the Corporations Act and to regulations 5.6.41 to 5.6.57 (other than regulation 5.6.53) of the Regulations as if references to "the liquidators" were references to the Deed Administrators.
- (c) Each Creditor's claim must be calculated by reference to the face value of the debt owed to that Creditor, and each Claim may only be proved once.
- (d) The Deed Administrators must seek to adjudicate whether to admit a Claim made by a Creditor not later than 30 days of the last day by which Creditors must submit a proof of debt in accordance with **clauses 14.5** and **14.6**.
- (e) Where the Deed Administrators propose to reject in whole or in part, the Claim of a Participating Creditor, the Deed Administrators will notify their adjudication to that Creditor at the address shown on that Creditor's proof of debt.

15 Distribution of DOCA Fund

15.1 Secured Creditors

Secured Creditors may not receive a distribution from the DOCA Fund.

15.2 Distribution of the DOCA Fund

- (a) Subject to **clause 14.3** the Deed Administrators will distribute the proceeds of the DOCA Fund in the following order of priority:
 - (i) first, in payment of the Deed Administrators' Remuneration and Costs;
 - (ii) secondly, in payment in full of Admitted Claims of Non-Continuing Employee Creditors;
 - (iii) thirdly, in payment of Admitted Claims of Priority Creditors; and
 - (iv) fourthly, in payment of Admitted Claims of Participating Creditors who have not received a distribution under **clauses 15.2(a)(ii)** or **clause 15.2(a)(iii)**, *pari passu*.
- (b) Notwithstanding any contrary term of this document, each Non-Continuing Employee Creditor is entitled to a priority at least equal to the priority they would have been entitled to if the DOCA Fund were to be distributed as if it were the property of the Company for the purposes of sections 556, 560 or 561 of the Corporations Act.

15.3 Admission of Superannuation Contribution debts

- (a) The Deed Administrators must determine that a Claim in the nature of the whole debt by way of Superannuation Contribution is not admissible to proof under the DOCA if:
 - (i) a debt by way of Superannuation Guarantee Charge:
 - (A) has been paid; or
 - (B) is, or is to be, admissible to proof against the Company; and
 - (ii) the Deed Administrators are satisfied that the Superannuation Guarantee Charge is attributable to the whole of the debt by way of Superannuation Contribution,

and the Claims of the Creditor will not be Admitted Claims notwithstanding that the Claim in respect of the whole of a debt by way of Superannuation Contribution will be subject to the moratorium, release and extinguishment provided for in **clause 11.2**.
- (b) The Deed Administrators must determine that a Claim in the nature of a particular part of a debt by way of Superannuation Contribution is not admissible to proof in the DOCA if:
 - (i) a debt by way of Superannuation Guarantee Charge:
 - (A) has been paid; or
 - (B) is, or is to be, admissible to proof against the Company; and
 - (ii) the Deed Administrators are satisfied that the Superannuation Guarantee Charge is attributable to that part of the debt by way of Superannuation Contribution,

and the Claims of the Creditor will not be Admitted Claims notwithstanding that the Claim in respect of a particular part of a debt by way of a Superannuation Contribution will be subject to the moratorium, release and extinguishment provided for in **clause 11.4**.

- (c) If the Deed Administrators determine, that a Claim in the nature of a part of the debt is not admissible to proof in the DOCA, that part of the debt is extinguished.

16 Insured Claims

16.1 Insured Claims

Nothing in this document requires the Deed Administrators to make a claim against any insurance policy for Insured Claims made by Creditors.

16.2 Proceeds of insurance

Notwithstanding any other provision of this document, the proceeds of contracts of insurance received by the Company will be applied by the Company to the debts of Insured Claim Creditors in the manner that they would be applied under section 562 of the Corporations Act if the Company were being wound up.

17 Company Claims

On the date the Deed Administrators have distributed the DOCA Fund to Creditors in accordance with this DOCA, all Claims of the Company:

- (a) in respect of AIM will be extinguished; and
- (b) in respect of a Director or Officer of the Company will be extinguished.

18 Meetings

Division 75 of the IPS and Division 75 of the IPR apply to the DOCA, with such modifications as are necessary, to meetings of Creditors held pursuant to this document.

19 DOCA Period and variation

19.1 Continuation

The DOCA will be in force for the DOCA Period.

19.2 Meeting to terminate or vary

- (a) Where:

- (i) the Deed Administrators form the opinion that the terms of this document cannot be fulfilled; or
 - (ii) in the opinion of the Deed Administrators it is in the interests of Creditors that this document be varied or terminated,
- the Deed Administrators must call a meeting of Creditors pursuant to section 445A or section 445C of the Corporations Act (as the case may be) to consider a variation or termination of this document.
- (b) At a meeting called pursuant to **clause 19.2(a)** the Creditors of the Company may resolve to:
 - (i) vary this DOCA; or
 - (ii) terminate this DOCA, and wind up the relevant Company, and appoint the Deed Administrators as the liquidators of relevant Company; or
 - (iii) enforce the terms of this DOCA or this document; or
 - (iv) pass any other proposal permitted under the Corporations Act.

19.3 Effect of Termination

In accordance with section 445H of the Corporations Act, the termination or avoidance, in whole or in part, of this Deed does not affect the previous operation of this Deed.

20 Records

- (a) The Company will be responsible for the management and maintenance of the books and records of the Company. The Company will manage and maintain the books and records of the Company in accordance with their statutory obligations.
- (b) The Deed Administrators are entitled to access the records of the Company until the date this DOCA is terminated in accordance with **clause 11.7**.

21 Notices

21.1 General

A notice, demand, certification, process or other communication relating to this document must be in writing in English and may be given by an agent of the sender.

21.2 How to give a communication

In addition to any other lawful means, a communication may be given by being:

- (a) personally delivered;

- (b) left at the party's current delivery address for notices;
- (c) sent to the party's current postal address for notices by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail; or
- (d) sent by email to the party's current email address for notices.

21.3 Particulars for delivery

All notices, requests, demands, consents, approvals, agreements or other communications to or by a party to this document:

- (a) will be in writing addressed to the recipient at such address specified in **schedule 1** or as the recipient may have notified the sender, or the address of the recipient as registered with ASIC; and
- (b) may be signed:
 - (i) if given by a natural person, by the sender, his partner or his solicitor; or
 - (ii) if given by a company, by a director, secretary or manager of, or solicitor for, the company.

Each party may change its particulars for delivery of notices by notice to each other party.

21.4 Communications by post

Subject to **clause 21.6**, a communication is given if posted:

- (a) within Australia to an Australian postal address, three Business Days after posting; or
- (b) outside of Australia to an Australian postal address or within Australia to an address outside of Australia, ten Business Days after posting.

21.5 Communications by email

Subject to **clause 21.6**, a communication is given if sent by email, on the first to occur of the following:

- (a) when it is dispatched by the sender to each of the email addresses specified by the recipient;
- (b) the sender receiving a message from the intended recipient's information system confirming delivery of the email; and
- (c) the email being available to be read at one of the email addresses specified by the sender.

21.6 After hours communications

If a communication is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

21.7 Process service

Any process or other document relating to litigation, administrative or arbitral proceedings relating to this document may be served by any method contemplated by this **clause 21** or in accordance with any applicable law.

22 Goods and Service Tax

22.1 GST Exclusive Amounts

- (a) If GST is or will be payable on a supply made under or in connection with this DOCA, to the extent that the consideration otherwise provided for that supply under this DOCA is not stated to include an amount in respect of GST on the supply:
 - (i) the consideration otherwise provided for that supply under this DOCA is increased by the amount of that GST; and
 - (ii) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided, within 7 days of receiving a written demand from the supplier.
- (b) The right of the supplier to recover any amount in respect of GST under this DOCA on a supply is subject to the issuing of the relevant tax invoice or adjustment note to the recipient within the time period within which the recipient is otherwise entitled to the relevant input tax credit.

22.2 Reimbursements

If a payment to a person is a reimbursement or indemnification that is calculated by reference to a loss, cost or expense incurred by that person, the payment will be reduced by the amount of any input tax credit to which that person is entitled for the acquisition to which that loss, cost or expense relates and then, if consideration for a taxable supply, **clause 22.1** will apply.

22.3 Interpretation

For the purposes of clauses concerning GST, all terms defined in the GST Law have the meanings given to those terms in the GST Law unless the context requires otherwise.

23 General

23.1 Further assurances

The parties must execute and do all acts and things necessary or desirable to implement and give full effect to the provisions of this document.

23.2 Legal costs

Except as expressly stated otherwise in this document, each party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this document.

23.3 Waiver and exercise of rights

- (a) A single or partial exercise or waiver by a party of a right relating to this document does not prevent any other exercise of that right or the exercise of any other right.
- (b) A party is not liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

23.4 Rights cumulative

Except as expressly stated otherwise in this document, the rights of a party under this document are cumulative and are in addition to any other rights of that party.

23.5 Consents

Except as expressly stated otherwise in this document, a party may conditionally or unconditionally give or withhold any consent to be given under this document and is not obliged to give its reasons for doing so.

23.6 Further steps

Each party must promptly do whatever any other party reasonably requires of it to give effect to this document and to perform its obligations under it.

23.7 Governing law and jurisdiction

- (a) This document is governed by and is to be construed in accordance with the laws applicable in New South Wales.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

23.8 Severance

- (a) If a provision of the DOCA is illegal or unenforceable in any relevant jurisdiction, it may be severed for the purposes of that jurisdiction without affecting the enforceability of the other provisions of the DOCA.
- (b) **Clause 23.8(a)** does not apply if severing the provision:
 - (i) materially alters the:
 - (A) scope and nature of the DOCA; or
 - (B) the relative commercial or financial positions of Creditors, including a Secured Creditor; or
 - (ii) would be contrary to public policy.

23.9 Assignment

- (a) A party must not assign or deal with any right under this document without the prior written consent of the other parties.
- (b) Any purported dealing in breach of this clause is of no effect.

23.10 Counterparts

This document may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

23.11 Entire understanding

- (a) This document contains the entire understanding between the parties as to the subject matter of this document.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this document are merged in and superseded by this document and are of no effect. No party is liable to any other party in respect of those matters.
- (c) No oral explanation or information provided by any party to another:
 - (i) affects the meaning or interpretation of this document; or
 - (ii) constitutes any collateral agreement, warranty or understanding between any of the parties.

23.12 Construction

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) "includes" means includes without limitation;

- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (f) a reference to:
 - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation or replaced pursuant to the Corporations Act;
 - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
 - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
 - (v) a right includes a benefit, remedy, discretion or power;
 - (vi) time is to local time in Sydney;
 - (vii) "\$" or "dollars" is a reference to Australian currency;
 - (viii) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties;
 - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions;
 - (x) this document includes all schedules and annexures to it; and
 - (xi) a clause, schedule or annexure is a reference to a clause, schedule or annexure, as the case may be, of this document;
- (g) if the date on or by which any act must be done under this document is not a Business Day, the act must be done on or by the next Business Day; and
- (h) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

23.13 Headings

Headings do not affect the interpretation of this document.

Schedule 1

Notice Details

Party	Notice Details
Remagen Lend AIM Pty Ltd ACN 635 075 115 in its capacity as trustee of the Remagen Lend AIM Unit Trust	Address: Level 7, 17 Castlereagh Street, Sydney NSW 2000 Email: facilityagent@remagen.com.au
Australian Abrasive Materials Pty Ltd (administrators appointed) ACN 118 292 756	Address: c/o KordaMentha, Level 5, Chifley Tower, 2 Chifley Square, Sydney NSW 2000 Email: DOsborne@kordamentha.com; RGoyal@kordamentha.com
Australian Industrial Minerals Pty Ltd (in liquidation) ACN 623 197 142	Address: c/o KordaMentha, Level 5, Chifley Tower, 2 Chifley Square, Sydney NSW 2000 Email: DOsborne@kordamentha.com; RGoyal@kordamentha.com
Rahul Goyal, John Bumbak and Richard Tucker in their capacity as Deed Administrators	Address: KordaMentha, Level 5, Chifley Tower, 2 Chifley Square, Sydney NSW 2000 Email: DOsborne@kordamentha.com; RGoyal@kordamentha.com

Schedule 2

Share Transfer Form

FORM OF TRANSFER OF SHARE(S)

FULL NAME OF COMPANY	
ACN	
DESCRIPTION OF SHARE(S)	CLASS _____ ☐ FULLY PAID ☐ PAID TO \$ _____
QUANTITY	
FULL NAME(S) OF SELLER(S)	
FULL ADDRESS OF SELLER(S)	
CONSIDERATION	\$ _____
FULL NAME(S) OF BUYER(S)	
FULL ADDRESS OF BUYER(S)	
REQUEST	Please enter this transfer on the Share Register

I/We the registered holder(s) for the above consideration transfer to the Buyer(s) named above the shares specified above standing in my/our name(s) in the books of the Company subject to the conditions on which I/We held the same at the time of signing and I/We the Buyer(s) agree to accept the shares subject to the same conditions and the Rules contained in the Company's Constitution.

I/We have not received any notice of revocation of the Power of Attorney by death of the grantor or otherwise, under which this transfer is signed (if any).

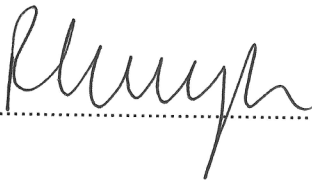
SELLER	Sign Here Date Signed / /20
BUYER	Sign Here Date Signed / /20
AUTHORITY TO FORWARD CERTIFICATE TO THIRD PARTY	I/We authorise you to forward the certificate/s issued in my/our name/s following the registration of this transfer to: Signature of Buyer(s)

Execution

Executed as a deed

Signed sealed and delivered
by **Rahul Goyal** in the presence of:

)
)
)




Witness

EMMA DOUKAKIS
Name of Witness (print)

Signed sealed and delivered
by **John Allan Bumbak** in the presence
of:

)
)
)

.....

.....
Witness

.....
Name of Witness (print)

Signed sealed and delivered
by **Richard Scott Tucker** by the party's
attorney pursuant to power of attorney
who states that no notice of revocation of
the power of attorney has been received
in the presence of:

)
)
)

.....

.....
Witness

.....
Name of Witness (print)

Execution

Executed as a deed

Signed sealed and delivered
by **Rahul Goyal** in the presence of:

)
)
)

.....

.....
Witness

.....
Name of Witness (print)

Signed sealed and delivered
by **John Allan Bumbak** in the presence
of:

)
)
)

.....


.....
Witness

BEN CARLUTHERS
.....
Name of Witness (print)

Signed sealed and delivered
by **Richard Scott Tucker** by the party's
attorney pursuant to power of attorney
who states that no notice of revocation of
the power of attorney has been received
in the presence of:

)
)
)

.....


.....
Witness

BEN CARLUTHERS
.....
Name of Witness (print)

Sign, sealed and delivered by)
Australian Abrasive Minerals Pty Ltd)
(administrators appointed) by one of its
joint and several voluntary administrators
in the presence of:

Emma Doukakis

Witness

EMMA DOUKAKIS

Name of witness (print)

Ramul Goyan

Administrator

RAMUL GOYAN

Name of administrator (print)

Sign, sealed and delivered by)
Australian Industrial Minerals Pty Ltd)
(in liquidation) by one of its joint and
several liquidators in the presence of:

Emma Doukakis

Witness

EMMA DOUKAKIS

Name of witness (print)

Ramul Goyan

Liquidator

RAMUL GOYAN

Name of liquidator (print)

Signed, sealed and delivered by
Remagen Lend AIM Pty Ltd in its
capacity as trustee of the Remagen
Lend AIM Unit Trust by the party's
attorney pursuant to power of attorney
who states that no notice of revocation
of the power of attorney has been
received in the presence of:

Witness

Name of Witness (print)

Attorney

Name of Attorney (print)