

Zool Capital Pty Ltd

(ACN 169 752 747)

Membership Agreement

27 May 2016

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MEMBERSHIP AGREEMENT

Parties:

1. Applicant (as named in the application to be bound by this Agreement); and
2. Zool Capital Pty Ltd (ACN 169 752 747) (**TCA**).

1. APPLICATION, DEFINITIONS AND INTERPRETATION

1.1 Application

- a. The terms of this Agreement constitute the Agreement between the Applicant and TCA formed upon acceptance of the Applicant's application for Membership. There is no requirement that this document be executed by any person in order for it to be binding on the Parties.
- b. TCA's records of its acceptance of the Applicant's application for Membership will be conclusive acceptance of acceptance and of the making of this Agreement. There is no requirement to give express notice to the Applicant of the acceptance or the making of this Agreement.

1.2 Definitions

Accountant's Certificate	means a certificate from a qualified accountant certifying that the Member is a 'sophisticated investor' or 'wholesale client' for the purpose of sections 708(8)(c) and 761G(7)(c) of the Corporations Act respectively.
Alias	means the code word(s) used as a way of keeping the identity of each Member confidential during and after an auction.
AML/CTF Act	means the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Commonwealth) and related regulations, as amended from time to time.
Applicant	means the person or entity (including self-managed superannuation funds) that is applying for Membership.

ASIC	means the Australian Securities and Investments Commission.
Authorised Deposittaking Institution or ADI	means a financial institution regulated by the Australian Prudential Regulation Authority in accordance with the Banking Act 1959 (Commonwealth).
Borrower	means an entity that has applied for a Loan.
Borrower Background Documents	means the documents provided to a Lender about a Borrower in relation to a particular Loan.
Corporations Act	means the Corporations Act 2001 (Commonwealth), as amended from time to time.
Corporations Regulations	means the Corporations Regulations 2001 (Commonwealth), as amended from time to time.
Dollars, \$A and \$	means the lawful currency of the Commonwealth of Australia.

Electronic Messaging	means email, sms text messaging or any other electronic messaging service.
GST	means goods and services tax as defined in the GST Law.
GST Law	means A New Tax System (Goods & Services Tax) Act 1999 (Commonwealth).
Lender	means a Member who provides a Loan to a Borrower.
Loan	means any loan made or to be made by a Lender to a Borrower through the Platform in accordance with this Agreement and the Loan Documents.
Loan Documents	means the loan agreement (and ancillary documents) in respect of a Loan.
Member or You/Your	means an Applicant that has been granted Membership in accordance with this Agreement.
Membership	means the ability to access some or all of the functionality of the Platform (as a Member) once accepted by TCA in accordance with this Agreement.
Platform	means the peer to business online lending platform operated by TCA through the Website.
PPS Law	means the Personal Property Securities Act 2009 (Commonwealth) as amended from time to time and includes the related regulations.
Professional Investor	means a person that is a professional investor as defined in the Corporations Act.
Security Documents	means any documents granting a Security Interest in respect of a Loan.
Security Interest	means: <ul style="list-style-type: none"> a) 'security interest' as defined in the PPS Law; b) security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or title retention arrangement, right of set-off, assignment of income, garnishee order or monetary claim and flawed deposit arrangement); c) thing or preferential interest or arrangement of any kind giving a person priority or preference over claims of other persons or creditors with respect to any property or asset; <p>and includes any agreement to create any of them or allow them to exist.</p>
Sponsor	means a credit provider or finance broker holding an Australian Credit Licence (ACL) or an authorised representative of an ACL holder that assists a Borrower to apply for a Loan through the Platform.

TCA or We/Us/Our	means Zool Capital Pty Ltd (ACN 169 752 747), the operator and manager of the Platform, who is an authorised representative of Transcend Capital Pty Ltd (ACN 164 498 597), the holder of Australian Financial Services Licence number 444079.
TCAN	means Zool Capital Pty Ltd Nominees Pty Ltd (ACN 601 494 026), who is an authorised representative of Transcend Capital Pty Ltd (ACN 164 498 597), the holder of Australian Financial Services Licence number 444079.
Trustee	means TCAN or any other entity appointed by TCA to perform the role of trustee.
Trustee Notice	means information sent by the Trustee to a Lender (or Lenders) in connection with a Loan including notices requiring a decision or a vote by the Lender (or Lenders).
Username	means a unique name selected by a Member upon registration of their Membership to keep their identity confidential (if they wish) from other Members and Borrowers.
Website	means www.zoolcapital.com.au and any other internet address (or website) used to conduct the business activities of TCA and to which the Members have access.
Wholesale Client	means a person who is a wholesale client pursuant to the Corporations Act.

1.3 Interpretation

In this Agreement:

- a. headings and bold items are for convenience only and do not affect the interpretation of this Agreement;
- b. words importing the singular include the plural and vice versa;
- c. unless defined in the body of this Agreement, any capitalised words have the meaning given to them in the definitions in clause 1.2 of this Agreement;
- d. words importing a gender include any gender;
- e. other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
- f. an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental agency;
- g. a reference to anything (including, but not limited to, any right) includes a part of that thing but nothing in this clause (g) implies that performance of part of an obligation constitutes performance of the obligation;
- h. a reference to a party (or Party), clause, annexure, exhibit or schedule is a reference to a party and clause of, and a party, annexure, exhibit and schedule to, this Agreement and a reference to this Agreement includes any annexure, exhibit and schedule;
- i. a reference to a person includes a firm, corporation, body corporate, unincorporated association and a governmental authority and includes (as applicable) that person's executors, legal personal representatives,

successors, liquidators, administrators, trustees in bankruptcy and similar officers and, where permitted under this agreement, their substitutes and assignees;

- j. a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- k. a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- l. a reference to a party to a document includes that party's successors and permitted assignees;
- m. a reference to an agreement other than this Agreement includes an undertaking, agreement or legally enforceable arrangement or understanding, whether or not in writing;
- n. a reference to an asset includes all property of any nature, including, but not limited to, a business, and all rights, revenues and benefits;
- o. a reference to a document includes any Agreement in writing and any certificate, notice, instrument or other document of any kind;
- p. the words "includes", "including", "for example" or "such as" when introducing a list of items do not exclude a reference to other items, whether of the same class or genus or not;
- q. an example given in this Agreement is not a term and may only be used to assist interpretation of a term of this Agreement if there is a manifest uncertainty, ambiguity or error in the term;
- r. a reference to a body, other than a party to this Agreement (including, without limitation, an institute, association or authority), 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. QUALIFYING FOR MEMBERSHIP

1. To qualify for Membership and to maintain Your Membership, You must satisfy **each** of the following conditions (in addition to any other requirements set out in this Agreement or as otherwise required by TCA from time to time):
 - a. become a Lender or have bid for a Loan within the time period specified in clause 11(4);
 - b. provide a valid postal address, email address and telephone number and inform us promptly if at any time such information changes;
 - c. provide the evidence of Your identity required by Us from time to time, to comply with the AML/CTF Act and any other related laws and regulations, tax law and other requirements imposed by law, ASIC or any other regulatory body;
 - d. provide to Us an Accountant's Certificate issued within the last six months from the date that You apply to become a Member;
 - e. provide Your tax file number or applicable exemption;
 - f. provide a completed, properly executed Member application form; and

- g. pay the relevant membership fees as outlined in this Agreement (or on the Website).
2. Even if You have satisfied the above requirements, We may refuse Membership without providing any reason whatever for our decision.

3. HOW MEMBERSHIP WORKS

1. By applying for Membership, the Applicant agrees and acknowledges as follows, and on becoming a Member the Member automatically by this Agreement restates the following:
 - a. neither TCA, TCAN, the Sponsors, or any of their related entities, directors, officers, employees, agents or advisers are providing financial product advice of any nature whatever;
 - b. the Applicant (including as Member, as applicable) has read and understood this Agreement after having the opportunity to obtain advice, as necessary, from an independent person who is appropriately qualified to give such advice;
 - c. the Applicant (including as Member, as applicable) is a Wholesale Client or a Professional Investor and, to the extent that the Applicant (including as Member, as applicable) is a Wholesale Client, it (or he or she as applicable) has provided or will provide, to TCA, a valid and effective Accountant's Certificate;
 - d. the Applicant (including as Member, as applicable) will immediately notify TCA if the Applicant (including as Member, as applicable) ceases to be a Wholesale Client or a Professional Investor, as the case may be;
 - e. as a Member it will lend money to each Borrower on the Platform in the ordinary course of a business carried on by the Member;
 - f. the Applicant (including as Member, as applicable) is relying solely on its own knowledge, investigation, judgment and assessment of the Loans offered on the Platform;
 - g. to the maximum extent permitted by law, the Applicant (including as Member, as applicable) forever indemnifies each of TCA, TCAN and the Sponsors from time to time and each of their respective related entities, officers, employees, contractors, servants, agents or advisers from (who may rely on this despite not being a party to this Agreement) against all actions, proceedings, accounts, costs, expenses, charges, liabilities, claims and demands, whether reasonably foreseeable or not, however arising at law, arising directly or indirectly in relation to the accuracy or completeness of the information, statements, opinions or matters (express or implied) arising out of, contained in or derived from the Borrower Background Documents or any omission from the Borrower Background Documents or of any other written or oral information or opinions provided now or in the future to any person or its advisers;
 - h. the Applicant (including as Member, as applicable) will provide to TCA (and to TCAN) with all additional information and assistance that the Applicant (including as Member, as applicable) may reasonably require to comply with the AML/CTF Act; and
 - i. the Applicant (including as Member, as applicable) is not aware and has no reason to suspect that the moneys used to lend on the Platform have been or will be derived from or related to any money laundering, terrorism financing or other illegal activities, whether prohibited under Australian law, international law or convention or by agreement, or the repayments of

principal and interest will be used to finance any illegal activities, and it is not a politically exposed person or organisation as the term is used in the AML/CTF Act.

2. On being granted Membership, You must select a Username and password for access to Your account on the Platform. You must keep this Username confidential for as long as You continue to be a Member, unless there is a technical or security reason for it to be changed.
3. Subject to clause 3(4), You are initially provided limited access to the Platform to enable You to review lending opportunities before depositing funds.
4. If You transfer a minimum deposit (currently \$1,000) into the TCAN bank account, You will be provided full access to the Platform including the ability to bid for a Loan. We may vary the minimum deposit at our discretion and any such change will be published on the Website.
5. Your funds will be held in one or more bank accounts with ADIs in the name of TCAN and these accounts will be designated for the purposes of being client money trust accounts.
6. Your transactions, balances and Loan status are displayed via a 'dashboard' in Your individual account on the Platform.
7. Bidding by You for a Loan will be identified by means of an Alias, which You may change from time to time to keep Your identity confidential from other Lenders that are bidding for a Loan.
8. Membership entitles You (among other things) to receive access to information about lending opportunities that are being offered through the Platform. In most cases they will be offered in the form or nature of an auction as among the Borrower and Members with a defined deadline for placing bids for a Loan.
9. We will notify You by email or other Electronic Messaging system when new lending opportunities are made available. However, we accept no responsibility if You do not receive such notification and it is Your responsibility to make sure that Your designated Electronic Messaging service that has been provided to Us is able to receive Our messages. Information regarding available opportunities will also be available by logging onto the Website, which we will seek to make available 24 hours a day, 7 days a week, subject to occasional interruptions for essential maintenance and system failures beyond Our control.
10. Lending opportunities will generally be presented by way of Borrower Background Documents prepared by a Sponsor describing the opportunity and providing background information on a Borrower which may include business plans, credit reports, information on security, past accounts and other documents relevant to the lending opportunity, signed by the Borrower.
11. Neither TCA, TCAN or Sponsors will provide financial product advice of any nature whatsoever.
12. Neither TCA, TCAN or Sponsors are responsible for the accuracy and completeness of the information, statements, opinions or matters (express or implied) arising out of, contained in or derived from the Borrower Background Documents or any omission from the Borrower Background Documents or of any other written or oral information or opinions provided.
13. You will be able to ask specific questions or request further information about particular opportunities using the Q&A facility on the Platform during each Loan auction. Normally any Electronic Messaging communications will be made available to all Members to view but Your identity will be kept confidential, if You wish, by the use of an Alias. If You misuse the Q&A facility, We may reveal Your identity or terminate Your access to the Q&A facility.
14. Members are personally responsible for the messages they post on the Q&A facility, or any other forums on the Website (or on forums anywhere else) and

they are required to behave in a civil and respectful manner and not make statements which are reasonably likely to mislead or to deceive (regardless of intention). If TCA decides that a Member has posted content which is defamatory, unlawfully threatening or unlawfully harassing, TCA may publish the name of the offending Member, prevent them from accessing the Platform or in the case of serious or repeated offences, cancel their Membership or any combination or sequence of that.

15. On completion of a Loan auction, and subsequent completion of the Loan Documents and receipt of a drawdown request from the Borrower, We will initiate the transfer of the Loan funds from the TCAN bank account to the Borrower's bank account.
16. We will arrange for principal and interest repayments due from a Borrower in respect of a Loan to be collected each month, and on receipt, the amount owing to each Lender will be credited to their respective account on the Platform or, if the total amount paid by a Borrower on all Loans is less than the total of all amounts owing on all Loans, TCA will use its reasonable endeavours to apply the available funds proportionally to all Lenders' accounts by reference to the respective principal amounts owing on those Loans.
17. You may withdraw all or part of the uncommitted funds (i.e., funds not committed to a Loan auction) in your account at any time but subject to any other obligations You owe under this Agreement, by sending a withdrawal request to Us via the Platform (or Website). Upon receiving that request, We will arrange to transfer the withdrawal amount to Your nominated bank account. For security reasons, requests for the return of uncommitted funds can only be accepted using the facility built into the Platform. Funds can only be returned to Your bank account from which You initially transferred funds to TCAN, except as otherwise agreed by Us.
18. If enforcement action is taken as a result of clause 8(1)(a) by TCAN, each Lender will be required to pay TCAN an upfront amount (as advised in writing by TCAN) representing an estimate of the legal fees that will be incurred as a result of this enforcement action.
19. All moneys due to a Lender arising from the enforcement of any Security Interest will generally be paid in the following order (from available funds):
 - a. to meet any costs incurred in respect of any enforcement action by the Trustee or by any manager, receiver or administrator appointed by it; then
 - b. to repay the moneys paid by each Lender to TCAN as referred to in clause 3(18); then
 - c. to repay the capital amount of a Loan made by each Lender on a *pari passu* basis in proportion to the amount of the outstanding principal of each Loan made by each respective Lender immediately prior to the first default by the Borrower which led to the enforcement; then
 - d. to meet the payment of the interest due to each Lender under the Loan; then
 - e. to meet the payment of any fee due to TCA for the period of the Loan; then
 - f. to meet the payment of any fee due to the Sponsor.
20. If You forget Your password You can request that We reset it but You must send an email to support@zoolcapital.com.au requesting a reset and include Your Username and Your Membership number. For security reasons, We may contact You to obtain additional information from You prior to resetting Your password.

4. THE LOAN BIDDING PROCESS

1. The minimum bid by a Lender for a Loan is currently \$1,000 (**minimum bid**) and the maximum bid by a Lender for a Loan is the whole Loan amount. We may change the minimum bid amount at our discretion and without prior notice. We will notify You of this by posting it on the Website as soon as practical, but will not be liable for any loss caused by or attributable to any delay in notification or your awareness of the change.
2. When a Loan is auctioned at a variable interest rate You may make any number of bids at different interest rates and amounts (subject to the minimum bid). The lowest interest rate bids will be allocated to the Loan auction and each successful bid will receive that interest rate specified by each Lender.
3. When Loans are auctioned at a fixed interest rate, the bids by each Lender will be accepted on a 'first-come-first-served' basis.
4. Once a Lender makes a bid, the amount of the bid will be frozen in the Lender's account until the Lender has been outbid by another Lender or the auction is completed (whichever happens first). No bid will be accepted unless the Lender has sufficient cleared (i.e., not frozen) funds in their account to meet their commitment for the bid they are making.
5. During the auction a Lender will receive emails (or other communication through an Electronic Messaging system permitted by TCA) informing them about the progress of the auction such as when other Lenders have outbid them. If a Lender has been outbid or the auction is complete (whichever happens first), a Lender's funds will no longer be frozen, allowing a Lender to submit another bid in another Loan auction.
6. Once a Lender has confirmed their bid, it cannot be withdrawn and if that bid is successful the Lender must honour the commitment to make the Loan.
7. We may decide to end the auction early if sufficient bids at an acceptable interest rate have already been received in respect of a Loan. In the case of an auction that has not reached the minimum Loan amount required, We may decide to extend the period of the auction to allow time for further bidding.
8. If a Borrower has accepted an offer of a Loan, the funds needed to meet each bid(s) by each Lender will be frozen in each Lender's account and not be available for another auction unless the Loan is not completed.
9. TCAN will arrange for the Borrower to execute the Loan Documents to complete each Loan as soon as practicable following the conclusion of the auction.
10. If more than one Lender has a Loan to a Borrower, each is a distinct and separate Loan. As among Lenders, there is no pooling of Loans or joint ownership of a Loan.
11. If TCA introduces new facilities and markets to the Platform such as a secondary market for loans or loan underwriting, details of such services will be provided on the Website.

5. MEMBERSHIP FEES AND INCOME TAX

1. We currently do not charge a fee for Membership. We may introduce a fee at Our discretion and without prior notice. We will notify You of this by posting it on the Website as soon as practical, but will not be liable for any loss caused by or attributable to any delay in notification or your awareness of the change.
2. We currently do not charge the Lender a loan management fee. We may introduce a fee at Our discretion without prior notice. We will notify You of this by posting it on the Website as soon as practical, but will not be liable for any loss

caused by or attributable to any delay in notification or your awareness of the change.

3. As the Platform develops, new facilities and markets may be introduced in addition to the standard Loan auction such as a secondary market for loans or loan underwriting. We may decide to introduce additional fees for Members requiring access to those additional facilities.
4. We may impose a charge for transferring funds out of a Member's account to cover any costs incurred by Us as a result of that, but We will advise Members (generally by the Website or specifically to Members) of this charge beforehand.
5. TCA will aim to give Members at least one (1) month's notice of any planned change to its fees.
6. All interest earned on Your Loans will be credited to Your account without deducting income tax except if You are a foreign resident or otherwise when required by law, when withholding tax at statutory rates will be deducted.
7. You can use the dashboard within the Platform to produce indicative details of interest earned between any two dates, for the purposes of assisting preparation of Your tax return; however, the information is indicative only and so should not be relied upon as the definitive source of information for Your tax return. You remain solely responsible for Your compliance with all of Your tax compliance obligations and accordingly should satisfy yourself that You have correctly provided all relevant information in Your tax return.
8. Unless otherwise stated, all fees and charges described in this Agreement are in \$A.

6. AML/CTF PROVISIONS

1. We may request further information from You from time to time to comply with the AML/CTF Act and any other regulatory obligations. You agree to provide us with all additional information and assistance that We reasonably require to comply with the AML/CTF Act and any other regulatory obligations (not limited to the AML/CTF Act).
2. If You are an Australian resident, We will only accept funds from You deposited electronically in \$A from an account held with an ADI. If you are an overseas resident, We will only accept funds from You deposited electronically in \$A from an account held with a regulated financial institution in your country of residence.
3. Except with Our prior written approval, funds will only be credited to the nominated bank account in the same name as the name of the Member.

7. AUTHORISATION TO APPOINT THE TRUSTEE

1. Each Member authorises TCA to appoint TCAN by one or more deeds and as amended from time to time, to act as the Member's agent, nominee and trustee for the purposes of representing and acting for the Member and on their behalf in all respects of the Loan Documents for the Loan to which the Member has the benefit, as conclusively evidenced in the records of TCAN (referred to in this clause 7 as the "Lender's Loan Documents"), including but not limited to appointment:
 - a. to execute on behalf of the Member all of the Lender's Loan Documents;
 - b. to exercise the rights, powers, authorities and discretions specifically given to a Lender under or in connection with the Loan Documents and Security Documents together with any other incidental rights, powers, authorities and discretions;
 - c. to hold the benefit of any Security Interest granted in favour of the Member

(as Lender or otherwise) in respect of a Loan, on trust for the Member; and

on the basis that, subject to the terms of appointment of TCAN:

- a. each Member will become bound by the deed of appointment of TCAN by virtue of, and automatically coinciding with, becoming a Member;
- b. the terms of appointment of TCAN are enforceable against the Member even if they do not have actual or constructive notice of the terms and despite the terms of appointment including more details than set out in this clause;
- c. TCAN may act for more than one Member (as Lender or otherwise) in relation to the same Borrower;
- d. each Member will not take any action or commence any recovery process against any Borrower in the Member's own name but will act only (solely and exclusively) through TCAN unless TCAN otherwise determines or TCAN is removed or retires as trustee for the Member,
- e. TCAN will be entitled to act or not act as it reasonably determines (including but not limited to, engaging a debt collection company or lawyer to recover a debt) as provided for in this Agreement and the Security Documents;
- f. TCAN has no duty, whether fiduciary or arising in contract or otherwise, for making enquiries about or verifying any information about a prospective Borrower, the terms of a Loan Document, the Borrower's capacity to pay all amounts owing under a Loan, the suitability of the Loan for a Borrower or the Member (as a Lender or otherwise) or in relation to the circumstances of any actual or possible default by a Borrower;
- g. TCAN will not be liable for its decisions taken reasonably, even if decides not to act, or to accept settlement or compromise for less than the full debt owing in favour of the Lender or TCAN incurs legal services, court costs or other costs in attempting or pursuing any enforcement action;
- h. TCAN is not obliged to act unless it is satisfied that it has a right of indemnification out of any relevant trust assets or is otherwise satisfactorily indemnified or funded for any costs it might reasonably occur in the course of discharging its duties and properly exercising its powers;
- i. TCA must promptly forward to a Member on request a copy of the terms of appointment of TCAN;
- j. TCAN must promptly forward to a Lender electronic copies of any Security Documents requested by a Lender in respect of a Loan;
- k. TCAN is not obliged to review or verify the adequacy, accuracy or completeness of any documents it provides to a Lender;
- l. subject to clause 8, each Lender authorises TCAN to act (or refrain from acting, as the case may be) without recourse to them including without limitation in respect of:
 - i. day to day management of the Loans including, without limitation, dealing with drawdown notices, certificates of compliance and the provision of financial information from a Borrower;
 - ii. answering any questions raised by a Borrower;
 - iii. administration relating to late payments due under a Loan by the issuing of standard letters of demand; and
 - iv. amending the terms of any Loan Documents or Security Documents provided that such amendments are not to the interest rate payable on a Loan, the term of the Loan, the capital repayment schedule or the Security Interest granted in favour of a Lender;

- m. if TCAN receives notification of a default or event of default by a Borrower in respect of a Loan (as defined in any Loan Document or Security Document) it must immediately notify the Lenders who are involved in that Loan;
 - n. if TCAN is aware of a default in the payment of any principal, interest or fee payable to a Lender it must immediately notify the Lenders involved in that Loan;
 - o. TCAN may rely on any representation, notice or documents believed by it to be genuine, correct and appropriately authorised and any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within that person's knowledge or within that person's power to verify;
 - p. TCAN is not responsible for the adequacy, accuracy or completeness of any information (whether oral or written) it supplies in connection with any Security Documents and is not responsible for the legality, validity, effectiveness, adequacy or enforceability of any Security Document or any other agreement, arrangement or document entered into made or executed in anticipation of or in connection with any Loan;
 - q. TCAN may from time to time appoint and delegate to a service provider (which may include a licensed legal practitioner) to verify the execution of Loan Documents by a Borrower; and
 - r. TCAN will not be liable (including without limitation for negligence or any other category of liability whatever) for any costs, losses or other damages, whether or not reasonably foreseeable, arising directly or indirectly from any action (or omission) taken by it under or in connection with any Security Document, unless directly caused by its gross negligence or wilful misconduct.
2. If there is any inconsistency regarding the respective rights, obligations and limitations of liabilities of Members, TCA and TCAN arising under this clause 7 or the terms of appointment of TCAN, the Security Documents and Loan Documents then, to the extent of any inconsistency:
- a. the terms of appointment of TCAN prevail over all other terms of this Agreement and the Security Documents and Loan Documents;
 - b. subject to paragraph (a), the relevant provisions of the Security Documents prevail over the Loan Documents.

8. PROCEDURES FOR VOTING ON AN URGENT COURSE OF ACTION

1. Except in exceptional circumstances when urgent action is required to protect a Lender's interests in respect of a Loan (including if there is more than one Lender to the same Borrower), TCA is not permitted, and the terms of appointment of TCAN will provide that TCAN is not permitted, to make the following decisions in respect of a Loan without seeking a Lender's (or Lenders', as the case may be) vote on a particular course of action:
- a. the commencement of any enforcement action or legal process against a Borrower;
 - b. release of any Security Interest;
 - c. the issue of any waiver letter in relation to the obligations of a Borrower under Loan Documents; and
 - d. any restructuring of the Loan (or Loans) or Security Interest (for each Loan).

For the purposes of this clause 8, each Lender must keep their electronic mail address details up to date to allow TCAN to give Trustee Notices to the electronic mail address of each Lender as contemplated by this clause 8 (as more particularly set out in the terms of appointment of TCAN). Neither TCA nor TCAN will be liable if a Trustee Notice is not received by a Lender for any reason, including failure in the Lender's computer or other device for receiving communications, a failure in the Lender's internet or broadband connection service or any other third party service provider's failure.

2. Any Trustee Notice that requires a Lender to vote on a particular course of action, (or courses of action) must be responded to within the timeframe specified in that Trustee Notice. If a Lender does not vote within that time limit the Lender will be disregarded for that particular vote and a decision will be made on a majority of votes of the Lenders that have responded to the Trustee Notice within the time specified in it.
3. For the purposes of this clause 8, each Lender will get one vote for every \$1,000 currently lent for a Loan. TCAN will act in accordance with the majority vote of those Lenders who have voted.

For example, \$2,000 currently lent in a Loan gives a Lender two votes, but \$4,400 currently lent in a Loan gives the Lender four votes.

4. If there is not a clear majority vote for a particular course of action then TCAN is authorised to exercise a casting vote and may take whatever action it thinks reasonably necessary in the interests of all the Lenders to the same Borrower as a general class, without having to consider the specific intentions of any particular Lender or to ensure any decision is actually fair and reasonable to each Lender. In all circumstances TCAN will communicate its decision to all Lenders as soon as reasonably practicable.
5. TCAN is authorised to decide that it is in the best interests of Lenders (as a general class, without having to consider the specific intentions of any particular Lender or to ensure any decision is actually fair and reasonable to each Lender) to take immediate action in relation to Loans without seeking the votes of Lenders or notifying them of TCAN's action. TCAN will not be liable to any Lender if TCAN reasonably determines to take such immediate urgent action.
6. Each Member acknowledges for the benefit of each other Member and for TCA and TCAN, despite any of them not being a party to this Agreement, that the terms of appointment of TCAN to act on behalf of the Member, and the rights and powers of TCA and TCAN, do not constitute, and are intended not to constitute, a registrable managed investment scheme for the purposes of the Corporations Act or any partnership or joint venture as among any of them nor create any rights or duties, whether fiduciary or otherwise arising, held by any persons (including TCA, TCAN and other Members) in favour of the Member except as set out in, and subject to the express terms of this Agreement, Loan Documents, Security Documents and the terms of appointment of TCAN.

9. CONFIDENTIALITY AND PRIVACY

1. Lenders must treat the Borrower Background Documents and in particular any information provided by potential or actual Borrowers as strictly private and confidential.
2. The documents referred to in clause 9(1) are only made available to Members for the purposes of deciding whether to make an offer of a Loan. They are not intended for any other purpose and their contents may not be disclosed or copied

to any third party or used for any other purpose without TCA or TCAN's (as the case may be) prior written approval. Each Member acknowledges that TCA and TCAN are authorised to take action against the Member for any actual or reasonably likely breach of the obligations of the Member arising under this clause 9, even if the obligations are primarily owed in favour of the relevant Borrower. Each of TCA and TCAN may take such action in its own name or on behalf of a Borrower, or both, including seeking enforcement of the Member's obligations, destruction or return of all copies of Borrower Background Documents in the possession of or control of the Member and compensation for any breach by the Member of this clause 9.

3. Members must ensure that if there is any risk of a conflict of interest for reasons such as their other business interests they are responsible for taking steps to ensure that the interests of the Borrower or potential Borrower are protected. Without limiting the rights of a Lender arising in relation to a Loan, each Member must not use any confidential information to compete with or to harm the business interests and reputation of a Borrower or prospective Borrower.
4. Each Member acknowledges for the benefit of other Members (despite not being a party to this Agreement), TCA and TCAN that the ability of the Platform to provide Members with lending opportunities depends upon the Platform's reputation for its Members respecting and maintaining confidentiality of other persons' information obtained through or by virtue of the Platform.
5. If TCA believes that a Member has breached or is reasonably likely to have breached any privacy or confidentiality obligations (however arising), TCA may suspend a Member's access to the Platform until it has investigated this matter further and resolved the issue to the reasonable satisfaction of TCA. If TCA is satisfied that material damage to any person has been caused by a breach of any privacy or confidentiality obligation of a Member, TCA may permanently suspend a Member's Membership without notice or further explanation (in addition to any other rights). TCA is not obliged to provide any procedural fairness to the Member in the course of making its investigations and determinations under this clause.
6. TCA will keep Members' details confidential and will not use them for any other purpose, except in the circumstance where a Member is making what in Our sole discretion, are statements described in clause 3(13) on the Q&A section of the Platform, in which case the Member's access may be restricted or terminated. Members should be aware that it is not possible to retract or edit statements made in the Q&A section of the Platform and they should take appropriate care in using it.
7. By selecting a Username with no obvious link to their identity, Members will be able to keep their identity confidential throughout the whole Loan auction process so that even a Borrower will not be aware of the actual identity of each Lender.
8. Members accept sole responsibility for all use of and for keeping secret any password and Username that may have been given to them or chosen by them for use on the Website.
9. You must notify TCA immediately if there is any unauthorised use of Your password or Username or any other security breach of which You become aware.
10. TCA is committed to and will adhere to its privacy obligations under the Australian Privacy Principles contained in the Privacy Act 1988 (Commonwealth). Our privacy policy which is available on the Website describes how we handle and protect personal information we collect about individuals who deal with us.

10. RESTRAINT ON COMPETITION

1. Members must not attempt to bypass TCA by using the information supplied on the Platform (or the Website) for other purposes including, but not limited to, making an offer of any type of funding directly to a Borrower or passing confidential information to non-Members so that they can make their own direct offers to a Borrower. Each Member accepts that this is a reasonable restraint having regard to the confidentiality of information provided to them through the Platform, the agreement of the Member relied upon by other Members, TCA and TCAN and the reliance by Borrowers on the Platform and payment by them for services to them.
2. Members must keep the internal operating methods and procedures used by the Platform confidential and not use such information gained to assist any person seeking to establish a similar service to that offered by the Platform.

11. TERMINATION OF MEMBERSHIP

1. Membership may be terminated by TCA:
 - a. if a Member breaches any of its obligations under this Agreement;
 - b. We are no longer able to identify a Member and their use of the Platform;
or
 - c. by giving a Member 30 days' prior written notice.
2. Subject to any amounts owed by a Member in respect of Loan (including any fees owed to TCA under this Agreement, the Loan Document or Security Documents), the status of a Loan (or any other relevant matter that TCA believes must be addressed and resolved before a Member can terminate their Membership) a Member may terminate their Membership by giving TCA 30 days' prior written notice.
3. If a Member terminates their Membership in accordance with clause 11.2, any moneys in the Member's account on the Platform (or in the TCAN trust account held for the Member) will be transferred to the bank account nominated by the Member under this Agreement.
4. TCA may suspend or terminate a Membership if the Member has not bid in any auction for a Loan through the Platform in any consecutive 6 month period of Membership.
5. TCA may also suspend or terminate a Membership in other circumstances specified in this Agreement.
6. If there is a death of a Member (in the case of a natural person), TCA will use its reasonable endeavours to assist an executor (or other legal representative) of the Member's estate to manage the process of taking responsibility for the Member's account.
7. TCA will require satisfactory evidence of the death of the Member and the identity of those persons claiming to be the Member's executor or other authorised legal representative together with evidence of their authority to take control of the Member's account and, if required by TCA, any indemnity in favour of TCA.
8. In the event of the insolvency of TCA, the Website may cease to operate but no existing Loans should be affected as TCAN will arrange an orderly winding down of all outstanding Loans in conjunction with the Sponsors.

12. LIMITATION OF LIABILITY AND INDEMNITY

1. We will use all reasonable endeavours to provide TCA's services (including the Platform) with reasonable care and skill.
2. We will use reasonable care to ensure that Our communications are clear, fair and not misleading to any Member.
3. The Member forever indemnifies TCA and TCAN and their officers, directors, employees, agents and representatives or one or more of them from and against all liability, losses (including consequential losses) and damages (including all costs, expenses and other disbursements), whether reasonably foreseeable or not, arising directly or indirectly out of or in connection with its conduct (including omissions) under this Agreement or arising out of its relationship with TCA and TCAN or in connection with any act or omission of their officers, directors, employees or agents, whether or not constituting negligence, misconduct, dishonesty or fraud, or whether within or outside the authority of this Agreement, except to the extent that the liability, losses and damages are caused or contributed to by the negligence or misconduct of TCA or TCAN or the extent to which the liability cannot by law be excluded or modified as set out in this Agreement.
4. Each indemnity of a Member is a continuing obligation of the Member despite:
 - a. any settlement of account;
 - b. termination of a Loan or of the Member's Membership;
 - c. insolvency or bankruptcy of the Member;
 - d. death or unsoundness of mind of the Member; or
 - e. the occurrence of any other event,

and remains in full force and effect until all money owing, contingently or otherwise, under the indemnity has been paid in full.

13. MAINTENANCE OF LOAN DOCUMENTATION

1. TCA (or TCAN) will maintain a file of original documents relating to each Loan.
2. Electronic copies of the documents referred to in clause 13(1) will be made available free of charge on request by any Lender to which those documents apply.

14. GENERAL

1. TCA is not an auctioneer despite the Platform being an online auction type of service. The Platform is a venue for Members to consider lending opportunities and Borrowers being given the opportunity to accept the various Loan bids made by Lenders.
2. Any notice or other document in respect of Your Membership or application for Membership will be in writing and must be transmitted by email (or other communication through an Electronic Messaging system permitted by TCA).
3. The address for notices to each party will be that provided by You under this Agreement and for Us as provided on the Website or such other address as either of us may from time to time designate by written notice to the other.
4. Any such notice or other document will be deemed to have been received by:

- a. TCA, at the time that the Member sends the email to TCA (or through a Electronic Messaging system permitted by TCA) provided that the Member has not received an undeliverable message after sending the email;
 - b. the Member, at the earlier of:
 - i. TCA posting the notice on the Website; and
 - ii. when TCA sends an email (or other communication through an Electronic Messaging system permitted by TCA) to the Member provided that TCA has not received an undeliverable message after sending the email (or other type of communication).
5. This Agreement constitutes the entire agreement between the parties in connection with Your Membership to the Platform except only to the extent expressly provided in this Agreement. No terms may be implied, deemed or imposed except to the extent they are mandatorily required by law.
6. A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the term of this Agreement continue in force.
7. No provision of this Agreement merges upon the expiry or termination of this Agreement.
8. The obligations, representations, indemnities and warranties of the parties contained in this Agreement survive the execution or other making of this Agreement and the expiry or termination of this Agreement.
9. Each party must do all things necessary to give full effect to this Agreement and the transactions contemplated by this Agreement.
10. A waiver by a party of a breach of any provision will not be deemed to be a continuing waiver or a waiver of any subsequent breach of the same or any other provision. Failure or delay in exercising any rights under this Agreement will not prevent the exercise of that or any other right and does not operate as a waiver or representation.
11. Subject to any other term in this agreement, we may vary this Agreement at any time in Our discretion by posting the amended terms on the Website.
12. You may not assign or transfer any benefit, interest or obligation under this Agreement without the prior written approval of TCA.
13. This Agreement is governed by and construed in accordance with the laws in force in New South Wales, Australia and each party to this Agreement irrevocably and unconditionally submits to the jurisdiction of the courts of New South Wales.
14. TCA may take any action necessary to comply fully with the laws applying to it, despite any other terms of this agreement, including responding to any notices received from government agencies including but not limited to any request to provide information under money laundering, fraud or anti-terrorism regulations.
15. Each party to this Agreement must pay its own costs and expenses in connection with this Agreement.