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# Prospectus

## for the issue of convertible notes

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Prospectus for the offer of a minimum of \$26.4 million (maximum of \$27.2 million) of unlisted, subordinated, secured convertible notes (**Tranche B Notes**) to be issued by Noumi Limited (**Company**) at a price of \$1.00 per Tranche B Note to Eligible Noteholders (**Capital Raising**).

The Capital Raising closes at 5:00pm (Sydney time) on 28 April 2022 (unless extended). Valid Applications must be received by that time.

Applications must be submitted via <https://events.miraqle.com/noumi-bnotes>

If you are an Eligible Noteholder in the United States, you must complete a US investor certificate as part of your Application, attached as **Annexure B**.

**This document is not for release to US wire services or distribution in the United States except by the Company to Eligible Noteholders**

### IMPORTANT

The Tranche B Notes are a complex investment and may be difficult to understand, even for experienced investors, and involve different risks from a simple debt or ordinary equity security.

This Prospectus provides important information about the Company and the securities being offered by the Company. You should read the entire document. This Prospectus is a transaction-specific document issued in accordance with section 713 of the *Corporations Act 2001* (Cth). If you have any questions about the securities being offered under this Prospectus, or any other matter relating to an investment in the Company, you should consult your professional adviser.

Imagining a healthier tomorrow

[noumi.com.au](https://noumi.com.au)

Legal adviser – Arnold Bloch Leibler

**Arnold Bloch Leibler**  
Lawyers and Advisers

Corporate Adviser – MA Moelis Australia Advisory

**MA Moelis Australia**

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# Important Notice

## About this Prospectus

This Prospectus is issued by Noumi Limited ACN 002 814 235 (**Company**) in relation to an offer of a minimum of \$26.4 million (maximum of \$27.2 million) of unlisted, subordinated, secured convertible notes (**Tranche B Notes**) to Eligible Noteholders (the **Capital Raising**).

Eligible Noteholders who wish to participate in the Capital Raising are encouraged to submit an Application via <https://events.miraqle.com/noumi-bnotes>.

Detailed information in relation to how Eligible Noteholders may apply for Tranche B Notes under the Capital Raising is set out in Section 3.

**The Tranche B Notes are a complex investment and may be difficult to understand, even for experienced investors, and involve different risks from a simple debt or ordinary equity security.**

**This Prospectus does not provide financial product or investment advice – you should seek your own professional investment advice.**

The information given in this Prospectus does not constitute investment advice or financial product advice. This Prospectus is of a general nature and has been prepared without taking into account your individual investment objectives, financial situation, tax position or particular investment needs. You should seek your own investment and/or financial advice.

Before deciding to participate in the Capital Raising, you should read the entire Prospectus. The information contained in individual sections is not intended to and does not provide a comprehensive review of the business or the financial affairs of the Company or the Tranche B Notes offered under this Prospectus. You should carefully consider the risks that impact on the Company in the context of your personal requirements (including your financial and taxation position) and seek professional advice where necessary prior to deciding whether to invest. Some of the risks that you should consider are set out in Section 7 of this Prospectus.

## Defined words and expressions

Some capitalised words and expressions used in this Prospectus have defined meanings. The Glossary in Section 10 defines these words and expressions.

The definitions specific to the Tranche B Notes in the Note Terms are also contained in the Glossary. If there is any inconsistency in definitions between the Glossary and the Note Terms, the definitions in the Note Terms prevail.

## Financial amounts and times

A reference to time in this Prospectus is to Sydney time unless otherwise stated. A reference to \$, A\$, dollars and cents is to Australian currency unless otherwise stated. Some numbers in this Prospectus have been rounded.

## Date of this Prospectus

This Prospectus is dated 11 April 2022. A copy of this Prospectus has been lodged with the Australian Securities and Investments Commission (**ASIC**).

Neither ASIC nor ASX nor any of their respective officers or employees takes any responsibility for the content of this Prospectus. The fact that ASX has admitted the Company to the official list of ASX is not to be taken in any way as an indication of the merits of the Company, the Capital Raising, the Tranche B Notes or Shares.

The expiry date of this Prospectus is 11 May 2023, being 13 months after the date of issue of this Prospectus. No securities will be issued on the basis of this Prospectus later than the expiry date.

## Transaction-specific prospectus

This Prospectus is a transaction-specific prospectus for an offer of Tranche B Notes which are convertible into continuously quoted securities (as defined in the Corporations Act). It has been prepared in accordance with section 713 of the Corporations Act and *ASIC Corporations (Offers of Convertibles) Instrument 2016/83*. As such it does not contain

the same level of disclosure a prospectus prepared in accordance with section 710 of the Corporations Act.

This Prospectus is therefore intended to be read in conjunction with the information publicly available in relation to the Company which has been notified to ASX. In providing information in this Prospectus, regard has been had to the fact that the Company is a disclosing entity for the purposes of the Corporations Act and certain matters may reasonably be expected to be known to investors and professional advisors with whom potential investors may consult.

### **Exposure Period**

The Corporations Act prohibits the acceptance of an application for, or an issue of, the Tranche B Notes in the seven calendar day period after the date this Prospectus was lodged with ASIC. This period is the **Exposure Period**. The Exposure Period may be extended by ASIC by up to a further seven days.

The purpose of the Exposure Period is to enable materials in the Prospectus, which relate to the Capital Raising, to be examined by ASIC and market participants before the Capital Raising may be accepted by Eligible Noteholders.

The Company will not accept an Application for, nor will it issue any Tranche B Notes during the Exposure Period. Application Forms received prior to the expiration of the Exposure Period will not be processed until after the Exposure Period. No preference will be conferred on Application Forms received during the Exposure Period and any Application Forms received during the Exposure Period will be treated as if they were received on the date on which the Capital Raising opens.

### **Electronic Prospectus and Application Form**

This Prospectus will generally be made available in electronic form at <https://events.miracle.com/noumi-bnotes>. This link will also be posted on the Company's website at [www.noumi.com.au](http://www.noumi.com.au).

Any person accessing the electronic version of this Prospectus must be an Eligible Noteholder. Eligible Noteholders who access the electronic version of this Prospectus should ensure that they download and read the entire Prospectus.

Persons having received a copy of this Prospectus in its electronic form may obtain an additional paper copy of this Prospectus and the relevant Application Form free of charge from the Company's registered office during the Offer Period by contacting the Company as detailed in the Corporate Directory.

The Capital Raising detailed in this Prospectus is only available to persons receiving this Prospectus that are Eligible Noteholders.

Applications will only be accepted on the relevant Application Form submitted via <https://events.miracle.com/noumi-bnotes>.

In order to complete your Application Form, you will need your Access Code which will be sent to you by Link via email on or around 20 April 2022. If you have not received your Access Code from Link by 20 April 2022, please call the Offer Information Line on 1800 774 615 (within Australia) or +61 1800 774 615 (outside Australia) to request one.

The Corporations Act prohibits any person from passing on to another person the Application Form unless it is accompanied by or attached to a complete and unaltered copy of this Prospectus.

An application for Tranche B Notes by Eligible Noteholders will only be accepted by following the instructions on the Application Form as described in Section 3 of this Prospectus.

The Company reserves the right not to accept an Application Form from a person if it has reason to believe that when that person was given access to the electronic Application Form, it was not provided with the electronic Prospectus and any relevant supplementary or replacement prospectus, or any of those documents were incomplete or altered.

### **Disclaimer and no representations other than as set out in this Prospectus**

No person is authorised to give any information or to make any representation in connection with the Capital Raising that is not contained in this Prospectus. Any information or representation that is not in this Prospectus may not be relied upon as having been authorised by the Company, or its associates in connection with the Capital Raising.

Except as required by law and then only to the extent so required, none of the Company, the Trustee, the Security Trustee, the Note

Registrar nor the Paying Agent, nor any of their respective associates warrants or guarantees the future performance of the Company, the Tranche B Notes or any Shares issued on conversion or redemption of the Tranche B Notes or any return on any investment made pursuant to this Prospectus.

### **Future performance and forward-looking statements**

This Prospectus contains certain "forward-looking statements". Forward-looking statements can generally be identified by the use of forward-looking words such as 'may', 'could', 'believe', 'estimate', 'expect', 'intend', 'anticipate', 'project', 'foresee', 'likely', 'should', 'target', 'plan', 'consider', 'aim', 'will', 'predict', 'outlook', 'guidance' and other similar words or expressions and include, but are not limited to, indications of, or guidance or outlook on, future earnings or financial position or performance of the Company, the outcome and effects of the Capital Raising and the use of proceeds. To the extent that certain statements contained in this Prospectus may constitute "forward-looking statements" or statements about "future matters", the information reflects only the Company's intent, belief or expectations (and no other person's intent, belief or expectations) as at the date of this Prospectus. Any forward-looking statements, including projections, guidance on future revenues, earnings and estimates, are provided as a general guide only and should not be relied upon as an indication or guarantee of future performance. Forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause the Company's actual results, performance or achievements to differ materially from any future results, performance or achievements expressed or implied by these forward-looking statements. A number of important factors could cause actual results or performance to differ materially from the forward-looking statements. Investors should consider the forward-looking statements contained in this Prospectus in light of those disclosures and not place reliance on such statements. Any forward-looking statements, opinions and estimates in this Prospectus are based on assumptions and contingencies which are subject to change without notice, as are statements about market and industry trends, which are based on interpretations of current market conditions. Neither the Company nor its related bodies corporate or affiliates nor its Directors, officers, partners employees and agents give any warranty, representation, assurance or guarantee that the occurrence of

the events expressed or implied in any of the forward-looking statements in this Prospectus will actually occur or not occur (as the case may be). In addition, please note that past performance should not be relied upon as (and is not) an indication or guarantee of future performance.

Except as required by law or regulation (including the ASX Listing Rules), the Company undertakes no obligation to provide any additional or updated information whether as a result of new information, future events or results or otherwise. Indications of, guidance or outlook on, future earnings or financial position or performance are also forward-looking statements.

### **Past performance**

The Company released its FY21 Annual Report on 18 October 2021. A copy of this report can be obtained free of charge. Alternatively, this report can be read and/or downloaded from the Company's website: [www.noumi.com.au](http://www.noumi.com.au). See Section 8.3 for further details.

Eligible Noteholders should also note that the Company recently released its quarterly activity report for the quarter ended 31 December 2021 on 31 January 2022 and 1H FY22 results on 28 February 2022.

Eligible Noteholders should note that the Company will release its Appendix 4C and Q3 FY22 Activity Report by no later than 29 April 2022.

### **Financial information**

#### ***Non-IFRS financial measures***

Certain financial data included in, or incorporated by reference into, the Prospectus are non-IFRS financial information under ASIC Regulatory Guide 230 (Disclosing non-IFRS financial information) or non-GAAP financial measures under Regulation G issued by the US Securities and Exchange Commission. These non-IFRS/non-GAAP financial measures do not have a standardised meaning prescribed by Australian Accounting Standards and therefore may not be comparable to similarly titled measures presented by other entities and should not be construed as an alternative to other financial measures determined in accordance with Australian Accounting Standards. Although the Company believes any non-IFRS/non-GAAP financial measures included in this Prospectus provide useful

information to users in measuring the financial performance and condition of its business, investors are cautioned not to place undue reliance on any non-IFRS/non-GAAP financial measures included in this Prospectus.

### **Pro forma financial information**

The Prospectus contains pro forma financial information showing the proposed application of the proceeds of the Capital Raising. The pro forma financial information provided is for illustrative purposes only and should not be relied upon as it is not represented as being indicative of the Company's future financial condition and/or performance. The pro forma financial information does not purport to be in compliance with Article 11 of Regulation S-X of the rules and regulations of the US Securities and Exchange Commission.

### **Offering restrictions**

This Prospectus and an Application Form do not constitute an offer in any place or country in which, or to any person to whom, it would not be lawful to make such an offer. No action has been taken to register or qualify the Capital Raising or the Tranche B Notes, or otherwise permit an offer of the Tranche B Notes, in any jurisdiction other than Australia, except that Eligible Noteholders in New Zealand, Singapore, Hong Kong, United Kingdom and the United States may participate in the Capital Raising.

The Prospectus and Application Form will be only be available to Eligible Noteholders with registered addresses in Australia, New Zealand, Singapore, Hong Kong, United Kingdom and the United States.

The Capital Raising is not being extended to any Eligible Noteholder outside of Australia, New Zealand, Singapore, Hong Kong, United Kingdom and the United States.

The distribution of this Prospectus (including an electronic copy) in jurisdictions outside of Australia may be restricted by law and persons who come into possession of this Prospectus should observe any such restrictions. Any failure to comply with such restrictions may constitute a violation of applicable securities laws. See Section 8.16 on foreign selling restrictions.

The Corporations Act prohibits any person from passing an Application Form to another person unless it accompanies or is included in a paper

copy of this Prospectus or the complete and unaltered electronic version of this Prospectus.

### **Taxation considerations**

The potential tax effects of the Capital Raising will vary between investors. Section 6 of this Prospectus contains a summary of the tax consequences for Eligible Noteholders and is based on Australian tax law and administrative practice as at the date of this Prospectus. This summary is necessarily general in nature and is not intended to be definitive tax advice to Eligible Noteholders. Accordingly, you should seek your own tax advice, which is specific to your particular circumstances, as to the tax consequences of investing in, holding and disposing of the Tranche B Notes.

### **Trustee, Security Trustee, Note Registrar and Paying Agent**

Global Loan Agency Services Australia Specialist Activities Pty Limited (ACN 635 992 308):

- (a) has not authorised or caused the issue, submission, dispatch or provision of this Prospectus and does not make any statement or purport to make any statement in this Prospectus or any statement on which a statement in this Prospectus is based;
- (b) nor any of its directors, employees, officers, affiliates, agents, advisors, delegates, attorneys, intermediaries or related body corporate (each a "**related person**") assumes any responsibility for the accuracy or completeness of any information contained in this Prospectus;
- (c) to the maximum extent permitted by law expressly disclaims all liability in respect of, makes no representation or any statement regarding, and takes no responsibility for, any part of this Prospectus, or any statements in, or omissions from this Prospectus, other than the references to its name and the statement(s) and/or report(s) (if any) specified below and included in this Prospectus with its written consent;
- (d) has given, and has not, before the lodgement of this Prospectus with ASIC withdrawn, its written consent to be

named in this Prospectus in the form and content in which it is named;

- (e) nor any related person makes any representation as to the truth, completeness and accuracy of the contents of this Prospectus;
- (f) has relied on the Company for the accuracy and completeness of the contents of this Prospectus; and
- (g) nor any related person makes any representation or warranty as to the performance of the Tranche B Notes or the payment of interest, Conversion or Redemption of the Tranche B Notes.

### Privacy Disclosure

Refer to the information in the privacy statement in Section 8.23. It is important that you understand that by submitting an Application Form via <https://events.miracle.com/noumi-bnotes> and applying for Tranche B Notes you consent to the matters outlined in that statement.

### Company's website

Any references to documents included on the Company's website are provided for convenience only and none of the documents or other information on the website is incorporated by reference as content of this Prospectus.

### Diagrams

Diagrams used in this Prospectus are illustrative only. They may not necessarily be shown to scale. The diagrams are based on information which is current as at the date shown.

### Where can I obtain further information about the Company and the Tranche B Notes?

The Company is a disclosing entity for the purposes of the Corporations Act and as a result is subject to regular reporting and disclosure obligations under the Corporations Act and ASX Listing Rules. The Company must notify ASX immediately (subject to certain exceptions) if it becomes aware of information about it that a reasonable person would expect to have a material effect on the price or value of its securities (i.e. its Shares and, if the Capital Raising is successfully concluded, the Tranche

B Notes). Copies of documents lodged with ASIC and ASX can be obtained from, or inspected at, an ASIC office and can also be obtained from [www.noumi.com.au](http://www.noumi.com.au).

In addition, the following information can be obtained from [www.noumi.com.au](http://www.noumi.com.au):

- the Company's quarterly, half-yearly and annual financial reports;
- all continuous disclosure notices lodged by the Company with ASX; and
- all other general information provided by the Company to its Shareholders and investors.

### Enquiries

If you have any questions in relation to the Capital Raising, the Tranche B Notes or the Application Form, please call the Offer Information Line on 1800 774 615 (within Australia) or +61 1800 774 615 (outside Australia) between 8:30am to 5:30pm (Sydney time), Monday to Friday (excluding public holidays) during the Offer Period.

All correspondence in relation to the issue of the Tranche B Notes and information required from Noteholders should be addressed to the Trustee, not Link.

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# Chair's Letter

Dear Eligible Noteholder

On behalf of the Board of Noumi Limited (the **Company**), I invite you to consider the opportunity to invest in a second tranche of unlisted, subordinated and secured convertible notes to be issued by the Company (**Tranche B Notes**).

The Tranche B Notes will be offered to the Company's existing convertible noteholders who are sophisticated and/or professional investors, but excluding Arrovest and those existing noteholders who would otherwise require Shareholder approval under ASX Listing Rule 10.11 to participate (**Eligible Noteholders**).

## Capital Raising

The Company is seeking to raise a minimum of \$26.4 million (maximum of \$27.2 million) from Eligible Noteholders via the issue of Tranche B Notes (**Capital Raising**).

The proceeds of the Capital Raising will primarily be used to redeem the Loan Notes (and the interest accrued on those Loan Notes) that were issued by the Company to certain Existing Noteholders on 15 March 2022 and to pay the costs and expenses associated with the Capital Raising. The issuance of Loan Notes was intended as a temporary financing measure only, to secure the funds necessary to pay the Tranche 1 Settlement Payment, the details of which were disclosed on 22 February 2022. The Loan Notes were issued on the basis that they would be redeemed by the Company through the issuance of Tranche B Notes under this Capital Raising.

As described in this Prospectus, the Tranche B Notes will be issued on substantially the same terms as the convertible notes issued by the Company on 27 May 2021 (**Tranche A Notes**). The Conversion Price for the Tranche B Notes is \$0.32. The Tranche B Notes will not be listed on a securities exchange and can only be privately traded. On 8 April 2022, the Company obtained Shareholder approval under ASX Listing Rule 7.1 to permit the Tranche B Notes to be converted into Shares at any time after their issuance at the Noteholders' election, rather than conversion being subject to future shareholder approval. As a result, both the Tranche A Notes and the Tranche B Notes are not capable of being Cash-Settled by the Company on conversion (noting that the Company can still redeem the Tranche B Notes in cash in accordance with the Note Terms).

Section 9 summarises the key features of the Tranche B Notes and a copy of the full Note Terms are annexed to this Prospectus. This Prospectus, including the Note Terms and key risks, should be carefully considered before deciding whether to participate in the Capital Raising.

Pursuant to the terms of the Loan Notes, the Company is required to redeem the Loan Notes in full through the issuance of Tranche B Notes under the Capital Raising equal to \$26 million plus any interest accrued on the Loan Notes (which is expected to result in the issuance of 26.4 million Tranche B Notes).

The Capital Raising has the support of Existing Noteholders, and the Company has binding commitments from certain Existing Noteholders to subscribe for a minimum of \$26.4 million of Tranche B Notes, which will be used to redeem their Loan Notes in full, plus accrued interest. As such, the Capital Raising is not underwritten.

The Capital Raising also has the unanimous support of Noumi's Directors, who are excluded from participating under ASX Listing Rule 10.11. This includes the support of the Board representatives of Arrovest, Noumi's majority Shareholder and Tranche A Noteholder.

Notwithstanding the ongoing challenges presented by COVID-19, geopolitical uncertainty and rising raw material and transport costs, Noumi continues to execute its transformation strategy and expects continued improvement in underlying performance through 2022.



As disclosed in the Company's results for the six months to 31 December 2021, released to the ASX on 28 February 2022, the Company's cash in hand and undrawn facilities provide it with sufficient flexibility to pursue day-to-day operations. Since the Company released its results for the half year ended 31 December 2021, global markets have experienced further disruption resulting from the omicron COVID-19 variant and the developing Russia-Ukraine conflict in Europe. I encourage all investors to refer to the risks associated with investment in the Company and the Tranche B Notes which are set out in Section 7 of this Prospectus.

### Further information

This Prospectus contains information about the Company and the Capital Raising. You should read this Prospectus carefully before deciding whether to invest in the Tranche B Notes and, in particular, you should consider the risk factors set out in Section 7 before deciding whether to apply for Tranche B Notes. The Tranche B Note is a complicated instrument and if you are unclear in relation to any aspect of the Capital Raising, or if you are uncertain whether the Tranche B Notes are a suitable investment for you, you should consult your professional adviser.

The Capital Raising closes at **5:00pm (Sydney time) on 28 April 2022**. To participate, Eligible Noteholders must complete their Application Form (available at <https://events.miraqle.com/noumi-bnotes>) and pay their Application Monies via BPAY® or EFT pursuant to the instructions that are set out on the Application Form by the Closing Date. If you are an Eligible Noteholder who is also a Loan Noteholder, you are not required to pay any Application Monies as part of your Application. Instead, pursuant to the terms of the Loan Notes, the issuance of the Tranche B Notes will be used to redeem the Loan Notes. See Section 3 of this Prospectus for further information about payment methods.

If, after reading this Prospectus, you have any questions about the Capital Raising or how to apply for Tranche B Notes, please call the Offer Information Line on 1800 774 615 (within Australia) or +61 1800 774 615 (outside Australia) between 8:30am and 5:30pm (Sydney time), Monday to Friday (excluding public holidays). I also encourage you to seek advice from your financial adviser or other licenced professional adviser.

On behalf of the Directors and the Company's management team, I invite you to consider this investment opportunity and thank you for your ongoing support.

Yours faithfully,



Genevieve Gregor  
Chair & Non-Executive Director

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# Summary of Capital Raising and Key Dates

## Key Capital Raising statistics

Overview of Capital Raising	
Number of Tranche B Notes to be issued under the Capital Raising	up to 27.2 million Tranche B Notes
Capital Raising proceeds (before costs)	Minimum of \$26.4 million* Maximum of \$27.2 million
Issue Price	\$1.00 per Tranche B Note
Conversion Price	\$0.32*

*\*If the Capital Raising timetable is delayed for any reason, the minimum raise amount will increase in order to capture additional interest accrued on the Loan Notes.*

*\*\*Subject to adjustments in accordance with the Note Terms.*

## Indicative timetable of key dates

Key dates for the Capital Raising	Date
Announcement of Capital Raising	22 February 2022
Extraordinary General Meeting of Shareholders to approve issuance of Tranche B Notes	8 April 2022
Prospectus lodged with ASIC and ASX	11 April 2022
Record Date for determining eligibility to participate in Capital Raising	19 April 2022
Offer opens*	20 April 2022
Offer closes	28 April 2022
Issuance of Tranche B Notes (and redemption of Loan Notes)	29 April 2022

*Note: This timetable is indicative only and subject to change without notice.*

*\*Opening of the Capital Raising is subject to Exposure Period.*

## Dates may change

The key dates for the Tranche B Notes and Capital Raising are indicative only and may change without notice.

The Company may agree (without notice to any person) to vary the timetable, including by extending the closing date of the Capital Raising, closing the Capital Raising early, accepting late Applications or withdrawing the offer made under the Capital Raising at any time before the Tranche B Notes are issued.

If the offer made under the Capital Raising is withdrawn before the issue of the Tranche B Notes, all Application Monies received by the Company will be refunded (without interest) to Applicants as soon as practicable after the withdrawal. In addition, ASIC may extend the Exposure Period by up to seven calendar days in which case the opening date for the Capital Raising and other dates may be varied accordingly without notice.

Cooling off rights do not apply to an investment in the Tranche B Notes. You cannot withdraw your Application once it has been accepted. Eligible Noteholders wishing to participate in the Capital Raising are encouraged to submit their Application Form and pay their Application Monies as soon as possible after the Capital Raising opens.

# 1 Investment Overview

This Section provides a summary of key features and risks relevant to a decision to invest in the Tranche B Notes.

**The Tranche B Notes are a complex investment and may be difficult to understand, even for experienced investors, and involve different risks from a simple debt or ordinary equity security. You should seek professional advice prior to making any application to invest.**

This Section is a summary only and you should read this Prospectus in full and obtain professional advice which takes into account your particular investment objectives, financial situation and needs from a professional adviser who is licensed by ASIC to give such advice.

Topic	Summary	Where to find more information
<b>1.1 Overview of the Capital Raising</b>		
<b>What is the Capital Raising?</b>	<p>The Capital Raising involves an offer of a minimum of \$26.4 million (maximum of \$27.2 million) of Tranche B Notes to Eligible Noteholders.</p> <p>As announced on 22 February 2022, to obtain the bridging financing necessary to meet the upfront payment of US\$17 million under the Final Agreement, the Company secured binding commitments from several of its Existing Noteholders pursuant to which those Existing Noteholders agreed to subscribe for secured loan notes (<b>Loan Notes</b>) in the Company, raising approximately A\$26 million. The Loan Notes were issued on the basis that they will be redeemed by the Company through the issuance of Tranche B Notes under the Capital Raising equal to \$26 million plus any interest accrued on the Loan Notes (which is expected to result in the issuance of 26.4 million Tranche B Notes).</p> <p>Please refer to the Company's announcement dated 22 February 2022 for details of the amounts payable under the Final Agreement.</p>	Section 2
<b>Am I an Eligible Noteholder?</b>	<p>If you are an Eligible Noteholder, you are eligible to participate in the Capital Raising being conducted by the Company.</p> <p>An <b>Eligible Noteholder</b> is a person who:</p> <ul style="list-style-type: none"> <li>• is the registered holder of Tranche A Notes in the Company as at the Record Date; <b>and</b></li> <li>• is not Arrovest Pty Ltd or an Existing Noteholder who would otherwise require Shareholder approval under ASX Listing Rule 10.11 to participate in the Capital Raising;</li> <li>• if in Australia, is a "sophisticated" or "professional" investor under sections 708(8) and 708(11) of the Corporations Act; or</li> <li>• if in New Zealand, is a person who (i) is an investment business within the meaning of clause 37 of Schedule 1 of the FMC Act, (ii) meets the investment activity criteria specified in clause 38 of Schedule 1 of the FMC Act, (iii) is large within the meaning of clause 39 of Schedule 1 of the FMC Act, (iv) is a government agency within the meaning of clause 40 of Schedule 1 of the FMC Act, or (v) is an eligible investor within the meaning of clause 41 of Schedule 1 of the FMC Act (and, if an eligible investor, have provided the necessary certification); or</li> <li>• if in Singapore, is an "institutional investor" or an "accredited investor" (as such terms are defined in the SFA); or</li> <li>• if in Hong Kong, is a "professional investor" as defined under the Securities and Futures Ordinance of Hong Kong, Chapter 571 of the Laws of Hong Kong; or</li> <li>• if in the United Kingdom, is a (i) "qualified investor" within the meaning of Article 2(e) of the UK Prospectus Regulation and (ii) within the categories of persons referred to in Article 19(5) (investment professionals) or Article 49(2)(a) to (d) (high net worth companies, unincorporated associations, etc.) of the United Kingdom Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended; or</li> <li>• if in the United States, is (i) an "institutional accredited investor" (within the meaning of Rule 501(a)(1), (2), (3), (7), (8), (9) or (12) under the US</li> </ul>	Glossary Section 2.4(b)

Topic	Summary	Where to find more information
	<p>Securities Act); or (ii) a dealer or other professional fiduciary organised or incorporated in the United States that is acting for a discretionary or similar account (other than an estate or trust) held for the benefit or account of persons that are not US persons for which it has and is exercising investment discretion, within the meaning of Rule 902(k)(2)(i) of Regulation S under the US Securities Act,</p> <p>and who has a registered address in the relevant jurisdiction.</p> <p>If you are in Australia and you are unsure whether you are a “sophisticated” or “professional” investor, see Section 2.4(b).</p>	
<p><b>How will the proceeds of the Capital Raising be applied?</b></p>	<p>The proceeds of the Capital Raising will primarily be used as follows:</p> <ul style="list-style-type: none"> <li>• as to \$26.4 million, to redeem the Loan Notes in full (including accrued interest on the Loan Notes up to 29 April 2022); and</li> <li>• up to \$0.8 million, to pay the transaction costs associated with the Capital Raising and to add cash to balance sheet.</li> </ul>	<p>Section 2.3</p>
<p><b>What are the key dates of the Capital Raising and Recapitalisation?</b></p>	<p>The key dates are set out in the “Key Dates” section of this Prospectus.</p>	<p>Key Dates</p>
<p><b>What are the Tranche B Notes?</b></p>	<p>The securities offered by the Company under the Capital Raising are unlisted, subordinated, secured convertible notes (<b>Tranche B Notes</b>) with a maturity date of 27 May 2027.</p> <p>The Tranche B Notes represent the second tranche of unlisted, subordinated, secured convertible notes. The first tranche of convertible notes were issued by the Company on 27 May 2021 (<b>Tranche A Notes</b>).</p> <p>The Tranche B Notes are:</p> <ul style="list-style-type: none"> <li>• <b>fully paid</b> – the Issue Price of \$1.00 per tranche B Note must be paid to the Company before the Tranche B Notes are issued;</li> <li>• <b>redeemable</b> – the Tranche B Notes may be Redeemed, which means the Company may, or may be required to, buy back the Tranche B Notes prior to the Maturity Date (at the Makewhole Amount, subject to certain conditions);</li> <li>• <b>subordinated secured</b>– the Tranche B Notes are secured by security granted by the Company and the Guarantors over all of their assets and undertakings, to the Trustee under the terms of the Transaction Documents;</li> <li>• <b>ranked, for security purposes, after all Priority Permitted Debt</b> – although the Tranche B Notes have priority over the Company’s ordinary Shares, all Shortfall Debt and the claims of unsecured creditors, the Tranche B Notes rank behind the Company’s Priority Permitted Debt and the claims of other creditors with priority at law in a winding up. The Tranche B Notes rank equally with each other Tranche B Note, each Tranche A Note and any Permitted Debt which Noteholders agree by Majority Noteholders Resolution ranks equally with the Tranche B Notes;</li> <li>• <b>convertible into Shares</b> – the Tranche B Notes are convertible into Shares calculated by dividing the Equity Conversion Amount by the Conversion Price, subject to customary adjustments as outlined in Section 9.24; and</li> <li>• <b>unlisted</b> – the Tranche B Notes will not be quoted on ASX or any securities exchange.</li> </ul> <p>The Tranche B Notes will be issued on substantially the same terms as the Tranche A Notes. A summary of the Note Terms is set out in Section 9 and a full copy is annexed to this Prospectus.</p>	<p>Section 9</p>
<p><b>Why does the Capital Raising involve the issue of Tranche B Notes rather than the issue of ordinary Shares?</b></p>	<p>The Company intends to raise a minimum of \$26.4 million under the Capital Raising by way of the issuance of Tranche B Notes. The Board has decided the issue of Tranche B Notes is the preferred capital raising structure for a number of reasons, including that:</p> <ul style="list-style-type: none"> <li>• the Board considers that the Tranche B Notes are the best option available to attract the necessary funds on terms acceptable to the Company and redeem the Loan Notes;</li> </ul>	<p>Section 2.2</p>

Topic	Summary	Where to find more information
	<ul style="list-style-type: none"> <li>the Tranche B Notes provide flexibility for investors to participate in any future equity upside by converting Tranche B Notes into Shares; and</li> <li>the Tranche B Notes provide downside protection for the incoming capital provided by Eligible Noteholders with the benefit of subordinated security over the Company's assets while the Company is continuing to progress its operational turnaround and defends itself from class actions.</li> </ul>	
<b>Are any Shareholder approvals required to undertake the Capital Raising?</b>	Yes. On 8 April 2022, the Company held an Extraordinary General Meeting at which its Shareholders approved the issuance and Conversion of up to 27.2 million Tranche B Notes in connection with the Capital Raising, for the purposes of ASX Listing Rule 7.1. No further Shareholder approvals are required. As a result of Shareholder approval being obtained, the Tranche B Notes are capable of being Equity Settled on conversion.	Section 5.5
<b>Is the Capital Raising underwritten?</b>	The Capital Raising has the support of Existing Noteholders, and the Company has binding commitments from certain Existing Noteholders to subscribe for a minimum of \$26.4 million of Tranche B Notes which will be used to redeem their Loan Notes in full (plus accrued interest). As such, the Capital Raising is not underwritten.	Section 2.2
<b>Who is the Trustee, Security Trustee, Note Registrar and Paying Agent?</b>	<p>Global Loan Agency Services Australia Specialist Activities Pty Limited ACN 635 992 308 (<b>GLAS</b>) has agreed to act as the Trustee and Security Trustee pursuant to the terms of the Trust Deed and Security Trust Deed. GLAS has also agreed to act as Note Registrar and Paying Agent in respect of the Tranche B Notes. The Tranche B Notes are issued pursuant and subject to the terms and conditions contained in the Trust Deed.</p> <p>GLAS is an independent provider of finance administration services in the loan agency and corporate trust market. GLAS only provides financial administration services with no ties to any financial institution, enabling GLAS to provide a totally independent service to its clients.</p> <p>Summaries of the Trust Deed and the Security Trust Deed are set out in Sections 8.7 and 8.10.</p> <p>The interest and other payments on the Tranche B Notes are obligations of the Company and are not guaranteed by the Trustee, the Security Trustee, the Note Registrar or the Paying Agent, or by any of their respective directors, employees, officers, affiliates, agents, advisers, intermediaries, related body corporates, or any other entity.</p> <p>The obligation to Redeem the Tranche B Notes in accordance with the Note Terms is a direct obligation of the Company. None of the Trustee, the Security Trustee, the Note Registrar or the Paying Agent, nor any of their respective directors, employees, officers, affiliates, agents, advisers, intermediaries, related body corporates, or any other entity, guarantees the Redemption of or prepayment of any principal or interest under the Tranche B Notes.</p> <p>GLAS is not responsible for monitoring the Company's or any other party's compliance with the Trust Deed, the Security Trust Deed or any other Transaction Document, nor the Company's business.</p>	Sections 8.8, 8.9 and 8.10
<b>Is Arrovest participating in the Capital Raising?</b>	<p>No.</p> <p>Eligible Noteholders should note that Arrovest, an Existing Noteholder which holds 126,142,300 Tranche A Notes, is excluded from participating in the Capital Raising. This means that Arrovest's total equity holding in the Company will be decreased by the issuance of Tranche B Notes under the Capital Raising.</p>	Section 5.4
<b>1.2 Effect of the Capital Raising</b>		
<b>Effect on capital structure</b>	<p>As at the date of this Prospectus, the Company currently has on issue:</p> <ul style="list-style-type: none"> <li>277,109,319 Shares;</li> <li>101,130 convertible redeemable preference shares;</li> <li>265,000,000 Tranche A Notes; and</li> <li>27,698,189 Options.</li> </ul> <p>Under the Capital Raising, the Company intends to issue up to 27.2 million Tranche B Notes to Eligible Noteholders.</p> <p>The effect of the Capital Raising on the capital structure of the Company is set out in a table in Section 5.4.</p>	Section 5.4

Topic	Summary	Where to find more information																																												
<b>Effect on financial position</b>	To illustrate the effect of the Capital Raising on the Company's financial position and cashflow, a pro-forma statement of cash flows, financial performance and financial position have been included in Section 4. The Capital Raising will not reduce the amount of debt on the Company's balance sheet as the Tranche B Notes redeem the Loan Notes and both are classified as debt on the balance sheet. The amount of debt will be further reduced after a Conversion of Tranche B notes into Shares.	Section 4																																												
<b>What is the pro forma drawn debt of the Company?</b>	<p>The table below sets out the pro forma debt position of the Company in three distinct scenarios:</p> <p>(a) the Company's existing position before the Capital Raising;</p> <p>(b) the Company's position where the minimum \$26.4 million is raised under the Capital Raising; and</p> <p>(c) the Company's position where the full \$27.2 million is raised under the Capital Raising.</p> <table border="1"> <thead> <tr> <th>31 December 2021</th> <th>Pro Forma Existing (\$'000)</th> <th>Minimum of \$26.4m raised under Capital Raising (\$'000)</th> <th>Maximum of \$27.2m raised under Capital Raising (\$'000)</th> </tr> </thead> <tbody> <tr> <td>Revolver</td> <td>4,000</td> <td>4,000</td> <td>4,000</td> </tr> <tr> <td>Equipment finance</td> <td>80,264</td> <td>80,264</td> <td>80,264</td> </tr> <tr> <td>Full Recourse debtor finance (on balance sheet)</td> <td>12,030</td> <td>12,030</td> <td>12,030</td> </tr> <tr> <td><b>Gross senior ranking debt:</b></td> <td><b>96,294</b></td> <td><b>96,294</b></td> <td><b>96,294</b></td> </tr> <tr> <td>Tranche A Notes</td> <td>278,666</td> <td>278,666</td> <td>278,666</td> </tr> <tr> <td>Loan Notes*</td> <td>26,478</td> <td>-</td> <td>-</td> </tr> <tr> <td>Tranche B Notes**</td> <td>-</td> <td>26,478</td> <td>27,200</td> </tr> <tr> <td><b>Gross debt:</b></td> <td><b>401,438</b></td> <td><b>401,438</b></td> <td><b>402,160</b></td> </tr> <tr> <td>(-) Cash</td> <td>16,338</td> <td>16,338</td> <td>16,338</td> </tr> <tr> <td><b>Net debt (on balance sheet):</b></td> <td><b>385,100</b></td> <td><b>385,100</b></td> <td><b>385,822</b></td> </tr> </tbody> </table> <p>*The Loan Notes were issued by the Company on 15 March 2022 and are included for illustrative purposes only. The figure reflected in the table above includes the face value of the Loan Notes plus interest accrued as at 11 April 2022.</p> <p>** The Tranche B Notes will be issued on or around 29 April 2022 and have been included for illustrative purposes.</p> <p>Note: The pro forma existing debt outstanding as at 31 December 2021 represents the drawn debt on balance sheet at 31 December 2020 adjusted to reflect the maximum \$27.2 million in Tranche B Notes raised under the Capital Raising. Total debt outstanding on the Notes is shown including capitalised interest of \$13.7 million on the Tranche A Notes, and excludes limited recourse off balance sheet receivables financing which was \$37.5 million as at 31 December 2021. Refer to the pro forma balance sheet in Section 4 for further details.</p>	31 December 2021	Pro Forma Existing (\$'000)	Minimum of \$26.4m raised under Capital Raising (\$'000)	Maximum of \$27.2m raised under Capital Raising (\$'000)	Revolver	4,000	4,000	4,000	Equipment finance	80,264	80,264	80,264	Full Recourse debtor finance (on balance sheet)	12,030	12,030	12,030	<b>Gross senior ranking debt:</b>	<b>96,294</b>	<b>96,294</b>	<b>96,294</b>	Tranche A Notes	278,666	278,666	278,666	Loan Notes*	26,478	-	-	Tranche B Notes**	-	26,478	27,200	<b>Gross debt:</b>	<b>401,438</b>	<b>401,438</b>	<b>402,160</b>	(-) Cash	16,338	16,338	16,338	<b>Net debt (on balance sheet):</b>	<b>385,100</b>	<b>385,100</b>	<b>385,822</b>	Section 4
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<b>1.3 Overview of Application process</b>																																														
<b>How can I apply?</b>	<p>Applications can be made by Eligible Noteholders by completing the electronic Application Form at <a href="https://events.miraqle.com/noumi-bnotes">https://events.miraqle.com/noumi-bnotes</a> in accordance with the instructions set out on that form.</p> <p>In order to complete your Application Form, you will need your Access Code which will be sent to you by Link via email on or around 20 April 2022. If you have not received your Access Code from Link by 20 April 2022, please call the Offer Information Line on 1800 774 615 (within Australia) or +61 1800 774 615 (outside Australia) to request one.</p> <p>Completed Application Forms must be received by no later than 5.00 pm (Sydney time) on 28 April 2022 together with Application Monies. If you are an Eligible Noteholder who is also a Loan Noteholder, you are not required to pay any</p>	Section 3																																												

Topic	Summary	Where to find more information
	<p>Application Monies as part of your Application. Instead, pursuant to the terms of the Loan Notes, the issuance of the Tranche B Notes will be used to redeem the Loan Notes. Applicants are encouraged to submit their Application Form and pay their Application Monies as early as possible.</p> <p>Payment must be made using BPAY® or EFT. You can only make payment via BPAY® if you are the holder of an account with an Australian financial institution that supports BPAY® transactions. If you are an Eligible Noteholder and do not hold an account with an Australian financial institution, it is your responsibility to obtain all necessary approvals and take all required action to ensure the Application Monies are paid via BPAY® or EFT pursuant to this Prospectus.</p> <p>If you are an Eligible Noteholder in Australia who is a “sophisticated” investor and do not subscribe for Notes in excess of \$500,000, you are required to submit a copy of a certificate from a qualified accountant (no more than 6 months old) stating that you have net assets of \$2.5 million or more, or you have a gross income for the previous two years of at least \$250,000. If applicable, this certificate <u>should</u> be sent to <a href="mailto:capitalmarkets@linkmarketservices.com.au">capitalmarkets@linkmarketservices.com.au</a>.</p> <p>Any Eligible Noteholder who submits an Application Form will be taken to have made the representations and warranties set out in Section 8.15.</p> <p>If you are an Eligible Noteholder in the United States, you must complete a US investor certificate as part of your Application, attached as <b>Annexure B</b>. Completed investor certificates must be returned to <a href="mailto:capitalmarkets@linkmarketservices.com.au">capitalmarkets@linkmarketservices.com.au</a>.</p>	
<b>When to apply?</b>	If you are an Eligible Noteholder you must complete the Application Form by the Closing Date.	Section 3 Key Dates
<b>How many Tranche B Notes can I apply for?</b>	Subject to the allocation policy described below, there is no cap on how many Tranche B Notes Eligible Noteholders can apply for under the Capital Raising. Eligible Noteholders should specify the maximum number of Tranche B Notes they wish to be allocated on the Application Form.	Section 2.4(f)
<b>What is the allocation policy?</b>	<p>The allocation of Tranche B Notes under the Capital Raising and the total size of the Capital Raising will be determined by the Company in its absolute discretion. The minimum amount raised under the Capital Raising will be \$26.4 million.</p> <p>As noted above, the Company will issue a minimum of 26.4 million Tranche B Notes to redeem the Loan Notes in full, including accrued interest. The Company will issue a minimum of 26.4 million Tranche B Notes to those Eligible Noteholders who are Loan Noteholders in satisfaction of their binding commitments. In addition, the Company will provide Eligible Noteholders (excluding the Loan Noteholders) with priority allocation in respect of the balance of any Tranche B Notes (up to \$0.8 million) to enable those Eligible Noteholders to maintain their existing percentage holding of Notes as at the date of this Prospectus.</p> <p>There is no assurance that any Eligible Noteholder will be allocated any Tranche B Notes, or the number of Tranche B Notes, for which it has applied. The allocation policy of the Company will be influenced by a range of factors as set out in Section 2.4(f).</p>	Section 2.4(f)
<b>What happens if I am not an Eligible Noteholder?</b>	If you are an Ineligible Investor, you are not entitled to participate in the Capital Raising. If you receive this Prospectus but you are an Ineligible Investor, please disregard.	Section 3.2
<b>Is brokerage, commission or stamp duty payable?</b>	No brokerage or stamp duty is payable on your Application.	Section 3
<b>What are the tax implications of investing in Tranche B Notes?</b>	Section 6 of this Prospectus contains a summary of the tax consequences for Eligible Noteholders and is based on Australian tax law and administrative practice as at the date of this Prospectus. This summary is necessarily general in nature and is not intended to be definitive tax advice to Eligible Noteholders. Accordingly, each Eligible Noteholder should seek their own tax advice, which is specific to their particular circumstances, as to the tax consequences of investing in, holding and disposing of the Tranche B Notes.	Section 6
<b>When will the Tranche B Notes be issued?</b>	The Company expects that the Tranche B Notes will be issued on 29 April 2022. GLAS will issue allotment statements shortly thereafter.	Key Dates

Topic	Summary	Where to find more information
<b>1.4 Key features of the Tranche B Notes</b>		
<p><i>As this Section contains a summary only of the Note Terms, it is important that you read the information in the Prospectus (including the Note Terms) in full before you decide whether to apply for Tranche B Notes. If you are unclear in relation to any aspect of the Capital Raising or the Note Terms, or if you are uncertain whether the Tranche B Notes are a suitable investment for you, you should consult your professional adviser.</i></p>		
<b>Who is the issuer of the Tranche B Notes?</b>	Noumi Limited ACN 002 814 235 ( <b>Company</b> ), being a company listed on the ASX.	Section 9.2
<b>Issue Price</b>	\$1.00 per Tranche B Note.	Section 9.3
<b>Maturity Date</b>	27 May 2027, unless Redeemed or Converted earlier as set out in Section 9.	Section 9.11
<b>Interest Rate</b>	<p>Interest is payable on the Tranche B Notes quarterly. Interest will accrue daily on the Face Value of the Tranche B Notes and will be paid, at the Company's election, in the following ways:</p> <ul style="list-style-type: none"> <li>at any time if paid entirely in cash (<b>Cash Interest</b>) at a rate of 7% per annum;</li> <li>for the first 27 months from the issue date of the Tranche A Notes, if paid entirely by increasing the principal amount of the outstanding Notes by an amount equal to interest for the applicable Interest Period (<b>PIK Interest</b>) at a rate of 8.5% per annum;</li> <li>for the first 27 months from the issue date of the Tranche A Notes, if paid by paying a proportion in cash and the balance by increasing the principal amount of the outstanding Notes by that amount (<b>Initial Combination Interest</b>) at a combined rate of 8.5%; or</li> <li>after 27 months from the issue date of the Tranche A Notes, if paid by paying the interest partly in cash (<b>Partial Cash Interest</b>) and partly by increasing the principal amount of the outstanding Notes (<b>Partial PIK Interest</b>), at a Partial Cash Interest rate of 5% per annum and a Partial PIK Interest rate of 3.5% per annum.</li> </ul> <p>The Interest Rate may be reduced by 1.00% per annum where the Company has issued a Relevant Disputes Notice, as set out in Section 9.14.</p>	Section 9.13 Section 9.14
<b>Cash-Settled Conversion Right</b>	The Tranche B Notes are not capable of being Cash-Settled on conversion given Shareholder approval was obtained under ASX Listing Rule 7.1 on 8 April 2022.	Section 9
<b>Equity Conversion Right</b>	<p>A Noteholder has a right to Convert its Tranche B Notes into Shares in the following circumstances:</p> <ul style="list-style-type: none"> <li>any time at a Noteholder's election;</li> <li>if Noteholders holding more than 84% (or, if there is no Substantial Noteholder, 75%) of Notes then on issue have Converted or elect to Convert (in which case all Notes will be mandatorily Converted) and provided the VWAP of one Share during the 20 Business Days prior to Conversion is no less than the conversion price for the Tranche A Notes (i.e. \$0.70);</li> <li>upon receipt from the Company of an Early Redemption Notice;</li> <li>upon receipt of an Exit Notice; or</li> <li>at the Maturity Date.</li> </ul> <p>The Face Value of the Tranche B Notes the subject of an Equity Conversion Right must be at least the lesser of \$2,000 or the balance of the Noteholder's holding of the Tranche B Notes.</p>	Section 9
<b>Conversion Price where Tranche B Notes are Converted into Shares</b>	If the Tranche B Notes are Converted into Shares, the number of Shares issued on Conversion will be calculated by dividing the Equity Conversion Amount by a Conversion Price (i.e. \$0.32), subject to customary adjustments as outlined in Section 9.24.	Section 9.12
<b>Redemption</b>	<p>On the Maturity Date, each Tranche B Note is Redeemable by the Company for the Makewhole Amount unless:</p> <ul style="list-style-type: none"> <li>the Note has been previously Converted;</li> <li>the Note has been previously Redeemed; or</li> <li>the Note has been purchased by the Company and cancelled.</li> </ul> <p>The Company may voluntarily redeem the Tranche B Notes at any time prior to the Maturity Date by giving at least 10 Business Days written notice to the Trustee, the Note Registrar, the Paying Agent and the Noteholders of the intention of the Company to Redeem the Tranche B Notes (<b>Early Redemption Notice</b>).</p>	Section 9



Topic	Summary	Where to find more information										
	Redemption may also occur where a Noteholder receives an Exit Notice or where the Trustee declares to Redeem the Tranche B Notes for the Makewhole Amount upon the occurrence of an Event of Default.											
<b>Makewhole Amount</b>	<p>Where the Redemption of Tranche B Notes occurs at any time on or prior to the Maturity Date for any reason, the Company (unless Noteholders otherwise elect to Convert) must pay the Makewhole Amount to the relevant Noteholders on the relevant Redemption Date. The Makewhole Amount varies depending on the period in which the Redemption Date occurs, as set out in the following table:</p> <table border="1" data-bbox="443 510 1209 949"> <thead> <tr> <th data-bbox="443 546 831 622">Period following issuance of the Tranche B Note in which Redemption occurs</th> <th data-bbox="831 546 1209 622">Applicable makewhole percentage</th> </tr> </thead> <tbody> <tr> <td data-bbox="443 667 831 712">Years 1 &amp; 2</td> <td data-bbox="831 667 1209 712">175%</td> </tr> <tr> <td data-bbox="443 748 831 792">Years 3 &amp; 4</td> <td data-bbox="831 748 1209 792">185%</td> </tr> <tr> <td data-bbox="443 828 831 873">Year 5</td> <td data-bbox="831 828 1209 873">220%</td> </tr> <tr> <td data-bbox="443 909 831 954">Year 6 (including the Maturity Date)</td> <td data-bbox="831 909 1209 954">230%</td> </tr> </tbody> </table> <p>The Makewhole Amount is calculated as the aggregate of the Initial Face Value of the Notes being redeemed multiplied by the applicable makewhole percentage less all interest paid (but not capitalised) prior to the Redemption Date.</p>	Period following issuance of the Tranche B Note in which Redemption occurs	Applicable makewhole percentage	Years 1 & 2	175%	Years 3 & 4	185%	Year 5	220%	Year 6 (including the Maturity Date)	230%	Section 9.32
Period following issuance of the Tranche B Note in which Redemption occurs	Applicable makewhole percentage											
Years 1 & 2	175%											
Years 3 & 4	185%											
Year 5	220%											
Year 6 (including the Maturity Date)	230%											
<b>Guarantee, Collateral Securities and Security Trust Deed</b>	<p>Pursuant to the guarantee and indemnity contained in the Security Trust Deed, each Guarantor agrees to guarantee to the Trustee and the Noteholders the Company's obligations under the Trust Deed, the Note Terms and other Transaction Documents.</p> <p>The Tranche B Notes are secured by security granted to the Security Trustee by the Company and the Guarantors under the terms of the Security Trust Deed and each Collateral Security.</p> <p>The Security Trustee holds the rights under the Collateral Securities and the Guarantee (including the right to enforce the same), and the right to enforce the Company's obligation to pay amounts owing under or in respect of the Tranche B Notes, on trust for the benefit of the Noteholders in accordance with the terms of the Security Trust Deed.</p> <p>A summary of the Security Trust Deed is set out in Section 8.10.</p>	Section 8.10										
<b>Ranking on Winding Up</b>	<p>In the event of a Winding Up of the Company, each Tranche B Note ranks:</p> <ul style="list-style-type: none"> <li>• after all Priority Permitted Debt;</li> <li>• equally with each other Tranche B Note, any other Pari Passu Debt (which includes Tranche A Notes), and any other Permitted Debt which the Noteholders by Majority Noteholders Resolution agree ranks equally with the Tranche B Notes;</li> <li>• ahead of all Shortfall Debt;</li> <li>• ahead of all other Permitted Debt not otherwise covered above;</li> <li>• ahead of all present and future unsubordinated and unsecured debt obligations of the Company, subject to the laws and principles of equity affecting creditor rights or obligations preferred by mandatory provisions of applicable law; and</li> <li>• ahead of all Shares.</li> </ul> <p>The advance of the Initial Face Value of the Tranche B Notes to the Company does not reduce the Company's overall leveraged position. In addition, any Makewhole Amount or Redemption payment that becomes payable may be material, and the capacity of the Company to pay any such amount may depend on the Company achieving a turnaround of its business and operations and its ability to raise equity or further debt to satisfy those payments. As at the date of issuance, the Company</p>	Section 9.9										

Topic	Summary	Where to find more information
	<p>has formed the view that the market value of the Company or its business units sold separately will be sufficient to meet its obligations in respect of the Initial Face Value of the Tranche B Notes. However, there is a risk that the value that can be realised from the assets available to Noteholders following any enforcement (and following repayment of any senior secured debt) may be insufficient to cover any Makewhole Amount or Redemption payment which is payable at that time (which is likely to exceed the Face Value of the Tranche B Notes at the time of any enforcement or redemption).</p> <p>Investors should form their own view as to the value of the Company based upon their expectations and assumptions of the turnaround of the business, financial performance of the Company, and the risks set out in Section 7.</p>	
<p><b>What is Permitted Debt?</b></p>	<p>Permitted Debt is financial indebtedness that the Group is permitted to incur under the Note Terms. It includes:</p> <ul style="list-style-type: none"> <li>• the Permitted Senior Debt;</li> <li>• transactional facilities (up to a cap of \$7 million) and amounts owed in respect of hedging agreements;</li> <li>• limited recourse receivables finance facilities and full recourse receivables finance facilities;</li> <li>• asset or equipment financing;</li> <li>• Pari Passu Debt, provided it is approved by Majority Noteholders pursuant to a Majority Noteholders Resolution and does not exceed \$75 million;</li> <li>• the Shortfall Debt;</li> <li>• the US\$18 million bank guarantee facility pursuant to a letter of offer between The Hongkong and Shanghai Banking Corporation Limited and Noumi Financing Pty Ltd (refer to Section 2.1 for further details);</li> <li>• other financial indebtedness specified in the definition of Permitted Debt; and</li> <li>• any other debt approved by a Special Resolution of Noteholders.</li> </ul> <p>A more detailed summary is set out in Section 8.7 and full definitions of Permitted Debt (and ancillary definitions) are set out in Note Terms attached to this Prospectus as <b>Annexure A</b>.</p>	<p>Section 8.7</p>
<p><b>What is Priority Permitted Debt?</b></p>	<p>Priority Permitted Debt is financial indebtedness which, under the Note Terms, is permitted to rank in priority to the Tranche B Notes. Not all debt that the Company is permitted to incur is "Priority Permitted Debt". It includes all the debt owed to NAB and HSBC (other than Shortfall Debt), the US\$18 million bank guarantee facility issued pursuant to a letter of offer between HSBC and Noumi Financing Pty Ltd in respect of the AFMH Shares and also includes further limited additional amounts to the extent that the Company enters into further senior debt facilities. A more detailed summary is set out in Section 8.7 and full definitions of Priority Permitted Debt, Permitted Debt (and ancillary definitions) are set out in Note Terms attached to this Prospectus as <b>Annexure A</b>.</p>	<p>Section 8.7</p>
<p><b>Are there any negative covenants on the Company under the Note Terms?</b></p>	<p>For so long as the Tranche B Notes and Tranche A Notes remain outstanding, the Company agrees to a number of negative covenants, including in respect of:</p> <ul style="list-style-type: none"> <li>• selling assets;</li> <li>• declaring or paying dividends in certain circumstances;</li> <li>• incurring any new debt;</li> <li>• agreeing to any amendment, termination or release (other than as a result of performance) of Leppington Pastoral Investments Pty Ltd's obligations or undertakings for the benefit of the Company pursuant to its letter dated 22 February 2022;</li> <li>• agreeing or consenting to any settlement or resolution of: <ul style="list-style-type: none"> <li>○ <i>Nicholas Gehrke and Lester Buch v Freedom Foods Group Limited &amp; Deloitte Touche Tomatsu</i>, Supreme Court proceeding no. S ECI 2020 4505;</li> <li>○ any same or similar shareholder class actions brought or threatened against the Company in respect of the same facts,</li> </ul> </li> </ul>	<p>Section 9.37</p>

Topic	Summary	Where to find more information
	<p>matters or circumstances arising prior to the issue date for the Tranche A Notes (being 27 May 2021),</p> <p>where the Company and/or any other Group Member are required to contribute to payment of a settlement sum (other than where funded by contributions from third parties permitted under the Transaction Documents and/or insurance)</p> <ul style="list-style-type: none"> <li>• creating any new security interests over any assets of the Group.</li> </ul> <p>The Company provides a wide variety of additional covenants, the details of which are contained in Section 9.37 and the Note Terms.</p>	
<b>What are the representations and warranties being provided by the Company?</b>	The Company makes certain representations and warranties in relation to itself and the Guarantors, for the benefit of the Trustee and the Noteholders.	Note Terms
<b>What are the Events of Default?</b>	<p>An Event of Default occurs in relation to the Tranche B Notes in a number of circumstances, including:</p> <ul style="list-style-type: none"> <li>• non-payment of any amounts due under the Note Terms;</li> <li>• failure to issue Shares on Conversion;</li> <li>• breach of certain undertakings;</li> <li>• breach of obligations under the Note Terms or the Transaction Documents;</li> <li>• an insolvency event;</li> <li>• a final judgment or determination is handed down that has, or is reasonably likely to have, a Material Adverse Effect;</li> <li>• the non-quotation of the Company's Shares on ASX;</li> <li>• cross defaults to other financial indebtedness in an amount exceeding \$10 million not being paid when due (or being declared due and payable prior to its specified maturity as a result of an event of default); and</li> <li>• the enforcement of any security interest over a Group asset with a value greater than \$10 million.</li> </ul> <p>Certain Events of Default have cure periods, as specified in the Note Terms.</p> <p>If an Event of Default occurs, the Trustee may declare by notice to the Company that all the Tranche B Notes are to be Redeemed for the Makewhole Amount and/or take enforcement action against, or direct the Security Trustee to take enforcement action against, the Company or relevant Group Member. The Trustee's ability to enforce an Event of Default is, depending on the circumstances, subject to a MD Noteholders Resolution or Simple Majority Noteholders Resolution, and in all circumstances is subject to the Intercreditor Deed.</p>	Section 9.33
<b>Can Noteholders vote at any meetings?</b>	<p>Noteholders do not have a right to vote at meetings of Shareholders, subscribe or participate in any new issue of securities by the Company or otherwise participate in the profits or property of the Company, except as set out in the Note Terms or the Transaction Documents.</p> <p>Noteholders may vote at meetings of Noteholders in accordance with Schedule 2 of the Trust Deed.</p> <p>If an amendment to the Note Terms would, in the Trustee's opinion, be materially prejudicial to the interests of Noteholders, a Special Resolution of Noteholders is required. If an amendment relates to an extension of the Maturity Date or reduction to payment amounts in respect of the Tranche B Notes, a Super Resolution of Noteholders will be required.</p>	Section 9.7 Section 9.38 Section 9.39
<b>1.5 Key risks associated with investing in the Tranche B Notes</b>		
<p><i>There are a number of risks associated with an investment in the Tranche B Notes. These and other risks are addressed in more detail in Section 7.2 and elsewhere in this Prospectus and should be considered by prospective investors before deciding whether to invest in the Tranche B Notes. If you are uncertain whether the Tranche B Notes are a suitable investment for you, you should consult your professional adviser.</i></p>		

Topic	Summary	Where to find more information
<b>Investment in the Tranche B Notes are an investment in the Company</b>	Investment in the Tranche B Notes may be affected by the ongoing performance, financial position and solvency of the Company and its Subsidiaries.	Section 7.2
<b>Suitability</b>	The Tranche B Notes are a complex investment and may be difficult to understand, even for experienced investors. You should ensure that you understand the risks of investing in the Tranche B Notes and consider whether it is an appropriate investment for your particular circumstances.	Section 7.2
<b>Liquidity of the Tranche B Notes</b>	There will be no direct market on the ASX or other securities exchange on which to sell the Tranche B Notes.	Section 7.2
<b>Market price and liquidity of Shares</b>	Any volatility in the market price of the Shares may cause volatility in the price of the Tranche B Notes and may affect your ability to sell your Tranche B Notes at all, or at an acceptable price. In addition, if Noteholders receive any Shares following Conversion, Noteholders who wish to sell the Shares may be unable to do so at an acceptable price, or at all, if the market for Shares is illiquid.	Section 7.2
<b>Interest payments</b>	The Company is required to pay Interest on the Tranche B Notes, which it may choose to pay in cash or 'in-kind'. The Company's decision will depend on its ability to generate sufficient cash flow from operations, which will depend substantially on the Company's ability to maintain its position within the competitive market in which it operates. The Company's ability to exercise its discretion to pay interest on the Tranche B Notes in cash will also be subject to the Intercreditor Deed (which restricts cash payments to Noteholders whilst an enforcement action is being undertaken).	Section 7.2
<b>Interest rate risk</b>	The interest rate payable will be fixed by reference to the agreed percentages set out in Section 9.13 (which will be reduced if the Company has issued a Relevant Disputes Notice). The market price of the Tranche B Notes may fluctuate due to changes in interest rates generally, credit spreads on other corporate securities or investor sentiment towards the Company.	Section 7.2
<b>Limited circumstances for Redemption of Tranche B Notes and cash payment</b>	The Tranche B Notes may or must be Redeemed in certain circumstances. The amount payable on Redemption will depend on the time and circumstances under which the Tranche B Notes are Redeemed and may be less than the previously prevailing market value of the Tranche B Notes. In the event of an early Redemption of Tranche B Notes, you may not receive the returns you expected to achieve on your Tranche B Notes. The Company may have insufficient cash to Redeem the Tranche B Notes in accordance with the Note Terms.	Section 7.2
<b>The Tranche B Notes are subject to changes of law</b>	The Note Terms are governed by the laws of New South Wales. Should any of those laws change over time, the legal requirements to which the Company may be subject could differ materially from current requirements.	Section 7.2
<b>Security subordinated to Senior Financiers</b>	<p>The Company's payment obligations under the Tranche B Notes rank in priority behind, and are subordinated to, its payment of Priority Permitted Debt, and any other payment obligations preferred by law. The indebtedness of the Company in respect of the Tranche B Notes may not be satisfied unless the Company can satisfy in full all of its other obligations ranking senior to the Tranche B Notes, and may not be satisfied in full unless the Company can also satisfy in full all of its other obligations ranking equally with the Tranche B Notes (which includes the Tranche A Notes).</p> <p>As set out in the Company's H1 FY22 financial results announcement for the period ending 31 December 2021, the Company recorded a net loss of \$65.8 million and is currently in a negative net tangible asset position. Accordingly, there is a risk that the value that can be realised from the assets available to Eligible Noteholders following any enforcement of the security (and following repayment of any senior secured debt) may be insufficient to cover the Makewhole Amount or Redemption payment which is payable at that time (which is likely to exceed the Face Value of the Tranche B Notes at the time of any enforcement or Redemption).</p>	Section 7.2
<b>Enforcement risk and intercreditor arrangements</b>	<p>Rights under the Trust Deed may generally only be enforced by the Trustee and not by the Noteholders directly. The number of Noteholders required to enforce the Note Terms upon the occurrence of specified Events of Default is detailed in Section 9.35.</p> <p>In all cases, enforcement by the Trustee and the Security Trustee is subject to the Intercreditor Deed.</p>	Section 7.2
<b>Ranking in a Winding Up</b>	If the Company is wound up, and assuming the Tranche B Notes have not been Converted or Redeemed, Eligible Noteholders will rank behind the Company's Priority Permitted Debt and those mandatorily preferred at law in right of payment,	Section 7.2

Topic	Summary	Where to find more information
	but ahead of all Shortfall Debt, unsecured creditors of the Company and Shareholders. Eligible Noteholders may not receive a full (or any) repayment of their money invested in the Tranche B Notes or payment of unpaid interest and any other unpaid amounts owing. If the Tranche B Notes have been Converted, the Eligible Noteholders will hold Shares and rank equally with other holders of Shares in a Winding Up.	
<b>Conversion events</b>	The Company has an obligation to Convert the Tranche B Notes into Shares upon the occurrence of certain events. These Conversion events may be disadvantageous to Eligible Noteholders and may not coincide with their intended investment outcomes.	Section 7.2
<b>Future dividends and franking</b>	Once all of the Notes have been Redeemed or Converted (including both the Tranche A Notes and the Tranche B Notes), any future determination as to the payout of dividends will be at the discretion of the Directors. No assurance in relation to the future payment or franking of dividends can be given by the Company.	Section 7.2
<b>Further issues of securities and dilution</b>	The Tranche B Notes do not restrict the Company from issuing further Shares or other securities (other than, for example, where such securities comprise Pari Passu Debt). Additional offerings of securities in the future may depress the price of Shares already on issue and of the Tranche B Notes.	Section 7.2
<b>Certain Noteholders may exercise significant influence over Noteholder votes</b>	Under the Note Terms, a Noteholder who holds Notes with a face value of more than 40% of the total face value of the Notes then on issue is a "Substantial Noteholder". A Substantial Noteholder is capable of exercising certain rights and powers under the Note Terms and may exercise significant influence on matters voted on by Noteholders.  There is a risk that any Noteholder could acquire a significant percentage of the aggregate principal amount of the Notes (including Arrovest) and the existence of any such significant Noteholder may reduce the liquidity of the Notes (including the Tranche B Notes) in the secondary trading market.	Section 7.2
<b>Inflation rate risk</b>	An increase in the inflation rate may erode in real terms the value of the capital invested in the Tranche B Notes.	Section 7.2
<b>Change in the Australian tax system</b>	Any future change in Australian tax law may affect the taxation treatment of the acquisition, holding and disposal of Tranche B Notes and the market price of the Tranche B Notes.	Section 7.2
<b>Change in Australian Accounting Standards</b>	New, or amendments to existing, accounting standards may affect the reported earnings and financial position of the Company in future financial periods. This may adversely affect the ability of the Company to pay interest on the Tranche B Notes.	Section 7.2
<b>Shareholder limits</b>	Various laws may restrict the number of Shares that any person may hold. Eligible Noteholders should take care to ensure that their holding of the Tranche B Notes (and any Shares to be issued on Conversion) do not breach any applicable restrictions on ownership.	Section 7.2
<b>Amendment to Note Terms and Trust Deed</b>	A Modification to the Trust Deed and/or Note Terms may not require Noteholder consent. If the Modification relates to an extension of the Maturity Date or reduction to payment amounts in respect of the Notes (being the Tranche A Notes and/or Tranche B Notes), a Super Resolution is required.	Section 7.2
<b>1.6 Key risks associated with the Company</b>		
<i>There are a number of risks associated with an investment in the Company. Some key risks are included in this Section 1.8. These and other risks are addressed in more detail in Section 7.3 and elsewhere in this Prospectus and should be considered by prospective investors before deciding whether to invest in the Company.</i>		
<b>Going concern</b>	The Group made a H1 FY22 loss after tax of \$65.5 million (H1 FY21 restated loss of \$23.7 million). Net cash outflows from operating activities in H1 FY22 were \$11.1 million (H1 FY21 outflows of \$21.5 million). COVID-19 presented significant challenges during the period and whilst management mitigated many of these challenges, a number could not be mitigated in the short term. Management is anticipating price rises in various products offered by the Group and other mitigants to benefit the business in the H2 FY22. The quantum of the Group's losses from operations in the half year ended 31 December 2021 were higher than the budget approved by the Board. The restrictions imposed by COVID-19 impacted sales volumes, productivity and supply chain costs and also caused delays in implementing the Group's transformation program, particularly in relation to the dairy and nutritional business.	Section 7.3

Topic	Summary	Where to find more information
	<p>As at 31 December 2021, the Group had net current assets of \$20.4 million (FY21: net current assets of \$40.1 million) including non-current assets held for sale of \$23 million (FY21: \$6.5 million) and net liabilities of \$48.9 million (FY21: net assets of \$1.5 million).</p> <p>As described in Section 8.24, the Company is currently defending a class action proceeding. Should the Group be unsuccessful in its defence of the class action, the Group may become liable for material compensation amounts. There is a risk that the Company and Group will have insufficient funds to be able to pay these compensation amounts and consequently have a material impact on its ability to continue as a going concern.</p> <p>The Company refers Eligible Investors to other risks set out in Section 7 which may impact the Company's ability to continue as a going concern.</p>	
<b>Litigation</b>	<p>The Company is currently and may in the future be subject to additional regulatory actions, litigation, investigations or other proceedings, whether arising from ASIC notices, the Corporations Act, ASX Listing Rules or otherwise, any of which may result in litigation and which could have a material adverse impact on the financial and operation performance and financial position of the Company.</p> <p>The Company is currently defending a shareholder class action. The class action claimants allege that the Company failed to comply with its continuous disclosure obligations or disclosure obligations under the Corporations Act and ASX Listing Rules in connection with equity capital raisings and made statements which are misleading and deceptive in breach of the Corporations Act, the <i>Australian Consumer Law</i> and the ASIC Act. There is a risk that additional shareholder class actions may be commenced against the Company. It is not currently possible to determine the outcome of the ongoing class action or any other proceedings, and what the financial impact of such proceedings, if any, may be for the Company.</p> <p>The Company is also subject to other litigation and other claims and disputes, and may be subject to future litigation and other claims and disputes in the ordinary course of business, including contractual disputes and workplace claims. Such litigation, claims and disputes, including the costs of settling claims, and any associated operational impacts, may be costly and damaging to the Company's reputation and business relationships, which may have an adverse effect on the Company's business and operations.</p>	Section 7.3
<b>Regulatory investigations and reviews</b>	<p>The Company is the subject of a regulatory investigation commenced by ASIC in relation to suspected contraventions of the Corporations Act. While the Company is cooperating with ASIC, there can be no assurance that ASIC will not commence enforcement action against the Company.</p>	Section 7.3
<b>Failure to achieve turnaround objectives</b>	<p>If the Company's strategies and initiatives are ineffective, poorly implemented or implemented later than expected, or are more costly than anticipated, the Company may not meet its objectives, which could have a materially adverse effect on the Company's financial and operational position.</p>	Section 7.3
<b>Pandemic risks</b>	<p>The Company's sales, customers, employees and operations, Tranche B Note price and Share price may be adversely affected in the short to medium term by the uncertainty caused by COVID-19 or other pandemic risks.</p> <p>Management and the Board anticipate that the negative impacts of COVID-19 on the Group's performance will continue to be affected as the world copes with the effects of the pandemic and the Company is implementing changes to cope with the effects of the pandemic on a continuous basis. The Board expects different markets and supply chains to be affected at different times pending the severity of the pandemic on that market at any time.</p> <p>Any further virus outbreaks in Australia or overseas may adversely affect the Company's business operations and financial performance beyond the control of the Company.</p>	Section 7.3
<b>Leverage and debt arrangements</b>	<p>As at 31 March 2022, the Company has debt owing to its senior and subordinated lenders with an approximate value of \$416.9 million and these parties have a secured position over certain assets of the Company. The Tranche B Notes will be classified as a non-current liability on the Company's balance sheet and, accordingly, the Company will continue to have high leverage while the Tranche A Notes and Tranche B Notes remain outstanding.</p>	Section 7.3
<b>Competition</b>	<p>New entrants, a material adverse change to the competitive environment or new initiatives implemented by competitors may have an adverse material impact on the operating and financial performance of the Company and its Subsidiaries.</p>	Section 7.3

Topic	Summary	Where to find more information
	In addition, in order to stay competitive, the Company may need to adjust its pricing models and/or invest significantly more in marketing and/or new product development.	
<b>Manufacturing disruption</b>	Any material disruption to key parts of the manufacturing process may result in a failure to meet contractual sales volumes, loss of sales and revenue, termination of contracts, litigation and reputational damage.	Section 7.3
<b>Workplace health and safety</b>	The Company must comply with various health and safety laws and there is a risk that penalties for the violation of health and safety laws may be imposed on the Company and have an adverse effect on the Company's reputation, profitability and growth.	Section 7.3
<b>Changing consumer preferences in competitive markets</b>	Consumer tastes and buying preferences in relation to the Company's products are constantly changing. The Company can be at risk of its products being replaced in key channels by products produced by its competitors. Any reduction in the Company's product sales and market shares in each segment may impact its financial performance in the short, medium, and long term.	Section 7.3
<b>Labour supply</b>	The Group's operations are dependent on the availability and cost of skilled and qualified labour. As a consequence of the unfolding COVID-19 pandemic, the labour market in Australia is tight, especially in the manufacturing and agricultural sectors.  While the Group has initiatives in place to mitigate this risk, significant staff losses or a failure to attract new staff may have a negative impact on the financial performance of the Group and its growth prospects. Further, any failure by the Group to deliver on customer demands due to its inability to retain existing employees and/or attract and retain new personnel may negatively impact the Group's reputation. This could have a materially adverse effect on the Group's earnings, profitability and growth.	Section 7.3
<b>Inventory management</b>	If the Company is not able to sell products it produces in sufficient time to meet the minimum life on receipt requirements of its customers, that stock may become at risk of becoming out of date and unusable, in which case that product would need to be destroyed and its value written off.	Section 7.3
<b>Inflation rate</b>	The domestic and global economies are currently experiencing sharp rises in the inflation rate. There is a risk that the Company may not be able to pass on any increase in the input costs for its products which may, in turn, impact the Group's margins. Similarly, there is a risk that any increase in the price for the Group's products may result in reduced demand which, in turn, may impact the Group's revenues. While management and the Board is continually monitoring the inflation rate, the extent of any rise is inherently uncertain and subject to events beyond the Company's control.	Section 7.3
<b>Invasion of Ukraine</b>	On 24 February 2022, Russia commenced an unprovoked invasion of Ukraine. Acts of terrorism, violence, political unrest, armed regional and international hostilities and international responses to these hostilities could significantly impact the Group. These events could adversely affect global economic business activity and precipitate a sudden significant change in global economic conditions and cycles.  Further, any governmental or industry measures taken or sanctions imposed in response to the Russia-Ukraine conflict, including changes to import/export restrictions across the world, may adversely impact the Group's operations and are likely to be beyond the control of the Group. Given the conflict is continually evolving, the consequences are inherently uncertain.	Section 7.3
<b>Quality and food safety</b>	The Company is exposed to risks in the entire product chain relating to food safety, product or packaging quality and food integrity issues that may result in injury or harm to customers.	Section 7.3
<b>Key personnel</b>	There is a risk that certain employees in key roles will leave the Company, the loss of whom could have a material adverse effect on the Company.	Section 7.3
<b>Culture and talent</b>	While the Company has procedures in place to foster a positive corporate culture, poor culture can lead to a lack of trust, poor decision making, increased employee turnover, reduced motivation and productivity. These outcomes may have a material adverse impact on the Company's operations and financial performance.	Section 7.3
<b>Failure of internal risk controls</b>	The Company has been in the process of developing and implementing improved risk management and governance frameworks. Failure to adequately design, implement and abide by these risk management policies and practices may lead to an inability of the Company to mitigate future risk exposures and/or breaches of regulatory obligations on a timely basis.	Section 7.3

Topic	Summary	Where to find more information
<b>Credit risks</b>	Credit market conditions and the operating performance of the Company will affect borrowing costs as well as the Company's capacity to repay, refinance and increase its debt.	Section 7.3
<b>Exchange rate</b>	While the Company may seek to hedge part of its foreign currency exposure or sell to export customers in AUD rather than foreign currency, movements in the exchange rates will have an impact on the financial performance of the Group.	Section 7.3
<b>Access to financial resources</b>	Access to equity and debt markets may change from time to time based on economic and financial markets conditions, geopolitical issues in the markets in which the Company operates, the risk appetite of banks and other credit providers, the investment appetite of equity investors and the view of the Company as a suitable party to extend credit to or invest in.	Section 7.3
<b>Other Company specific risks in relation to its business and operations</b>	<p>The Company is exposed to other further specific risks relating to its business and operations including:</p> <ul style="list-style-type: none"> <li>• intellectual property;</li> <li>• reputation and brand names;</li> <li>• new products and innovations;</li> <li>• relationships with suppliers;</li> <li>• finished goods and raw material price changes;</li> <li>• product liability and compliance;</li> <li>• supply chain;</li> <li>• insurance;</li> <li>• delisting of a significant number of product lines by a major customer;</li> <li>• additional funding;</li> <li>• doing business in export markets;</li> <li>• the Australia-China trade relations;</li> <li>• animal welfare;</li> <li>• environment;</li> <li>• climate change;</li> <li>• modern slavery;</li> <li>• failure in information, technology and communication systems;</li> <li>• taxation implications; and</li> <li>• change in laws, regulations and policies.</li> </ul>	Section 7.3
<b>1.7 Key risks associated with the Capital Raising</b>		
<i>The risks identified below are addressed in more detail in Section 7.4 and should be considered by prospective investors before deciding whether to invest in the Tranche B Notes.</i>		
<b>Dilution for Shareholders</b>	The Company will issue Shares to Eligible Noteholders upon Conversion of the Tranche B Notes as set out in this Prospectus. The issue of Shares will dilute the interests of existing Shareholders to differing extents depending on the participation of Eligible Noteholders in the Capital Raising.	Section 7.4
<b>General risks</b>	The above risks are not an exhaustive list of the potential risks faced by Noteholders or the Company. There are a number of general commercial risk factors and general market risks that could adversely affect the Company's financial performance, position or prospects. You should carefully consider all the risk factors set out in Section 7 before deciding to invest in the Tranche B Notes.	Section 7
<b>1.8 Overview of Company's senior debt arrangements</b>		
<b>What are the Company's senior debt facilities?</b>	<p>On completion of the Capital Raising, the existing senior secured credit facilities of the Company will be:</p> <ul style="list-style-type: none"> <li>• \$36 million revolver to fund working capital, capital expenditure and to pay costs associated with restructuring the Company's debt facilities;</li> </ul>	Section 8.6



Topic	Summary	Where to find more information
	<ul style="list-style-type: none"> <li>• \$80.3 million of equipment financing, which includes the NAB Asset Financing;</li> <li>• \$25 million full recourse debtor finance;</li> <li>• \$65 million of limited recourse debtor finance;</li> <li>• US\$18 million bank guarantee facility issued pursuant to a letter of offer between HSBC and Noumi Financing Pty Ltd; and</li> <li>• ancillary transactional and hedging facilities.</li> </ul> <p>The intercreditor relationship between the Tranche A Notes, the Tranche B Notes and the senior debt is governed by an Intercreditor Deed, as set out in Section 8.13.</p>	
<b>1.9 Other</b>		
<b>Important matters to be aware of</b>	<p>The Tranche B Notes are a complex investment and may be difficult to understand, even for experienced investors, and involve different risks from a simple debt or ordinary equity security.</p> <p>You should seek professional guidance from your financial or other professional adviser before deciding whether to invest.</p>	
<b>1.10 What you need to do</b>		
<b>Action required</b>	See Section 3 for detailed instructions on what you need to do to apply for Tranche B Notes under the Capital Raising.	Section 3
<b>1.11 More information</b>		
<p>If, after you read this Prospectus, you have any questions regarding the Capital Raising or the Tranche B Notes, please contact your financial adviser or other professional adviser.</p> <p>You can also call the Offer Information Line on 1800 774 615 (within Australia) or +61 1800 774 615 (outside Australia) between 8:30am to 5:30 pm (Sydney time), Monday to Friday (excluding public holidays) during the Offer Period.</p>		

## 2 Details of the Capital Raising

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### 2.1 Blue Diamond Final Agreement

On 17 November 2021, the Company announced that one of its subsidiaries – Noumi Manufacturing Pty Limited (**NMPL**) (formerly known as Freedom Foods Pty Limited) – entered into a binding heads of agreement with Blue Diamond Growers.

On 22 February 2022, the Company announced that NMPL had signed a binding long-form agreement with Blue Diamond (the **Final Agreement**) under which the parties agreed to resolve all disputes between them in relation to a licence agreement to manufacture and distribute Almond Breeze products. The key terms of the Final Agreement are consistent with the heads of agreement announced on 17 November 2021.

Under the Final Agreement, NMPL agreed to pay to Blue Diamond a total of US\$35 million as follows:

- (a) US\$17 million within 20 business days of the Final Agreement being signed (**Tranche 1 Settlement Payment**); and
- (b) future payments totalling US\$18 million paid in 16 equal quarterly instalments of US \$1,125,000 commencing on 15 August 2022, which will be supported by the provision of a US\$18 million bank guarantee (**Tranche 2 Settlement Payment**).

As announced on 22 February 2022, to obtain the bridging financing necessary to meet the Tranche 1 Settlement Payment deadline, the Company secured binding commitments from several of its Existing Noteholders pursuant to which those Existing Noteholders agreed to subscribe for secured loan notes (**Loan Notes**) in the Company, raising approximately A\$26 million. The Loan Notes were issued on the basis that they will be redeemed by the Company through the issuance of Tranche B Notes under the Capital Raising equal to \$26 million plus accrued interest on the Loan Notes.

NMPL paid the Tranche 1 Settlement Payment on 17 March 2022. Please refer to the Company's announcement dated 22 February 2022 for a summary of the key terms of the Final Agreement.

### 2.2 Overview of the Capital Raising

The Capital Raising involves an offer of a minimum of \$26.4 million (maximum of \$27.2 million) of unlisted, subordinated and secured convertible notes (**Tranche B Notes**) to the Company's Existing Noteholders who are sophisticated and/or professional investors, but excluding Arrovest and those Existing Noteholders who would otherwise require Shareholder approval under ASX Listing Rule 10.11 to participate (**Eligible Noteholders**).

Pursuant to the terms of the Loan Notes, the Company is required to redeem the Loan Notes through the issuance of Tranche B Notes under the Capital Raising equal to \$26 million plus any interest accrued on the Loan Notes (which is expected to result in the issuance of 26.4 million Tranche B Notes).

The Capital Raising has the support of Existing Noteholders, and the Company has binding commitments from certain Existing Noteholders to subscribe for a minimum of \$26.4 million of Tranche B Notes which will be used to redeem their Loan Notes. As such, the Capital Raising is not underwritten.

The Company has already obtained the requisite consents from its Existing Noteholders and senior financiers to issue the Tranche B Notes.

The Tranche B Notes will be issued on substantially the same terms as the Tranche A Notes issued by the Company on 27 May 2021. The primary difference between the Tranche A Notes and the Tranche B Notes is the conversion price:

- in respect of Tranche A Notes, the conversion price is \$0.70; and
- in respect of Tranche B Notes, the Conversion Price is \$0.32.

The Board has decided the issue of Tranche B Notes is the preferred capital raising structure for a number of reasons, including that:

- the Board considers that the Tranche B Notes are the best option available to attract the necessary funds on terms acceptable to the Company and redeem the Loan Notes;
- the Tranche B Notes provide flexibility for investors to participate in any future equity upside by converting Tranche B Notes into Shares; and
- the Tranche B Notes provide downside protection for the incoming capital provided by Eligible Noteholders with the benefit of subordinated security over the Company's assets while the Company is continuing to progress its operational turnaround and defends itself from class actions.

Eligible Noteholders should note that Arrovest, an Existing Noteholder which holds 126,142,300 Tranche A Notes, is excluded from participating in the Capital Raising. This means that Arrovest's total equity holding in the Company will be decreased by the issuance of Tranche B Notes under the Capital Raising.

## 2.3 Capital Raising – use of proceeds

The purpose of the Capital Raising and use of proceeds is primarily to redeem the Loan Notes (including the interest accrued on those Loan Notes) and to pay the fees and expenses associated with the Capital Raising. Please refer to the Company's announcement dated 22 February 2022 for details of the Loan Notes. On the assumption that Eligible Noteholders subscribe for the full \$27.2 million of Tranche B Notes under the Capital Raising, the proceeds will be used as follows:

Sources & Uses – Loan Notes			
Sources (\$m)		Uses (\$m)	
Loan Notes issuance	\$26.0 million	Tranche 1 Settlement Payment	\$23.4 million (US\$17 million at the hedged rate of \$0.7263)
		Cash to balance sheet and transaction costs	\$2.6 million
<b>Total sources</b>	<b>\$26.0 million</b>	<b>Total uses</b>	<b>\$26.0 million</b>

Sources & Uses – Tranche B Notes			
Sources (\$m)		Uses (\$m)	
Capital Raising	\$27.2 million  (minimum raise of \$26.4 million)	Redeem Loan Notes plus accrued interest	\$26.4 million*
		Cash to balance sheet and transaction costs	up to \$0.8 million
<b>Total sources</b>	<b>\$27.2 million</b>	<b>Total uses</b>	<b>\$27.2 million</b>

*Note: The Company is seeking to raise a minimum of \$26.4 million under the Capital Raising which will be used as to \$26 million, to redeem the face value of the Loan Notes and as to the remaining \$0.4 million, to pay the accrued interest on those Loan Notes up to 29 April 2022.*

*Note: If the Capital Raising timetable is delayed for any reason, the minimum raise amount will increase in order to capture additional interest accrued on the Loan Notes.*

## 2.4 Capital Raising details

### (a) Overview

This Prospectus invites Eligible Noteholders to participate in the Capital Raising which is an offer of a minimum of \$26.4 million in Tranche B Notes at an Issue Price of \$1.00 per Tranche B Note. The Capital Raising is not underwritten.

The maximum number of Tranche B Notes that can be issued under the Capital Raising is 27.2 million.

References to “you” in this Section 2 are references to Eligible Noteholders.

If you wish to participate in the Capital Raising, you must submit an Application Form via <https://events.miraql.com/noumi-bnotes>.

You should read this Prospectus carefully before making any decisions in relation to the Capital Raising.

### (b) Who is an Eligible Noteholder?

Any person who is an Eligible Noteholder is entitled to participate in the Capital Raising. This term includes any person who is either “professional investor” or “sophisticated investor” under sections 708(11) and 708(8) of the Corporations Act and whose registered address is in Australia and certain institutional and professional investors with registered addresses in New Zealand, Singapore, Hong Kong, the United Kingdom or the United States. To qualify as an Eligible Noteholder, you must be the registered holder of Tranche A Notes in the Company as at the Record Date (an **Existing Noteholder**).

You are not an Eligible Noteholder if you are Arrovest or an Existing Noteholder who would otherwise require Shareholder approval under ASX Listing Rule 10.11 to participate in the Capital Raising.

Please see the definition of “Eligible Noteholder” in the Glossary in Section 10 for more information.

If you have a registered address in Australia, you are a “sophisticated investor” within the meaning of the Corporations Act if:

- (i) you offer to pay a minimum amount of \$500,000 for the Tranche B Notes under the Capital Raising; or
- (ii) the amount payable by you on submitting an Application Form is at least \$500,000; or
- (iii) you hold a current certificate not more than 6 months old from a qualified accountant which states that you have net assets of \$2.5 million; or
- (iv) you hold a current certificate not more than 6 months old from a qualified accountant which states that you have a gross income for the previous two years of \$250,000; or
- (v) you are a company or trust controlled by a person who meets the requirements specified above.

(c) **Offer period**

The Capital Raising opens at 9:00am (Sydney time) on 20 April 2022 and will close at 5.00pm (Sydney time) on 28 April 2022 (the **Closing Date**).

(d) **Please consider the Capital Raising in light of your particular investment objectives and circumstances**

The Tranche B Notes are a complex investment and may be difficult to understand, even for experienced investors, and involve different risks from a simple debt or ordinary equity security.

Please consult with your stockbroker, accountant, financial adviser, taxation adviser or other independent professional adviser if you have any queries or are uncertain about any aspects of the Capital Raising. You should also refer to the risks associated with investment in the Company and the Tranche B Notes which are set out in Section 7 of this Prospectus.

An investment in the Tranche B Notes is subject to known and unknown risks, some of which are beyond the control of the Company, including possible loss of income and principal invested. The Company does not guarantee any particular rate of return or the performance of the Company or the Tranche B Notes, nor does it guarantee the repayment of capital from the Company or any particular tax treatment.

(e) **Issuance of Tranche B Notes under the Capital Raising**

Tranche B Notes under the Capital Raising will be issued to successful Applicants on 29 April 2022. GLAS will issue allotment statements shortly thereafter. No certificates will be issued in respect of Tranche B Notes.

Subject to the allocation policy described below, there is no cap on how many Tranche B Notes Eligible Noteholders can apply for under the Capital Raising. Eligible Noteholders should specify the maximum number of Tranche B Notes they wish to be allocated on the Application Form.

(f) **Allocation policy**

The allocation of Tranche B Notes under the Capital Raising will be determined by the Company in its absolute discretion.

As noted above, the Company will issue a minimum of 26.4 million Tranche B Notes to redeem the Loan Notes in full, including accrued interest. The Company will issue a minimum of 26.4 million Tranche B Notes to those Eligible Noteholders who are Loan Noteholders in satisfaction of their binding commitments. In addition, the Company will provide Eligible Noteholders (excluding the Loan Noteholders) with priority allocation in respect of the balance of any Tranche B Notes (up to \$0.8 million) to enable those Eligible Noteholders to maintain their existing percentage holding of Notes as at the date of this Prospectus.

There is no assurance that any Eligible Noteholder will be allocated any Tranche B Notes, or the number of Tranche B Notes, for which it has applied. The allocation policy of the Company will be influenced by a range of factors, including:

- (i) the preference of the Company to give priority to Applicants who are Eligible Noteholders and who provided a binding commitment to the Company to subscribe for Loan Notes;
- (ii) the number of Tranche B Notes bid for by particular Applicants;
- (iii) the timeliness of the bid by particular Applicants;
- (iv) the Company's desire to establish a wide spread of Noteholders;
- (v) the overall level of demand under the Capital Raising;
- (vi) the size and type of funds under management of particular Applicants;
- (vii) the likelihood that particular applicants will be long-term Noteholders and/or Shareholders; and
- (viii) any other factors that the Company considers appropriate.

(g) **Foreign Noteholders**

The distribution of this Prospectus and Application Form in jurisdictions outside of Australia may be restricted by law. If you are an Eligible Noteholder and you come into possession of this Prospectus, then you should observe any such restrictions. See Section 8.16 containing further information on foreign selling restrictions. Any failure to comply with such restrictions may constitute a violation of applicable securities laws.

This Prospectus does not constitute an offer or invitation to potential investors to whom it would not be lawful to make such an offer or invitation. No action has been taken to register or qualify the Tranche B Notes or otherwise permit an offer of the Tranche B Notes in any jurisdiction other than Australia.

The Company reserves the right to reject any Application which it believes comes from a person who is not an Eligible Noteholder.

## **2.5 Application Monies and interest**

Application Monies received from an Applicant will be held by Link in a trust account until the Tranche B Notes are issued to that Applicant. If you are issued less than the number of Tranche B Notes you applied for, you will be sent a refund cheque for the relevant amount of Application Monies (without interest) not applied towards the issue of Tranche B Notes, as soon as practicable after the Issue Date. Any balance of Application Monies that is remaining as a result of rounding will be refunded to you except where the amount is less than \$2, in which instance it will be retained by the Company or donated to charity.

The Company reserves the right to withdraw or vary all or part of the Capital Raising at any time, subject to applicable laws, in which case the Company will refund Application Monies in relation to Tranche B Notes not already issued in accordance with the Corporations Act and without payment of interest.

To the fullest extent permitted by law, each Applicant agrees that such Application Monies shall not bear or earn interest for the Applicant, irrespective of whether or not all or any Tranche B Notes applied for by the Applicant are issued to the Applicant, and that any interest earned on Application Monies held by the Company shall be the property of Company.

## **2.6 Underwriting**

The Capital Raising has the support of Existing Noteholders, and the Company has binding commitments from certain Existing Noteholders to subscribe for a minimum of \$26.4 million of Tranche B Notes which will be used to redeem their Loan Notes in full, plus accrued interest. As such, the Capital Raising is not underwritten.

## **2.7 Disclaimer**

The Company reserves the right to determine whether a person is an Eligible Noteholder. Please see Section 2.4(b) of this Prospectus and the definition of "Eligible Noteholder" in the Glossary in Section 10 for more information.

Please also refer to Section 8.15 of this Prospectus which sets out the representations and warranties which accepting Eligible Noteholders will be deemed to have given (including confirming that they are an Eligible Noteholder) by completing and submitting their Application Form or making a payment by BPAY® or EFT.

The Company, its respective related bodies corporate and affiliates, and their respective directors, officers, partners, employees and agents disclaim all liability (to the maximum extent permitted by law) in respect of the determination as to whether a person is an Eligible Noteholder or an Ineligible Investor.

## **2.8 Tax implications**

Section 6 of this Prospectus contains a summary of the tax consequences for Eligible Noteholders and is based on Australian tax law and administrative practice as at the date of this Prospectus. This summary is necessarily general in nature and is not intended to be definitive tax advice to Eligible Noteholders. Accordingly, each Eligible Noteholder should seek their own tax advice, which is specific to their particular circumstances, as to the tax consequences of investing in, holding and disposing of the Tranche B Notes.

## **2.9 Enquiries**

If you have any questions about the Capital Raising please call the Offer Information Line on 1800 774 615 (within Australia) or +61 1800 774 615 (outside Australia) between 8:30 am and 5:30 pm (Sydney time), Monday to Friday (excluding public holidays). If you are unclear in relation to any matter or are uncertain as to whether Tranche B Notes are a suitable investment for you, you should seek advice from your professional adviser.



## 3 Action required by Eligible Noteholders

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### 3.1 Fill out an Application Form

Eligible Noteholders who wish to participate in the Capital Raising should complete the electronic Application Form via <https://events.miraqle.com/noumi-bnotes> in accordance with the instructions set out on that form. Applications will not be accepted in any other form.

References to “you” in this Section 3 are references to Eligible Noteholders.

In order to complete your Application Form, you will need your Access Code which will be sent to you by Link via email on or around 20 April 2022. If you have not received your Access Code from Link by 20 April 2022, please call the Offer Information Line on 1800 774 615 (within Australia) or +61 1800 774 615 (outside Australia) to request one.

Completed Application Forms must be received by no later than 5.00 pm (Sydney time) on 28 April 2022 together with Application Monies. If you are an Eligible Noteholder who is also a Loan Noteholder, you are not required to pay any Application Monies as part of your Application. Instead, pursuant to the terms of the Loan Notes, the issuance of the Tranche B Notes will be used to redeem the Loan Notes. Applicants are encouraged to submit their Application Form as early as possible.

No brokerage, stamp duty or other costs are payable by Applicants.

Successful Applicants will be issued Tranche B Notes on 29 April 2022. GLAS will issue allotment statements shortly thereafter. The Company’s decision as to the number of Tranche B Notes to be issued to any Eligible Noteholder will be final.

Application Monies will be held on trust for Applicants until issue of the Tranche B Notes. Interest earned on Application Monies will be for the benefit of the Company and will be retained by it whether or not Tranche B Notes are issued.

Application Forms and Application Monies will not be accepted at the Company’s registered or corporate offices, or other offices of Link.

If you are an Eligible Noteholder in Australia who is a “sophisticated” investor and does not subscribe for Tranche B Notes in excess of \$500,000, you are required to submit a copy of a certificate from a qualified accountant (no more than 6 months old) stating that you have net assets of \$2.5 million or more, or you have a gross income for the previous two years of at least \$250,000. If applicable, this certificate should be sent to [capitalmarkets@linkmarketservices.com.au](mailto:capitalmarkets@linkmarketservices.com.au).

If you are an Eligible Noteholder in the United States, you must complete a US investor certificate as part of your Application, attached as **Annexure B**. Completed investor certificates must be returned to [capitalmarkets@linkmarketservices.com.au](mailto:capitalmarkets@linkmarketservices.com.au).

### 3.2 Ineligible Investors

Ineligible Investors are not entitled to participate in the Capital Raising. If you receive this Prospectus and an Application Form but you are an Ineligible Investor, please disregard.

### 3.3 Payment for Tranche B Notes

Payment must be made using BPAY® or EFT. You can only make payment via BPAY® if you are the holder of an account with an Australian financial institution that supports

BPAY® transactions. If you are an Eligible Noteholder and do not hold an account with an Australian financial institution, it is your responsibility to obtain all necessary approvals and take all required action to ensure the Application Monies are paid via BPAY® pursuant to this Prospectus.

Eligible Investors who are unable to make a BPAY® payment should pay via EFT using the instructions set out on the Application Form.

Payments by cheque, money order or bank draft will not be accepted. Receipts for payment will not be issued.

The Company will treat you as applying for as many Tranche B Notes as your payment will pay for in full.

Any Application Monies received for more than your final allocation of Tranche B Notes will be refunded as soon as practicable after the close of the Capital Raising. No interest will be paid to Applicants on any Application Monies received or refunded.

### **3.4 Payment by BPAY®**

For payment by BPAY®, please follow the instructions on the electronic Application Form.

When completing your BPAY® payment, please use the specific biller code and unique Customer Reference Number generated by the electronic Application Form and displayed on the final confirmation page.

Eligible Noteholders considering using BPAY® should consult directly with their financial institution to confirm there are no restrictions on their account which may impact their ability to use BPAY® to participate in the Capital Raising.

It is your responsibility to ensure that your BPAY® payment is received by Link by no later than 5.00 pm (Sydney time) on 28 April 2022. You should be aware that your financial institution may implement earlier cut-off times with regard to electronic payment and you should therefore take this into consideration when you make payment. Please be aware that Monday, 25 April 2022 is a public holiday in Australia and so payments may be delayed over this time. Therefore, you are encouraged to submit your Application and pay your Application Monies as soon as possible.

The Company accepts no responsibility for any failure to receive Application Monies by BPAY® before the Closing Date, including arising as a result of, among other things, processing of payments by financial institutions.

The electronic Application Form and BPAY® payment must be completed and received by no later than the Closing Date.

### **3.5 Payment by EFT**

For payment by EFT, please follow the instructions on the electronic Application Form.

Your EFT payment may be subject to fees and charges that your financial institution or intermediary banks may deduct for performing the funds transfer. It is your responsibility to pay any such fees and ensure that the amount received by Link is correct.

It is also your responsibility to ensure that your EFT payment is received by Link by no later than 5.00 pm (Sydney time) on 28 April 2022. You should be aware that your financial institution may implement earlier cut-off times with regard to electronic payment and you should therefore take this into consideration when you make payment. Please be

aware that Monday, 25 April 2022 is a public holiday in Australia and so payments may be delayed over this time. Therefore, you are encouraged to submit your Application and pay your Application Monies as soon as possible.

The Company accepts no responsibility for any failure to receive Application Monies by EFT before the Closing Date, including arising as a result of, among other things, processing of payments by financial institutions.

The electronic Application Form and EFT payment must be completed and received by no later than the Closing Date.

### **3.6 Completing the form or making a payment**

By submitting your Application Form or making a payment by BPAY® or EFT, you will be deemed to have given certain representations and warranties to the Company. Please see Section 8.15 for further information.

### **3.7 Provision of bank account details for interest payments**

The Company will pay any Interest on the Tranche B Notes directly into an account at an Australian branch of a financial institution nominated by you. The Company will not issue cheques to pay your Interest.

The Company will pay Interest on the Tranche B Notes to the account already nominated by you in respect of the Tranche A Notes. If you wish to update your bank details, please contact the Note Registrar.

The Company may also pay any unpaid amount in accordance with laws relating to unclaimed money and, having done so, will have no further liability to the relevant Noteholder.

### **3.8 Provision of Tax File Number or Australian Business Number of Australian**

As part of submitting your Application Form, you will be requested to supply your Tax File Number (TFN) or Australian Business Number (ABN). If you require a TFN or ABN, it is your responsibility to arrange for one.

The collection and quotation of TFNs and ABNs is authorised, and their use and disclosure is strictly regulated, by tax laws and the Privacy Act.

You do not have to provide your TFN or ABN and it is not an offence if you fail to do so. However, the Company may be required to withhold Australian tax at the maximum personal marginal tax rate plus the Medicare levy on the amount of any Interest payment unless you provide one of the following:

- (a) TFN;
- (b) TFN exemption number (if applicable); or
- (c) ABN (if the Tranche B Notes are held in the course of an enterprise carried on by you).

### **3.9 Enquiries**

If you have any questions, please contact the Offer Information Line on 1800 774 615 (within Australia) or +61 1800 774 615 (outside Australia). The Offer Information Line will be open from 8:30am to 5:30pm (Sydney time), Monday to Friday (excluding public holidays).

While Link will be responsible for managing all enquiries received during the Offer Period regarding the Tranche B Notes and the Capital Raising, all correspondence in relation to the issue of the Tranche B Notes and information required from Eligible Noteholders should be addressed to the Note Registrar, not Link.

If you have any further questions, you should contact your stockbroker, accountant or other professional adviser.

## **4 Financial Information**

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### **4.1 Introduction**

This Section 4 contains the pro forma financial information for the Company and the effect of the Capital Raising. All information presented in Section 4 should be read in conjunction with the Company's quarterly activity report for the quarter ended 31 December 2021 released to ASX on 31 January 2022, the Company's H1 FY22 results released to ASX on 28 February 2022 and the remainder of this Prospectus, including the description of the use and proceeds of the Capital Raising described in Section 2.3, the indicative capital structure in Section 5.4 and the risk factors outlined in Section 7.

Eligible Noteholders should note that the Company will release its Appendix 4C and Q3 FY22 Activity Report by no later than 29 April 2022.

The financial information has been prepared on the basis of the Accounting Policies adopted by the Company and set out in the FY21 Annual Report and should be read in conjunction with the accompanying notes set out in this Section 4.

References to "pro forma" information are non-IFRS financial information prepared in accordance with ASIC Regulatory Guide 230 (Disclosing non-IFRS financial information). Non-IFRS financial information has not been subject to audit or review.

The Capital Raising will not reduce the amount of debt on the Company's balance sheet as the Tranche B Notes redeem the Loan Notes and both are classified as debt on the balance sheet. The amount of debt will be further reduced after a Conversion of Tranche B notes into Shares.

### **4.2 Pro Forma Statement of Cash Flows**

The Pro Forma Statement of Cash Flows reflects the reported results of Noumi Limited as shown in the financial statements for the half year to 31 December 2021 adjusted to reflect the sale of the Speciality Seafood business and the cash impact of various one-off items described in Note 3 below. Unless specified in the notes below, no account has been made in the Pro Forma Statement of Cash Flows for the impact of trading since 31 December 2021.

AUD '000s	Consolidated Statutory Cash Flow [1]	Removal Speciality Seafood [2]	Other adjustments [3]	Consolidated Statutory Cash Flow Normalised
<b>Cash flows from operating activities</b>				
Receipts from customers (inclusive of GST)	265,005	-	-	265,005
Payments to suppliers and employees (inclusive of GST)	(267,545)	-	1,693	(265,852)
<b>Cash flow from operations</b>	<b>(2,540)</b>	<b>(2,325)</b>	<b>1,693</b>	<b>(3,172)</b>
Payments for litigation related expenses	(4,904)	-	4,904	-
Interest received	586	-	(586)	-
Interest on lease liabilities paid	(4,848)	-	-	(4,848)
Other interest and finance costs paid	(3,469)	-	-	(3,469)
Income tax refund received	4,061	-	(4,061)	-
<b>Net cash used in operating activities</b>	<b>(11,114)</b>	<b>(2,325)</b>	<b>1,950</b>	<b>(11,489)</b>
<b>Cash flows from investing activities</b>				
Payments for property, plant and equipment	(2,426)	-	-	(2,426)
Net proceeds from disposal of business	2,087	(2,087)	-	-
<b>Net cash used in investing activities</b>	<b>(339)</b>	<b>(2,087)</b>	<b>-</b>	<b>(2,426)</b>
<b>Cash flows from financing activities</b>				
Payment of share option issue costs	(331)	-	331	-
Proceeds from issue of convertible notes - net of transaction costs	-	-	-	-
Proceeds from revolver financing facilities	4,000	-	-	4,000
Proceeds/(repayments) of other bank borrowings	(6,756)	-	-	(6,756)
Repayments of leases	(790)	-	-	(790)
<b>Net cash from financing activities</b>	<b>(3,877)</b>	<b>-</b>	<b>331</b>	<b>(3,546)</b>
Net increase/(decrease) in cash and cash equivalents	(15,330)	(4,412)	2,281	(17,461)
Cash and cash equivalents at the beginning of the financial half-year	31,668	-	-	31,668
<b>Cash and cash equivalents at the end of the financial half-year</b>	<b>16,338</b>	<b>(4,412)</b>	<b>2,281</b>	<b>14,207</b>

**Note 1:** As reported in the financial statements for the half year to 31 December 2021.

**Note 2:** Reflects the removal of the cash flows associated with the Speciality Seafood business as reported in Note 24 of the financial statements for the half year to 31 December 2021.

**Note 3:** Reflects the removal of the cash costs associated with the Final Agreement and other one-off costs, the removal of the cash refund received from the ATO during the year and the \$586,000 interest thereon and costs related to issuance of share options paid in the half year to 31 December 2021.

**Note 4:** For the purposes of the Pro Forma Statement of Cash Flows, it has been assumed that the Company elects not to pay the interest on the Tranche B Notes issued under the Capital Raising.

### 4.3 Pro Forma Statement of Financial Performance

The Pro Forma Statement of Financial Performance reflects the reported results of Noumi Limited as shown in the financial statements for the half year to 31 December 2021 adjusted to reflect various pro forma adjustments (detailed in the notes below) relating to the removal of certain one-off costs described in Note 2 and the impact of the Capital Raising as described in Note 3. For the purposes of Pro Forma Statement of Financial Performance, the maximum amount of the Capital Raising of \$27.2m has been assumed. Unless specified in the notes below no account has been made in the Pro Forma Statement of Financial Performance for the impact of trading since 31 December 2021.

AUD '000s	Half year ended 31 December 2021				
	Reported [1]	Adjustments [2]	Normalised	Impact \$27.2m raised [3]	Pro Forma (Assuming \$27.2m raised)
Revenue	265,289	-	265,289	-	265,289
Cost of sales	(214,963)	-	(214,963)	-	(214,963)
<b>Gross margin</b>	<b>50,326</b>	-	<b>50,326</b>	-	<b>50,326</b>
Selling, marketing and distribution expenses	(36,702)	-	(36,702)	-	(36,702)
<b>Gross profit</b>	<b>13,624</b>	-	<b>13,624</b>	-	<b>13,624</b>
Other (expenses)/income	(9,919)	(481)	(10,400)	(1,168)	(11,568)
Gain on modification of lease	4,807	(4,807)	-	-	-
Product development expenses	(972)	-	(972)	-	(972)
Reversal for expected credit losses	940	(1,128)	(188)	-	(188)
Administrative expenses	(19,630)	4,089	(15,541)	-	(15,541)
Impairment of non-financial assets	(4,214)	4,214	-	-	-
US litigation settlement related expenses	(50,727)	50,727	-	-	-
Interest on lease liabilities	(5,176)	-	(5,176)	-	(5,176)
Interest on convertible notes	-	-	-	-	-
Other interest and finance costs	(2,490)	(586)	(3,076)	-	(3,076)
Total financing costs	(7,666)	(586)	(8,252)	-	(8,252)
Share of profit/(losses) of associates accounted for using the equity method	361	-	361	-	361
<b>Loss before income tax</b>	<b>(73,396)</b>	<b>52,028</b>	<b>(21,368)</b>	<b>(1,168)</b>	<b>(22,536)</b>
<b>EBITDA pre AASB 16 (Continuing Operations)</b>	<b>2,098</b>	<b>2,480</b>	<b>4,578</b>	<b>-</b>	<b>4,578</b>

**Note 1:** Reflects the profit and loss from continuing operations (ie excluding Speciality Seafood) as shown in the financial statements for the half year to 31 December 2021.

**Note 2:** Reflects the removal of the costs associated with the Final Agreement, related expenses, restructuring and other litigation expenses, gain on modification of lease, impairment of non-financial assets and other one-off costs incurred as disclosed in the financial statements for the half year to 31 December 2021.

**Note 3:** Reflects the pro forma impact on financing costs assuming the maximum \$27.2m is raised under the Capital Raising. Interest for the Tranche B Notes is calculated at 8.5% PIK and accordingly there is no interest expense recognised but rather this will impact the change in fair value of the Tranche B Notes in accordance with Noumi's accounting policies. For the purposes of the Pro Forma Statement of Financial Performance it has been assumed that the only fair value movement is the implied interest on Tranche B Notes (\$1.2m). This change is recognised in other expenses / income.

#### 4.4 Pro Forma Statement of Financial Position

The Pro Forma Statement of Financial Position reflects the reported results of Noumi Limited as shown in the financial statements for the half year ending 31 December 2021 adjusted to reflect the issuance of Loan Notes to fund the Tranche 1 Settlement Payment and the impact of the Capital Raising. For the purposes of the Pro Forma Statement of Financial Position, the maximum amount of the Capital Raising (\$27.2m) has been assumed. Unless specified in the notes below, no account has been made in the Pro Forma Statement of Financial Position for the impact of trading since 31 December 2021.

	31-Dec-2021	Pro Forma Adjustments	31-Dec-2021	Pro Forma Adjustments	31-Dec-2021
	Statutory Balance Sheet [1]	Impact Loan Note & Initial US litigation payment [2]	Pro Forma (post Loan note and initial US litigation payment)	Impact of the Capital Raising [3]	Pro Forma (assuming \$27.2m raised) [4]
<b>AUD in '000s</b>					
<b>Current assets</b>					
Cash and cash equivalents	16,338	2,594	18,932	(106)	18,825
Trade and other receivables	55,518	-	55,518	-	55,518
Inventories	47,606	-	47,606	-	47,606
Prepayments	2,003	-	2,003	-	2,003
	<b>121,465</b>	<b>2,594</b>	<b>124,059</b>	<b>(106)</b>	<b>123,952</b>
Non-current assets classified as held for sale	23,045	-	23,045	-	23,045
<b>Total current assets</b>	<b>144,510</b>	<b>2,594</b>	<b>147,104</b>	<b>(106)</b>	<b>146,997</b>
<b>Non-current assets</b>					
Financial assets at fair value through other comprehensive income	5,857	-	5,857	-	5,857
Investments accounted for using the equity method	-	-	-	-	-
Property, plant and equipment	248,098	-	248,098	-	248,098
Right-of-use assets	75,228	-	75,228	-	75,228
Intangibles	29,764	-	29,764	-	29,764
Prepayments	169	-	169	-	169
<b>Total non-current assets</b>	<b>359,116</b>	<b>-</b>	<b>359,116</b>	<b>-</b>	<b>359,116</b>
<b>Total Assets</b>	<b>503,626</b>	<b>2,594</b>	<b>506,220</b>	<b>(106)</b>	<b>506,113</b>



<b>Current liabilities</b>					
Trade and other payables	(61,055)	-	(61,055)	340	(60,715)
Payable to related parties	(2,212)	-	(2,212)	-	(2,212)
Borrowings	(23,406)	-	(23,406)	-	(23,406)
<i>Full recourse debtor finance</i>	(12,030)	-	(12,030)	-	(12,030)
<i>Equipment financing liabilities</i>	(11,376)	-	(11,376)	-	(11,376)
Loan Notes	-	(26,000)	(26,000)	26,000	-
Lease liabilities	(1,420)	-	(1,420)	-	(1,420)
Income tax	(3,248)	-	(3,248)	-	(3,248)
Other	(32,729)	23,406	(9,323)	-	(9,323)
<b>Total current liabilities</b>	<b>(124,070)</b>	<b>(2,594)</b>	<b>(126,664)</b>	<b>26,340</b>	<b>(100,324)</b>
<b>Non-current liabilities</b>					
Borrowings	(72,505)	-	(72,505)	-	(72,505)
<i>Revolver financing facilities</i>	(4,000)	-	(4,000)	-	(4,000)
<i>Equipment Financing</i>	(68,505)	-	(68,505)	-	(68,505)
Convertible Notes	(239,461)	-	(239,461)	(27,200)	(266,661)
Lease Liabilities	(97,167)	-	(97,167)	-	(97,167)
Provisions	(19,346)	-	(19,346)	-	(19,346)
<b>Total non-current liabilities</b>	<b>(428,479)</b>	<b>-</b>	<b>(428,479)</b>	<b>(27,200)</b>	<b>(455,679)</b>
<b>Total liabilities</b>	<b>(552,549)</b>	<b>(2,594)</b>	<b>(555,143)</b>	<b>(860)</b>	<b>(556,003)</b>
<b>Net Assets</b>	<b>(48,923)</b>	<b>-</b>	<b>(48,923)</b>	<b>(966)</b>	<b>(49,889)</b>
<b>Equity</b>					
Issued Capital	598,712	-	598,712	-	598,712
Reserves	(45,303)	-	(45,303)	-	(45,303)
Accumulated losses	(602,332)	-	(602,332)	(966)	(603,298)
<b>Total Equity</b>	<b>(48,923)</b>	<b>-</b>	<b>(48,923)</b>	<b>(966)</b>	<b>(49,889)</b>

**Note 1:** As reported in the financial statements for the half year ending 31 December 2021.

**Note 2:** Reflects the raising of Loan Notes of \$26.0m on 25 February 2022 and payment of Tranche 1 Settlement Payment (\$23.4m) on 17 March 2022.

**Note 3:** Reflects the maximum gross consideration raised under the Capital Raising of \$27.2m. If the minimum gross consideration is raised under the Capital Raising (\$26.4m), pro forma cash and cash equivalents and the Tranche B Notes balance will reduce by \$0.8m. In accordance with the Company's accounting policy, the Tranche B Notes are carried at fair value.

**Note 4:** The \$27.2m proceeds of the Capital Raising will be used to settle the \$26.0m Loan Notes, as well as \$0.4m of accrued interest (assuming a repayment date of 29 April 2022). The proceeds will also be used to settle \$0.8m of transaction costs related to the Capital Raising of which \$0.3m had been accrued at 31 December 2021.

## 5 The Company and the Capital Raising

### 5.1 Board of Directors

The Board's role is to govern rather than manage the Company and it does this by providing leadership for and supervision of the Company's Executive Management. Further information on the role and responsibilities of the Board is set out in the Company's Board Charter (a copy of which can be obtained at <https://noumi.com.au/investors/corporate-governance/>). The Directors of the Company bring to the Board relevant experience and skills, including sector and business knowledge, financial management and corporate governance experience. Profiles of each member of the Board are set out below.

Name / Role	Description	Committee Membership
<p><b>Genevieve Gregor</b></p> <p><b>Chair and Non-Executive Director (Independent)</b></p>	<p>Genevieve is a Senior Advisor and Founding Partner of Colinton Capital Partners, a mid-market private equity firm investing in Australian growth companies. Prior to this, Genevieve was the co-head and Managing Director of the Asia Special Situations Group in Australia for Goldman Sachs. Genevieve has had over 30 years' experience working in banking and finance. Prior to joining Goldman Sachs, Genevieve was head of the Australian loan capital markets business at Citigroup. Prior to Citigroup, she worked at MIM Holdings, now Xstrata Australia Limited. Genevieve was until recently the Deputy Chancellor of Western Sydney University, Chair and of the Finance and Investment Committee and Trustee at WSU for more than 10 years. She is a non-executive director of Moneytech Finance Group.</p>	<p>Member of all committees of the Board</p>
<p><b>Tony Perich AM</b></p> <p><b>Deputy Chairman and Non-Executive Director</b></p>	<p>Tony is a Member of the Order of Australia. He is joint Managing Director of Arrovest, Leppington Pastoral Co Pty Ltd, one of Australia's largest dairy producers, and various other entities associated with Perich Enterprises Pty Ltd. He is also a property developer, farmer and business entrepreneur. Outside of the Perich Group, Tony holds a number of other directorships including Greenfields Narellan Holdings, and Ingham Institute for Applied Medical Research. Memberships include Narellan Chamber of Commerce, Narellan Rotary Club, Urban Development Institute of Australia, Urban Taskforce, Property Council of Australia, past President of Narellan Rotary Club and past President of</p>	<p>Member of the Risk and Compliance Committee</p>

	Dairy Research at Sydney University. He was appointed as a Director in July 2006.	
<b>Jane McKellar</b> <b>Non-Executive Director (Independent)</b>	Jane is an experienced non-executive director in both public and private companies in Australia and the US. Jane's executive experience as both a CEO and Chief Marketing Officer spans the consumer-focused FMCG, luxury and retail industries and she is one of the original 'digital natives' in Australia. She has held senior roles in Unilever, Microsoft, Elizabeth Arden and Stila Corporation and she has extensive global experience, particularly in Asia, Europe and North America. Her key contributions are in customer and consumer-focused business transformation, harnessing digital, technology, brand and marketing to enhance business performance. Jane is currently on the board of ASX-listed GWA Group and McPhersons and she also sits on the board of the NRMA.	Chair of the People and Culture Committee  Member of all committees of the Board
<b>Timothy Bryan</b> <b>Non-Executive Director (Non-Independent)</b>	Tim is the Chief Executive Officer of the Perich Group of companies, with operations across extensive dairy, farming, manufacturing and property development. As a Chartered Accountant with over 30 years' experience largely in advisory roles, he was previously Managing Partner of Kelly + Partners South West Sydney. Outside of the Perich Group, Tim holds a number of other directorships, which includes Kids of Macarthur Health Foundation and Ingham Institute for Applied Medical Research, where he also chairs the finance and audit committee.	Chair of the Risk and Compliance Committee  Member of the People and Culture Committee
<b>Stuart Black AM</b> <b>Non-Executive Director (Independent)</b>	Stuart is a Chartered Accountant with extensive experience in business. He retired in 2013 as managing partner of a practice specialising in agribusiness. Stuart has over 20 years' experience as an ASX non-executive director and currently sits on the board of Australian Agricultural Company Limited. Stuart is a past President of the Institute of Chartered Accountants of Australia. He was the inaugural Chair and a past board member of the Accounting Professional and Ethical Standards Board and served as the Australian representative on the International Federation of Accountants SMP Committee. Stuart is former Chair of the Chartered Accountants Benevolent Fund Limited and a former director of the	Chair of the Finance and Audit Committee  Member of the Risk and Compliance Committee

	<p>Country Education Foundation of Australia Limited. In 2012, Stuart was appointed a Member of the Order of Australia for services to the profession of accounting, to ethical standards, as a contributor to professional organisations and to the community. Former listed company directorships within the past three years: non-executive director of NetComm Wireless Limited (appointed in 2013 and resigned in 2019).</p>	
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## 5.2 Key management personnel

The Company's key management personnel as at the date of this Prospectus are as follows:

Name / Role	Description
<p><b>Michael Perich</b>  <b>Chief Executive Officer</b></p>	<p>Michael is an experienced executive with over 25 years' experience working within the dairy industry. Michael currently holds directorships in Arrovest and various other entities associated with Perich Entities. He held previous directorships in Leppington Pastoral Co. Pty Ltd as well as Contract Beverages Packers of Australia Pty Ltd, a joint venture controlled equally by the Company and Arrovest. Michael also had a previous role as joint Managing Director of Australian Fresh Milk Holdings, Australia's largest dairy producer. Michael is a graduate Member of the Australian Institute of Company Directors post nominals. He was appointed as an Alternative Director for Noumi in March 2009 and in August 2020 was appointed Interim Chief Executive Officer. Michael assumed the permanent position of Chief Executive Officer in March 2021.</p>
<p><b>Peter Myers</b>  <b>Chief Financial Officer</b></p>	<p>Peter is an experienced chief financial officer of both ASX-listed companies and private enterprises. He brings extensive experience leading business turnarounds, financial restructuring and corporate transformation across a variety of industries, including retailing, media, manufacturing and communications. Peter's experience includes senior executive roles at Speedcast International Limited, Amart Furniture, Billabong International Limited, APN News and Media Limited, Network Ten Limited, Schroeders Australia and Century Yuasa Batteries.</p>
<p><b>Stuart Muir</b>  <b>Chief Operations Officer</b></p>	<p>Stuart is a senior operations executive with extensive dairy, FMCG and food manufacturing experience. His background spans end-to-end supply chain management and he is a proven leader of large multi-functional teams covering manufacturing, safety, planning, logistics, environment, quality, research, and development. Stuart has had an extensive career in both Unilever and most recently as Director of Supply Chain, Quality and Research &amp; Development at Lion Dairy and Drinks.</p>
<p><b>Justin Coss</b>  <b>Group General Counsel and</b></p>	<p>Justin has over 25 years' experience as a legal practitioner in private practice and in-house, including over 10 years experience as a company secretary. Justin holds bachelor's degrees in arts and law from the University of Queensland and a postgraduate Diploma in Insurance from the Chartered Insurance Institute in the</p>

<b>Company Secretary</b>	United Kingdom. He is a Fellow of the Australian and New Zealand Institute of Insurance and Finance, the Institute of Chartered Secretaries and Administrators and of the Governance Institute of Australia. Justin possesses a postgraduate Diploma in Applied Corporate Governance from the Governance Institute of Australia and an Advanced Diploma in Management from the Australian Institute of Management. Justin is an active participant in the legal industry and currently serves as Chair of the Board and National President of the Association of Corporate Counsel Australia.
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### 5.3 Further information concerning the Company

This Prospectus is issued by the Company in accordance with the provisions of the Corporations Act applicable to a prospectus for continuously quoted securities. It has been prepared in accordance with section 713 of the Corporations Act and ASIC *Corporations (Offers of Convertibles) Instrument 2016/83*. It is a transaction-specific prospectus and, as such, it does not contain the same level of disclosure as an initial public offering prospectus.

As a disclosing entity, the Company is subject to regular reporting and disclosure obligations. As a listed company, the Company is subject to the ASX Listing Rules which require, subject to certain exceptions, immediate disclosure to the market of any information of which the Company is aware which a reasonable person might expect to have a material impact on the price or value of the Shares.

The Company will make further announcements in respect of any such matters in accordance with its disclosure obligations as and when material developments occur.

Investors requiring further information about the Company or who may wish to view a record of the Company's announcements to ASX may do so by visiting the Company's website ([www.noumi.com.au](http://www.noumi.com.au)) or from the ASX website ([www.asx.com.au](http://www.asx.com.au)). This Prospectus is intended to be read in conjunction with all information concerning the Company which has been previously publicly disclosed by the Company.

For further information on the announcements made by the Company to ASX, refer to Section 8.2.

### 5.4 Effect of the Capital Raising on the capital structure

The maximum effect of the Capital Raising (and the maximum number of Shares on Conversion of the Tranche B Notes) on the capital structure of the Company is set out in the table below.

For the purpose of the following table, it is assumed that:

- (a) up to 27.2 million Tranche B Notes are issued under the Capital Raising (being the maximum number of Tranche B Notes that may be issued under the Capital Raising);
- (b) the Tranche A Notes are converted into Shares at the Maturity Date and all Interest has been capitalised at the PIK Interest rate of 8.5% per annum until August 2023 (being 27 months from the issue date of the Tranche A Notes), followed by Partial Cash Interest of 5.0% per annum and a Partial PIK Interest rate of 3.5% per annum until the Maturity Date (as those terms are defined in the Note Terms);

- (c) the Tranche B Notes are converted to Shares at the Maturity Date and all Interest has been capitalised at the PIK Interest rate of 8.5% per annum until August 2023 (being 27 months from the issue date of the Tranche A Notes), followed by Partial Cash Interest of 5.0% per annum and a Partial PIK Interest rate of 3.5% per annum until the Maturity Date (as those terms are defined in the Note Terms);
- (d) no Tranche A Notes or Tranche B Notes are repurchased and/or cancelled prior to the Maturity Date;
- (e) there is no reorganisation, share split, consolidation, bonus-issue, buy-back, merger or other reorganisation event (and, as a result, no adjustment in the conversion price is required or made under the Note Terms); and
- (f) no other issues of Shares or securities convertible into Shares take place in the period prior to the Maturity Date.

	Shares	Convertible redeemable preference shares	Tranche A Notes	Tranche B Notes	Options
Existing securities as at date of Prospectus	277,109,319	101,130	265,000,000	-	27,698,189
New securities issued under Capital Raising	-	-	-	Up to 27,200,000	-
Total securities on issue following conversion of maximum Tranche B Notes to Shares at the Maturity Date (if no Options are exercised and no Tranche A Notes are converted)	385,576,508	101,130	265,000,000	-	27,698,189
Total securities on issue following conversion of maximum Tranche B Notes to Shares at the Maturity Date (if no Options are exercised, and all Tranche A Notes are converted)	907,451,615	101,130	-	-	27,698,189
Total securities on issue following conversion of maximum Tranche B Notes to Shares at the Maturity Date (if all Options are exercised and all Tranche A Notes are converted)	935,149,804	101,130	-	-	-

*Note: Assumes that the Tranche A Notes and Tranche B Notes are converted at the Maturity Date and any Interest payable on those Notes is capitalised at the PIK Interest rate of 8.5% per annum until August 2023 (i.e. 27 months from the issue date of the Tranche A Notes), followed by Partial Cash Interest of 5.0% per annum and a Partial PIK Interest rate of 3.5% per annum until the Maturity Date (as those terms are defined in the Note Terms).*

### **Arrovest control implications**

Arrovest, an Existing Noteholder which holds 126,142,300 Tranche A Notes, is excluded from participating in the Capital Raising. This means that Arrovest's total equity holding in the Company will be **decreased** by Shareholders approving the Resolution and the issuance of Tranche B Notes.

The table below shows Arrovest's total maximum dilution in two scenarios:

- (1) where all 27.2 million Tranche B Notes are issued and all Tranche B Notes, Tranche A Notes (excluding those held by Arrovest) and Options are converted into Shares at the Maturity Date; and
- (2) where all 27.2 million Tranche B Notes are issued and all Tranche B Notes, Tranche A Notes (including those held by Arrovest) and Options are converted into Shares at the Maturity Date.

	<b>Securities held</b>	<b>Voting Power (%)</b>
<b>Securities held by Arrovest prior to the Capital Raising</b>	145,556,000 Shares 126,142,300 Tranche A Notes	52.5% (assuming no Tranche A Notes have been converted)
<b>Pro forma Shares held by Arrovest on conversion of all Tranche A Notes (excluding those held by Arrovest), Tranche B Notes and Options at the Maturity Date</b>	145,556,000 Shares 126,142,300 Tranche A Notes	21.2%
<b>Pro forma Shares held by Arrovest on conversion of all Tranche A Notes (including those held by Arrovest), Tranche B Notes and Options at the Maturity Date</b>	393,973,081 Shares	42.1%

## **5.5 Shareholder approval in relation to Capital Raising**

On 8 April 2022, the Company held an Extraordinary General Meeting at which its Shareholders approved the issuance and Conversion of up to 27.2 million Tranche B Notes in connection with the Capital Raising, for the purposes of ASX Listing Rule 7.1. No further Shareholder approvals are required to conduct the Capital Raising.

## 6 Australian Taxation Implications

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The following is a summary of the Australian tax implications for certain Eligible Noteholders who subscribe for the Tranche B Notes under the Capital Raising and who hold Tranche B Notes on revenue account on the basis they are regarded as a “traditional security” under section 26BB of the *Income Tax Assessment Act 1936 (1936 Act)* and Shares acquired on Conversion of Tranche B Notes on capital account for Australian tax purposes.

This summary does not consider the tax consequences for Eligible Noteholders who:

- (a) acquire the Tranche B Notes otherwise than under the Capital Raising;
- (b) are not Australian tax residents other than in relation to Interest payments;
- (c) hold their Shares acquired on Conversion of Tranche B Notes on revenue account;
- (d) carry on a business of trading in shares or securities;
- (e) are exempt from Australian tax;
- (f) are subject to Division 230 of the *Income Tax Assessment Act 1997 (1997 Act)* (the **Taxation of Financial Arrangements** or “**TOFA**” regime); or
- (g) are an “associate”, “associated persons” or “related persons” (as defined for Australian income tax and stamp duty purposes) of the Company.

This summary is based on the Australian tax law, and our understanding of the practice of the tax authorities, at the time of issue of the Prospectus. The laws are complex and subject to change periodically as is their interpretation by the courts and the tax authorities. This summary is general in nature and is not intended to be an authoritative or complete statement of the applicable law. It does not take into account the tax law of countries other than Australia. The precise implications of ownership or disposal will depend upon each Eligible Noteholder’s specific circumstances.

Eligible Noteholders should obtain, and rely upon, their own independent taxation advice about the consequences of acquiring, redeeming, converting or disposing of the Tranche B Notes having regard to their own specific circumstances.

### **Tax treatment of Tranche B Notes**

The Tranche B Notes should be classified as a debt interest for the purposes of the 1936 Act and Division 974 of the 1997 Act and also as “traditional securities” for the purposes of sections 26BB and 70B of the 1936 Act.

### **Interest payable on Tranche B Notes**

#### *Australian tax residents*

The Tranche B Notes should be classified as debt interests for the purposes of the 1936 Act and the 1997 Act. Australian resident Eligible Noteholders should include the interest on the Tranche B Notes in their assessable income in the year of income in which the interest is derived from them. Generally, taxpayers will derive interest income at the time of payment either in cash or in kind.



### *Non-Australian tax residents*

Where:

- an Eligible Noteholder is a non-resident of Australia for tax purposes; and
- the Eligible Noteholder does not hold Tranche B Notes through a permanent establishment in Australia,

then the interest payments received in respect of the Tranche B Notes should not be included in the Australian assessable income of the Eligible Noteholder.

Normally, interest payments made to such non-residents would be subject to Australian withholding tax. However, it is intended the Tranche B Notes will be issued in a manner that will cause the Interest payments to be exempt from Australian withholding tax under section 128F of the 1936 Act.

The exemption in section 128F will not apply if, at the time of issue of the Tranche B Notes, the Company knows or has reasonable grounds to suspect that Tranche B Notes, or interests in Tranche B Notes, are being, or will be acquired, directly or indirectly, by an associate of the Company that is not a resident of Australia acting through a permanent establishment in Australia (or who is a resident of Australia acting through a permanent establishment outside Australia), other than in the capacity of a dealer, manager or underwriter in relation to a placement of Tranche B Notes or in the capacity of a clearing house, custodian, funds manager or responsible entity of a registered scheme (an **Offshore Associate**). The Company will take all reasonable steps to ensure that no Tranche B Notes are acquired by an Offshore Associate under the Capital Raising.

If the exemption under section 128F does not apply and an Interest payment to a non-resident Eligible Noteholder is subject to withholding tax, in accordance with clause 16.2 of the Note Terms, the Company has no obligation to pay an additional amount to compensate for the withholding tax.

If a non-resident Eligible Noteholder does hold Tranche B Notes through a permanent establishment in Australia, then Interest payments will be included in the assessable income of the Eligible Noteholder for Australian taxation purposes. Interest withholding tax will not apply to Interest payments paid to such an Eligible Noteholder.

### **Disposal of Tranche B Notes prior to Conversion or Redemption**

Where an Eligible Noteholder disposes of a Tranche B Note prior to the Conversion or Redemption of that Tranche B Note, any gain over the Issue Price should be included in the Eligible Noteholder's assessable income under Section 26BB of the 1936 Act. Eligible Noteholders will not be eligible for the CGT discount on any gains made in these circumstances.

Where an Eligible Noteholder disposes of a Tranche B Note prior to the Conversion or Redemption of that Tranche B Note for less than its Issue Price, the loss should ordinarily be deductible under Section 70B of the 1936 Act.

However, in certain circumstances set out in section 70B of the 1936 Act, a loss realised will not be deductible and will be treated as a capital loss for Australian taxation purposes. Whether the loss arising on Conversion or Redemption is tax deductible or is a capital loss will depend on the circumstances of the Eligible Noteholder and Eligible Noteholders that realise a loss on the disposal of their Tranche B Notes should seek their own independent tax advice in this regard.

The disposal of the Tranche B Notes will also constitute a taxable CGT event under the capital gains tax provisions. To avoid double taxation, the amount of any capital gain on

the disposal of a Tranche B Note will be reduced to the extent the gain is included in an Eligible Noteholder's assessable income under section 26BB of the 1936 ACT, and any capital loss will be reduced by the amount of the loss deductible under section 70B of the 1936 Act.

### **Conversion of Tranche B Notes to Shares**

Where an Australian resident Eligible Noteholder elects to convert their Tranche B Notes into Shares, any assessable gain made, or deductible loss incurred by the Eligible Noteholder should be disregarded under section 26BB or 70B of the 1936 Act (as applicable). Similarly, no capital gain or loss for CGT purposes should arise at the time of conversion.

### **Cost Base and Disposal of the Shares resulting from the Conversion of the Tranche B Notes**

Where an Eligible Noteholder elects to Convert their Tranche B Notes into Shares, the first element of the cost base and reduced cost base in the Shares for CGT purposes should be determined by apportioning the cost base or reduced cost base (as applicable) of the Tranche B Notes over the Shares on a reasonable basis.

For CGT purposes, Eligible Noteholders should be deemed to have acquired the Shares at the time of Conversion of the Tranche B Notes.

The subsequent disposal of Shares by an Australian tax resident should give rise to a capital gain or capital loss. Broadly, a capital gain should arise if the capital proceeds from the disposal of the Shares by the Eligible Noteholder exceed the cost base of the Shares while a capital loss should arise if the capital proceeds from the disposal of the Shares are less than the reduced cost base of the Shares.

Certain taxpayers may be entitled to a discount on the amount of the assessable capital gain (after application of any available capital losses) arising from the disposal of Shares, if the Shares have been held for at least 12 months from the date of their acquisition for CGT purposes (the **CGT discount**). The CGT discount is currently 50% for individuals and trusts and 33.33% for complying super funds and eligible life insurance companies.

### **Redemption of Tranche B Notes by the Company (on the Maturity Date or earlier)**

Where the Company Redeems the Tranche B Notes and the Redemption proceeds (Makewhole Amount) exceed the apportioned issue price, the Eligible Noteholder should realise an assessable gain on the Redemption. The gain should be included in the Eligible Noteholder's assessable income under Section 26BB of the 1936 Act. In the event of a loss on Redemption, the loss should be deductible from the Eligible Noteholder's assessable income under Section 70B of the 1936 Act.

### **Stamp duty**

Under current law, no stamp duty should be payable by Eligible Noteholders on the issue, receipt, transfer or Redemption of the Tranche B Notes. Where the Tranche B Notes are Converted into Shares, stamp duty may arise on the conversion. The Eligible Noteholder should obtain professional stamp duty advice prior to the Conversion of the Tranche B Notes.

### **GST**

Eligible Noteholders should not be liable for GST in respect of their investment in the Tranche B Notes. Eligible Noteholders may not be entitled to claim full input tax credits in respect of any GST paid on costs incurred in connection with their acquisition of the

Tranche B Notes. Separate GST advice should be sought by Eligible Noteholders in this respect.

**Tax File Numbers (TFN) and Australian Business Numbers (ABN)**

Resident Eligible Noteholders may, if they choose, notify the Company of their TFN, ABN or a relevant exemption from withholding tax with respect to the Tranche B Notes. In the event the Company is not so notified, withholding tax will automatically be deducted from distributions. The current rate of withholding tax is 47%, which is made up of the highest marginal tax rate (currently 45%), plus Medicare Levy (currently 2%).

The Company is required to withhold and remit to the Australian Taxation Office such tax until such time as the relevant TFN, ABN or exemption notification is given to it. Resident Eligible Noteholders will be able to claim a tax credit in respect of any tax withheld on dividends in their income tax returns.

## 7 Key risks

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### 7.1 Introduction

By investing in the Tranche B Notes you will be lending money to the Company in accordance with the Note Terms and you will be exposed to a number of risks which can be broadly classified as risks associated with the Tranche B Notes and with the Company's business, which may affect recovery in respect of the Tranche B Notes. There are also risks associated with the Capital Raising.

This Section describes the potential risks associated with the Company's business and the risks associated with an investment in the Tranche B Notes and with the Shares. It does not list every risk associated with an investment in the Tranche B Notes or with the Shares now or in the future. Eligible Noteholders will already be exposed to many of the risks associated with the Company's business and the Tranche B Notes through their holding of Tranche A Notes in the Company. Some risks can be mitigated by appropriate commercial action, but many risks described in this Section of the Prospectus are partially or completely outside the control of the Company and its Directors.

The selection of risks is based on an assessment of a combination of the probability of the risk occurring and the impact of the risk if it did occur. This assessment is based on the knowledge of the Directors as at the date of this Prospectus. There is no guarantee or assurance the importance of different risks will not change, other risks will not emerge or there may be contagion between two or more risks. Additional risks and uncertainties the Company is unaware of, or it currently considers to be immaterial, may also become important factors that adversely affect the Company's operating and financial performance.

Neither the Company nor any of its Directors or any other party associated with the preparation of this Prospectus guarantees any specific objectives of the Company will be achieved or any particular performance of the Company or the Tranche B Notes will be achieved.

There is no guarantee any forward-looking statements contained in this Prospectus will be realised or will otherwise eventuate. Past performance is not a reliable indicator of future performance.

Before applying for Tranche B Notes, you must be satisfied you have sufficient understanding of the risks noted in this Section and have fully considered whether the Tranche B Notes are a suitable investment for you, having regard to your own investment objectives, financial circumstances and taxation position. You should read this Prospectus in full and seek professional financial and legal advice if you require further information and advice before deciding to subscribe for Tranche B Notes.

### 7.2 Risks associated with investing in Tranche B Notes

#### **Investments in the Tranche B Notes are an investment in the Company**

Investments in the Tranche B Notes are an investment in the Company and may be affected by the ongoing performance, financial position and solvency of the Company and its Subsidiaries. The Tranche B Notes are not guaranteed by any government, government agency or compensation scheme in Australia or by any other person or any other jurisdiction.

## **Suitability**

The Tranche B Notes are a complex investment and may be difficult to understand, even for experienced investors. You should ensure that you understand the Note Terms and risks of investing in the Tranche B Notes and consider whether it is an appropriate investment for your particular circumstances.

## **Liquidity of the Tranche B Notes**

The Tranche B Notes will not be quoted on ASX or any other securities exchange. As a result, there is no direct market on which to sell the Tranche B Notes. The value attached to the Tranche B Notes may not be realised until the Tranche B Notes are Converted into Shares or Redeemed.

## **Market price and liquidity of Shares**

The market price of the Shares may be volatile. The volatility of the market price of the Shares may cause volatility in the price of the Tranche B Notes and affect your ability to sell your Tranche B Notes at all, or at an acceptable price. Additionally, this may result in greater volatility in the market price of the Tranche B Notes than would be expected for non-convertible debt securities. Similarly, the issue of the Tranche B Notes may result in downward pressure on the market price of Shares.

In addition, any Shares held by Eligible Noteholders following Conversion of their Tranche B Notes will have the same rights as other existing Shares, which are different from the rights attached to the Tranche B Notes. The market price of the Shares may fluctuate over time as a result of a number of factors.

At the time Shares are issued to Eligible Noteholders on a Conversion, the market price of the Shares will likely vary from the Conversion Price of the Tranche B Notes.

Where the Tranche B Notes are Converted into Shares, there may be no liquid market for Shares at the time of Conversion, or the market may be less liquid than that for comparable securities issued by other entities at the time of Conversion.

As a consequence, Eligible Noteholders who wish to sell the Shares they may receive on Conversion of their Tranche B Notes may be unable to do so at an acceptable price, or at all, if the market for Shares is illiquid. Further, following Conversion, Arrovest may continue to hold a large stake of the Company's Shares. The absence of any sale of Shares by Arrovest may cause, or at least contribute to, limited liquidity in the market for the Shares.

In addition, there is no guarantee that Shares will remain continuously quoted on ASX. Trading of ASX listed securities may be suspended in certain circumstances.

## **Interest payments**

The Company is required to pay Interest on the Tranche B Notes as set out in Section 9.13. Among other methods, the Company may choose to pay Interest in cash or 'in-kind'. The Company's decision to pay Interest on Tranche B Notes in cash will depend on, among other things, the Company's ability to generate sufficient cash flow from operations to support interest payments. The Company's ability to generate cash flows from its operations will depend substantially on the Company's ability to maintain its position within the competitive market in which it operates, including its existing customer relationships, and its ability to implement its growth strategies. The Company's ability to exercise its discretion to pay interest on the Tranche B Notes in cash will also be subject to the Intercreditor Deed (which restricts cash payments to Noteholders whilst an enforcement action is being undertaken).

### **Interest rate risk**

The Interest rate(s) payable on the Tranche B Notes will be fixed by reference to the agreed percentages set out in Section 9.14.

If the Company has issued a Relevant Disputes Notice, Interest will be reduced in the way set out in Section 9.14.

Any amount due under the Tranche B Notes which is not paid when due will also accrue interest at a rate of 2% per annum from the due date to (but excluding) the date on which payment is made to the Noteholder of the full unpaid amount.

The market price of the Tranche B Notes on ASX may fluctuate due to changes in interest rates generally, credit spreads on other corporate securities or investor sentiment towards the Company.

### **Limited circumstances for Redemption of Tranche B Notes and cash payment**

The Tranche B Notes may or must be Redeemed in certain circumstances set out in further detail in Section 9.25.

The Trustee can declare by notice to the Company that all the Notes (being the Tranche A Notes and Tranche B Notes) are to be Redeemed for the Makewhole Amount following the occurrence of an Event of Default.

The Company must redeem the Tranche B Notes in full on the Maturity Date. In addition, the Company has the right to voluntarily redeem the Tranche B Notes prior to the Maturity Date, by issuing an Early Redemption Notice.

The Tranche B Notes may also be redeemed at an Eligible Noteholder's election if an Exit Event occurs and an Eligible Noteholder has not exercised its Conversion rights for its respective Tranche B Notes prior to the Exit Event.

The amount payable on Redemption of the Tranche B Notes will depend on the time and circumstances under which the Tranche B Notes are Redeemed. The amount payable may be less than the previously prevailing market value of the Tranche B Notes. Additionally, in the event of an early Redemption of Tranche B Notes, you may not receive the returns you expected to achieve on your Tranche B Notes (if the Tranche B Notes had been held until the Maturity Date).

If the Tranche B Notes are required to be Redeemed, the Company may need to use the proceeds from future debt or equity raisings, cash flows from operations or proceeds from the sale of investments to meet the amounts payable to Eligible Noteholders in respect of such Redemption. There is a risk that the Company may be unable to procure or raise sufficient cash resources from its operations, future debt or equity raisings and may, in that case, have insufficient cash to Redeem the Tranche B Notes in accordance with the Note Terms.

If the Company fails to make Interest payments or Redeem the Tranche B Notes when due, the Trustee and/or the Security Trustee (as applicable) has certain rights under the Transaction Documents to take enforcement action against the Company and/or the Guarantors. The rights of each Eligible Noteholder to enforce the obligations of the Company under the Tranche B Notes are limited to the exercise of its rights to enforce and seek due administration by the Trustee of the Trust Deed and by the Security Trustee of the Security Trust Deed.

### **The Tranche B Notes are subject to changes of law**

The Note Terms are governed by the laws of New South Wales. No assurance can be given as to the impact of any possible judicial decision or change to New South Wales law or administrative practice after the date of issue of the Tranche B Notes. Should any of those laws change over time, the legal requirements to which the Company may be subject could differ materially from current requirements.

### **Security subordinated to Senior Financiers**

The Company's payment obligations under the Tranche B Notes rank in priority behind, and are subordinated to, its payment of Priority Permitted Debt, and any payment obligations preferred by law as set out in Section 9.9. Accordingly, the indebtedness of the Company in respect of the Tranche B Notes:

- (a) may not be satisfied unless the Company can satisfy in full all of its other obligations ranking senior to the Tranche B Notes; and
- (b) may not be satisfied in full unless the Company can also satisfy in full all of its other obligations ranking equally with the Tranche B Notes,

and future granting of security interests and incurrence of debts by the Company may dilute the claim of the Eligible Noteholders or reduce the value of their investment or liquidity of the Tranche B Notes.

As set out in the Company's H1 FY22 financial results announcement for the period ending 31 December 2021, the Company recorded a net loss of \$65.8 million and is currently in a negative net tangible asset position. Accordingly, there is a risk that the value that can be recovered from the assets available to Eligible Noteholders following any enforcement of the security (and following repayment of any senior secured debt) may be insufficient to cover the Makewhole Amount or Redemption payment which is payable at that time (which is likely to exceed the Face Value of the Tranche B Notes at the time of any enforcement or Redemption). Eligible Noteholders should form their own view as to the value of the Company based upon their expectations and assumptions of the turnaround of the business, and financial performance of the Company.

### **Enforcement risk and intercreditor arrangements**

The Note Terms provide that rights under the Trust Deed may generally only be enforced by the Trustee and not by the Noteholders directly. Noteholders must therefore notify their claims to the Trustee and rely on enforcement by the Trustee, except in certain circumstances where the Trustee has failed to take action after being directed by the Noteholders to do so.

There is a risk that an individual Noteholder may not be able to require enforcement action to be taken by the Trustee and/or Security Trustee unless the requisite number of Noteholders similarly require that enforcement action be taken. The number of Noteholders required to enforce the Note Terms upon the occurrence of specified Events of Default is detailed in Section 9.35.

The intercreditor Deed also regulates the circumstances in which the Trustee and Security Trustee can take enforcement action. Whilst the Security Trustee has the rights, under the Intercreditor Deed, to enforce, there is a risk that one or more Senior Financiers may withdraw liquidity support during any enforcement action by the Security Trustee and/or refuse to co-operate with the enforcement action taken or proposed by the Security Trustee (including in respect of the provision of releases and discharges). This

may affect the ability of the Trustee and the Security Trustee to take enforcement action (or the value that may be realised by the Security Trustee and/or Trustee upon such enforcement action). Other security holders may also obstruct or delay realisation of assets of the Group by the Security Trustee and Trustee. Further details of the provisions of the Intercreditor Deed are set out in Section 8.13.

The Intercreditor Deed only regulates the intercreditor arrangements between the Senior Financiers, the Trustee, Security Trustees, the Noteholders and the Company. The Company has other creditors and security holders which are not subject to formal intercreditor arrangements. There is a risk that any enforcement action taken by the Trustee and/or the Security Trustee will be negatively affected by actions taken by other secured creditors of the Company.

In all circumstances, enforcement of the Trust Deed and each Collateral Security are subject to the Intercreditor Deed.

### **Ranking in a Winding Up**

The Tranche B Notes are issued by the Company under the Trust Deed and on and subject to the terms of the Trust Deed and the Note Terms.

If the Company is wound up, and assuming the Tranche B Notes have not been Converted or Redeemed, Eligible Noteholders will rank behind the Company's Priority Permitted Debt and those mandatorily preferred at law in right of payment, but ahead of all Shortfall Debt, unsecured creditors of the Company and Shareholders. The Tranche B Notes will rank equally with each other Tranche B Note and Tranche A Note and any other Permitted Debt which the Majority Noteholders agree ranks equally with the Tranche B Notes.

If there is a shortfall of funds on winding up to pay all amounts ranking senior to the amounts owing in respect of the Tranche B Notes, there is a risk that Eligible Noteholders will not receive a full (or any) repayment of their money invested in the Tranche B Notes or payment of unpaid interest and any other unpaid amounts owing in respect of the Tranche B Notes.

If the Tranche B Notes have been Converted, Eligible Noteholders will hold Shares and rank equally with other holders of Shares in a winding up.

In the event of any liquidation or winding up of the Company, the claims of the Company's secured and unsecured creditors (including senior lenders and Noteholders) will rank ahead of those of its Shareholders. Under such circumstances, the Company will first repay or discharge all claims of its creditors. Any surplus assets will then be distributed to Shareholders. All Shareholders will rank equally in their claim and will be entitled to an equal share per Share.

### **Conversion events**

The Company has an obligation to Convert the Tranche B Notes into Shares upon the occurrence of certain events specified in Section 9. These Conversion events may be disadvantageous to Eligible Noteholders and may not coincide with their individual preference or intended investment outcomes.

Eligible Noteholders have the right to Convert some or all Tranche B Notes into Shares at any time prior to the Maturity.

The Company will Redeem any remaining Tranche B Notes at the Maturity Date that have not otherwise been Converted.



## **Future dividends and franking**

Under the Note Terms, there are restrictions on the Company's ability to pay dividends or other distributions to Shareholders as set out in Section 9.37, for so long as any of the Notes remain outstanding. Once all of the Notes have been Redeemed or Converted (including both the Tranche A Notes and the Tranche B Notes), any future determination as to the payout of dividends will be at the discretion of the Directors and will depend on the availability of distributable earnings, operating results and the financial position of the Company, its future capital requirements and other relevant factors. No assurance in relation to the future payment or franking of dividends can be given by the Company.

Payments of any dividends to Shareholders in respect of the Shares is at the discretion of the Directors. If any Tranche B Notes are Converted after the record date for a dividend, Eligible Noteholders will not have any entitlement to that dividend. Directors may only declare or determine a dividend if there are funds legally available to pay dividends. Dividends will not be paid in respect of the Tranche B Notes.

No assurances can be given in regards to the payment of future dividends, or the potential for the Company to issue them as franked dividends. Future determinations as to the payment of dividends by the Company will be at the discretion of the Directors and will depend upon the availability of profits, the operating results and financial condition of the Company, future capital requirements, covenants in relation to financial agreements, general business and financial conditions, restrictions under the Note Terms and other factors considered relevant by the Directors. No assurances can be given in relation to the level of franking of future dividends. Franking capacity will depend upon the amount of Australian tax paid in the future, the existing balance of franking credits and other factors.

## **Further issues of securities and dilution**

The Tranche B Notes do not restrict the Company from issuing further Shares or other securities (other than, for example, where such securities comprise Pari Passu Debt), although the Conversion Price of the Tranche B Notes will be adjusted upon the occurrence of a share restructuring (including without limitation pro rata issue, bonus issue, buy-back, return of capital, consolidation etc) as described in Section 9.24.

If the Company undertakes additional offerings of securities in the future, the increase in the number of issued Shares or securities convertible into Shares and the potential for the sale of such securities may depress the price of Shares already on issue and of the Tranche B Notes. In addition, as a result of the issue of Shares, the voting power and proportionate economic interest of the Company's existing Shareholders (and, indirectly, of holders of Tranche B Notes) will be diluted. The Note Terms may not adequately protect Eligible Noteholders in the event the Company undertakes additional offerings of securities in the future.

An investment in the Tranche B Notes carries no right to participate in any future issue of securities issued by the Company.

## **Certain Noteholders may exercise significant influence over Noteholder votes**

Under the Note Terms, a Noteholder who holds Notes with a face value of more than 40% of the total face value of the Notes then on issue is a "Substantial Noteholder". A Substantial Noteholder is capable of exercising certain rights and powers under the Note Terms and may exercise significant influence on matters voted on by Noteholders.

There is a risk that any Noteholder could acquire a significant percentage of the aggregate principal amount of the Notes (including Arrovest) and the existence of any

such significant Noteholder may reduce the liquidity of the Notes (including the Tranche B Notes) in the secondary trading market.

### **Inflation rate risk**

An increase in the inflation rate may erode in real terms the value of the capital invested in the Tranche B Notes. It may also negatively impact the profitability of the Company or the market value of the Shares including as a result of the increase in the Company's expenses.

### **Change in the Australian tax system**

A general outline of the tax consequences of investing in the Tranche B Notes for certain Eligible Noteholders who are Australian residents for tax purposes is set out in the taxation summary in Section 6.

This summary is in general terms and is not intended to provide specific advice addressing the circumstances of any particular potential investor. Accordingly, Eligible Noteholders should seek independent advice concerning their own individual tax position.

You should be aware that any future changes in Australian tax law or interpretation of Australian tax law may affect the taxation treatment of the acquisition, holding and disposal of Tranche B Notes and the market price of the Tranche B Notes.

### **Change in Australian Accounting Standards**

New, or amendments to existing, accounting standards issued by the Australian Accounting Standards Board may affect the reported earnings and financial position of the Company in future financial periods. This may adversely affect the ability of the Company to pay interest on the Tranche B Notes.

### **Shareholder limits**

Various laws, including Chapter 6 of the Corporations Act and the *Foreign Acquisition and Takeovers Act 1975* (Cth) may restrict the number of Shares that any person may hold. Mergers, acquisitions and divestments of Australian public companies listed on ASX (such as the Company) are regulated by detailed and comprehensive legislation and the rules and regulations of ASX.

Eligible Noteholders should take care to ensure that their holding of the Tranche B Notes (and any Shares to be issued on Conversion) do not breach any applicable restrictions on ownership.

Where, on a Conversion, the issue of any Shares to any particular Eligible Noteholder (either directly or indirectly) is prevented by law, the Company may be unable to Convert those Tranche B Notes.

### **Amendment to Note Terms and Trust Deed**

As set out in Sections 8.7, 9.38 and 9.39 where a Modification to the Trust Deed and/or Note Terms is, for example, of a minor or technical nature, or is necessary to comply with law, Noteholder consent is not required. However, if a Modification to the Trust Deed and/or Note Terms would materially and adversely affect the rights of all Noteholders, the Modification must be authorised by a Special Resolution. Moreover, if the Modification relates to an extension of the Maturity Date or reduction to payment amounts in respect of the Notes (being the Tranche A Notes and/or Tranche B Notes), a Super Resolution of Noteholders is required.

## 7.3 Risks associated with the Company

Key risks relating to the Company and the Group are set out below. It is not, however, possible to describe all of the risks which may adversely affect the Company's prospects and performance. The following list of risks is not intended to be exhaustive. Specific risk factors which may have a significant impact on the future performance of the Company include the following:

### Going Concern

The Group made a H1 FY22 loss after tax of \$65.5 million (H1 FY21 restated loss of \$23.7 million). Net cash outflows from operating activities in H1 FY22 were \$11.1 million (H1 FY21 outflows of \$21.5 million). COVID-19 presented significant challenges during the period and whilst management mitigated many of these challenges, a number could not be mitigated in the short term. Management is anticipating price rises in various products offered by the Group and other mitigants to benefit the business in the H2 FY22. The quantum of the Group's losses from operations in the half year ended 31 December 2021 were higher than the budget approved by the Board. The restrictions imposed by COVID-19 impacted sales volumes, productivity and supply chain cost and also caused delays in implementing the Group's transformation program, particularly in relation to the dairy and nutritional business.

As at 31 December 2021, the Group had net current assets of \$20.4 million (FY21: net current assets of \$40.1 million) including non-current assets held for sale of \$23 million (FY21: \$6.5 million) and net liabilities of \$48.9 million (FY21: net assets of \$1.5 million).

As described in Section 8.24, the Company is currently defending a class action proceeding. Should the Group be unsuccessful in its defence of the class action, the Group may become liable for material compensation amounts. There is a risk that the Company and Group will have insufficient funds to be able to pay these compensation amounts and consequently have a material impact on its ability to continue as a going concern.

The Company refers Eligible Investors to other risks set out in Section 7 which may impact the Company's ability to continue as a going concern.

### Litigation

Legal action arises from time to time in the normal business activities of the Company. Litigation can arise from commercial disputes between the Company and its business partners, customers, suppliers, employees, financiers and other third parties and government bodies for alleged or actual failures to adhere to government regulations.

Litigation is costly and consumes board and management time and resources. It creates reputational risk, brand damage and potential liabilities for the Company, its Directors, officers and employees. Some of this litigation may, depending on its nature, have a material adverse impact on the financial and operational performance and financial position of the Company.

The Company is currently defending a shareholder class action. The class action claimants allege that the Company failed to comply with its continuous disclosure obligations or disclosure obligations under the Corporations Act and ASX Listing Rules in connection with equity capital raisings and made statements which are misleading and deceptive in breach of the Corporations Act, the *Australian Consumer Law* and the ASIC Act. There is a risk that additional shareholder class actions may be commenced against the Company. It is not currently possible to determine the outcome of these class actions or any other proceedings, and what the financial impact of such proceedings, if any, may

be for the Company. There is also a risk of further regulatory action against the Company in these circumstances. Details of the shareholder class action are set out in Section 8.24.

The Company is currently and may in the future be subject to additional regulatory actions, litigation, investigations or other proceedings, whether arising from ASIC notices, the Corporations Act, ASX Listing Rules or otherwise, any of which may result in litigation and which could have a material adverse impact on the financial and operational performance and financial position of the Company. The current regulatory investigations and reviews are set out in Section 8.25 below.

The Company is also subject to other litigation and other claims and disputes, and may be subject to future litigation and other claims and disputes in the ordinary course of business, including contractual disputes and workplace claims. Such litigation, claims and disputes, including the costs of settling claims, and any associated operational impacts, may be costly and damaging to the Company's reputation and business relationships, which may have an adverse effect on the Company's business and operations.

Under the Final Agreement, the Company is required to make interim payments of US\$1.125 million on each Tranche 2 Settlement Payment deadline, commencing 15 August 2022. If the Company fails to meet these payment deadlines, there is a risk that the US\$18 bank guarantee facility could be called upon. Please see Section 2.1 for further details.

As detailed in Section 9.37(g), the Company provides a Disputes Undertaking under the Note Terms which restricts the Company from agreeing or consenting to any settlement or resolution of the class action or any similar class actions brought in the future. A breach of the Disputes Undertaking will constitute an Event of Default (see Section 9.33).

If an Event of Default occurs, the Trustee may declare by notice to the Company that all the Notes (including Tranche B Notes) are to be Redeemed for the Makewhole Amount and/or take enforcement action against, or direct the Security Trustee to take enforcement action against, the Company or relevant Group Member. The Trustee's ability to enforce an Event of Default is, depending on the circumstances, subject to a MD Noteholders Resolution or Simple Majority Noteholders Resolution.

### **Regulatory investigations and reviews**

The Company is the subject of a regulatory investigation that may result in an adverse impact on the Company and stakeholders. The outcomes of the investigation may involve litigation, civil or criminal prosecution, fines and/or penalties, compensation, remediation expense and/or restrictions on the Company's ability to operate its business.

ASIC is investigating suspected contraventions of the Corporations Act by the Company and the officers and directors of the Company between 1 July 2014 and 30 June 2020. In the course of the investigation, ASIC has issued notices to the Company for the production of books and the provision of reasonable assistance. Further information about the ASIC Investigation is set out in Section 8.25. The Company is engaging cooperatively with ASIC in relation to the ASIC Investigation. ASIC's investigation is continuing and, to the best of the Company's knowledge, has not at the date of this Prospectus, concluded. There can be no assurance that ASIC will not, following completion of its inquiries, commence enforcement action against the Company. It is possible that any such action that ASIC may take could have a material adverse impact on the Company's financial performance, corporate reputation or industry standing.

### **Failure to achieve turnaround objectives**

The Company's future financial performance is dependent on its ability to meet its turnaround and restructure strategy objectives, and to develop and execute appropriate strategies and initiatives pursuant to those objectives. If the Company's strategies and initiatives are ineffective, poorly implemented or implemented later than expected, or are more costly than anticipated, the Company may not meet its objectives, which could have a materially adverse effect on the company's financial and operational position. For example, there is a risk that the Company will be unable to deliver the anticipated manufacturing efficiencies or increase its capacity within the appropriate time frame or develop its product offerings to match evolving market expectations. This in turn could impact customer and supplier demand for the Company's products, which would further jeopardise the Company's turnaround initiatives and growth strategy.

### **Pandemic risks**

The COVID-19 pandemic that emerged in March 2020 in Australia has impacted all businesses. The Company has been impacted by the COVID-19 pandemic including the loss of revenue, mainly in the sale of cream and out-of-home products, and labour shortages at its key manufacturing sites. The Company's sales, customers, employee and operations, Tranche B Note price and Share price may be adversely affected in the short to medium term by the economic uncertainty caused by COVID-19 or other pandemic risks. The length and duration of the current pandemic and the economic impact remain uncertain. The pandemic will continue to have an ongoing and unknown impact on the Company.

Management and the Board anticipate that the negative impacts of COVID-19 on the Group's performance will continue to be affected as the world copes with the effects of the pandemic and the Company is implementing changes to cope with the effects of the pandemic on a continuous basis. The Board expects different markets and supply chains to be affected at different times pending the severity of the pandemic on that market at any time.

The Company continues to take active steps to mitigate the adverse impacts of COVID-19.

Any further virus outbreaks in Australia or overseas may adversely affect the Company's business operations and financial performance and are beyond the control of the Company.

### **Leverage and debt arrangements**

As at 31 March 2022, the Company has debt owing to its senior and subordinated lenders with an approximate value of \$416.9 million and these parties have a secured position over certain assets of the Company. The Tranche B Notes will be classified as a non-current liability on the Company's balance sheet and, accordingly, the Company will continue to have high leverage while the Tranche A Notes and Tranche B Notes remain outstanding.

The Company has a \$36 million revolver facility with NAB and HSBC, expiring in May 2023. The Company may be required to refinance its debt facilities from time to time to ensure that it has sufficient debt arrangements in place if and when certain debt facilities expire. There is a risk that the Company may be unable to secure additional debt facilities on acceptable terms, or at all.

Under the Company's revolver facility, it is required to submit a net leverage ratio reporting certificate every 6 months. The Company also has existing reporting obligations

under the Note Terms. There is a risk that the Company may not meet its financial covenants which may have a material impact on the Company's financial position.

There is a further risk that the Company's financiers may increase the default rates on the Group's debt facilities, which could adversely impact the Company's financial position if those increases are not budgeted for or anticipated.

### **Competition**

The Company and its Subsidiaries operate in a competitive market environment. There can be no guarantees that the competitive environment in which it and its Subsidiaries currently operate will remain the same. New entrants, a material adverse change to the competitive environment (including as a result of regulatory changes) or new initiatives implemented by competitors may have a material impact on the operating and financial performance of the Company and its Subsidiaries. There is a risk that the innovation strategies adopted by the Company are not as effective as its competitors or that its ability to anticipate and respond to changing opportunities, technology, standards or customer requirements is not as quick as its competitors.

In addition, in order to stay competitive, the Company may need to adjust its pricing models or invest significantly more in marketing or product development. Further increases in the cost of inputs such as raw goods may decrease the margin the Company can earn under its pricing models, especially if it is unable to pass on those increases to its customers as a result of external competitive pressures or because its existing contracts prevent the Company from doing so.

Furthermore, there is a risk that, if customer complaints are not adequately addressed, the Company's existing customers could purchase competing products. In turn, the Company may experience high customer turnover which may have a material impact on the Company's reputation, operations and financial performance.

### **Manufacturing disruption**

Production and sale of the Company's products relies on the continued operation of its supply chains and the Company's manufacturing facilities and consistent delivery of product volumes to meet the Company's contractual requirements and demand growth.

Any material disruption to key parts of the supply chain or manufacturing process may result in a failure to meet contractual sales volumes, loss of sales and revenue, termination of contracts and business partnership agreements, litigation and reputational damage.

The Company and its Subsidiaries' primary manufacturing sites are at Ingleburn in New South Wales and Shepparton in Victoria. There is a risk that a manufacturing site may not be able to maintain required production levels or may be shut down entirely or in part due to natural disaster, industrial action, contamination, an industrial accident, fire, imposed shutdowns following an outbreak of COVID-19 or any other infectious virus or disease, a serious power failure or explosion. If this occurred, there is a risk that production could not be sourced from an alternative manufacturer, or the sourced product may not meet the Company's required standards. This could mean that the Company and its Subsidiaries are not able to supply their customers or supply the required amounts. It could also mean the Company and its Subsidiaries may have quality control difficulties, potentially leading to product recalls and may incur damage to the Company's reputation or brand names. Any or all of these matters may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries.

The Company operates a number of integrated production facilities that process raw materials into numerous products, which are then streamed to appropriate filling and

packaging lines for the alternative formats and package sizing to suit customer requirements. In the normal course of business, surplus capacity on each line is required for growth, introduction of new products and breakdown/maintenance. There is a risk that if a major customer is lost or product/format discontinued, then there may be surplus capacity beyond that normally carried and new customers or products will need to be sort to utilize the unused capacity, or the equipment may require modification for a different format or new product. This may result in additional capital expenditure, adversely impact the operational efficiency and impact on the Company's profitability.

### **Workplace health and safety**

Many aspects of manufacturing operations and distribution are inherently dangerous. Sales, administration and other staff are also exposed to risks, particularly if they are travelling. The Company must comply with various health and safety laws. There is a risk that penalties and other liabilities for the violation of health and safety law and standards may be imposed on the Company and may have an adverse effect on the Company's reputation and its revenue, profitability and growth.

While the Company endeavours to mitigate these risks, due to the nature of the Company's manufacturing and distribution business, there remains a residual risk of serious injury or death through industrial and traffic accidents that cannot be fully avoided, or that the Company's insurance coverage may not be sufficient to meet all possible personal injury claims.

### **Financial and statutory reporting**

The Company is a reporting entity for the purposes of the Corporations Act and a disclosing entity for the purposes of the ASX Listing Rules. The Company has developed a detailed continuous disclosure policy (available at [www.noumi.com.au](http://www.noumi.com.au)) to ensure compliance with the Company's continuous disclosure obligations under the ASX Listing Rules. Further, the Company's senior management team have implemented various internal controls, accounting and interpretation frameworks and an internal audit and review capability to ensure compliance with the Group's financial reporting obligations.

Despite these measures, there is a risk that the Company may miss key reporting or continuous disclosure deadlines or may inadvertently include misstatements in future financial or statutory reports.

### **Changing consumer preferences in competitive markets**

Consumer tastes and buying preferences in relation to the Company's products are constantly changing. These preference changes can be in response to a range of factors, including new products entering the market, environmental factors, health and nutritional advices, regulation, sales and marketing initiatives by the Company's competitors, and product price changes by the Company and its competitors.

The capacity of the Company's competitors to introduce competing products with those of the Company is high. The Company can be at risk of its products being replaced in key channels by products produced by its competitors. Any reduction in the Company's product sales and market shares in each segment may impact its financial performance in the short, medium, and long term.

### **Labour supply**

The Group's operations are dependent on the availability and cost of skilled and qualified labour. As a consequence of the unfolding COVID-19 pandemic, the labour market in Australia is tight, especially in the manufacturing and agricultural sectors. This, coupled with low unemployment rates across Australia, poses a risk that the Group may be unable

to attract and retain the labour supply required to efficiently carry out its operations. It is essential that appropriately skilled staff are available in sufficient numbers to enable the Group to service its existing and new customers' requirements.

While the Group has initiatives in place to mitigate this risk, significant staff losses or a failure to attract new staff may have a negative impact on the financial performance of the Group and its growth prospects. Further, any failure by the Group to deliver on customer demands due to its inability to retain existing employees and/or attract and retain new personnel may negatively impact the Group's reputation. This could have a materially adverse effect on the Group's earnings, profitability and growth.

The Group has already experienced labour shortages at Shepparton, Ingleburn and Marrickville manufacturing sites. While the Group has been able to secure the necessary workforce to meet its customers' demands to date, there is no guarantee that it will be able to do so in the future as regional COVID-19 pandemics may adversely affect the workforce availability from time to time.

### **Inventory management**

The Company generally produces its products based upon expected demand, rather than to fulfil specific customer orders. The products that the Company produces generally have a useful life, which varies depending on the nature of the product. When the Company sells its products to retailers, those retailers generally have a requirement that those products have a minimum life on receipt. If the Company is not able to sell products it produces in sufficient time to meet the minimum life on receipt requirements of its customers, that stock may become at risk of becoming out of date and unusable, in which case that product would need to be destroyed and its value written off.

With a strong new product development program in place, the Company may not manage its SKUs (stock keeping units) to an optimum level, discontinuing non-performing SKUs. These matters may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries. In addition, there is a risk that the Company's existing manufacturing plant and equipment may be insufficient to produce a sufficient quantity of products to meet consumer demand.

### **Inflation rate**

The domestic and global economies are currently experiencing sharp rises in the inflation rate. In Australia, many businesses and consumers are being negatively impacted by the increased price of everyday commodities such as groceries and fuel, with the price of petrol especially reaching record-high prices. In carrying out its business operations, from transport and logistics to marketing and sales, the Group is similarly impacted by the increasing inflation rate. There is a risk that the Company may not be able to pass on any increase in the input costs for its products which may, in turn, impact the Group's margins. Similarly, there is a risk that any increase in the price for the Group's products may result in reduced demand which, in turn, may impact the Group's revenues. While management and the Board is continually monitoring the inflation rate, the extent of any rise is inherently uncertain and subject to events beyond the Company's control.

### **Invasion of Ukraine**

On 24 February 2022, Russia commenced an unprovoked invasion of Ukraine. Acts of terrorism, violence, political unrest, armed regional and international hostilities and international responses to these hostilities could significantly impact the Group. These



events could adversely affect global economic business activity and precipitate a sudden significant change in global economic conditions and cycles.

The invasion of Ukraine already appears to have had a significant impact on global markets as supply chains are disrupted and commodity prices rise. While the Group does not currently trade in Europe, the economic downturn which may result from the invasion could adversely impact the Group if inflationary pressure is applied to goods and services in Australia. A key input to the Group's supply chain is fuel prices which, since the invasion of Ukraine, have sharply risen to record highs. There is no guarantee that price increases due to the invasion of Ukraine can be passed onto customers and consumers.

Further, any governmental or industry measures taken or sanctions imposed in response to the Russia-Ukraine conflict, including changes to import/export restrictions across the world, may adversely impact the Group's operations and are likely to be beyond the control of the Group. Given the conflict is continually evolving, the consequences are inherently uncertain.

### **Quality and food safety**

The Company supplies a range of food products for human consumption. As a result, the Company is inherently exposed to risks in the entire production chain from receipt of ingredients through to dispatch to the end consumer. Risks can include food safety, product or packaging quality and/or food integrity issues (including interference by third parties) that may result in injury or harm to consumers. The Company may not be able to meet retailer or distributor minimum quality standards. This could have a material impact on the Company's reputation, operations and financial performance.

In addition, any food quality or safety incidents may cause disruption to business activities, result in increased costs, lead to potential litigation and damage the Company's reputation.

### **Key personnel**

In common with many businesses, the success of the Company, will, to a significant extent, be dependent on the expertise and experience of its directors and senior management. There is a risk that certain employees in key roles will leave the Company, the loss of one or more of whom could have a material adverse effect on the Company. Whilst the Company has entered into service agreements with the CEO and other senior management, the retention of their services cannot be guaranteed.

### **Culture and talent**

The Company has employee training, policies, procedures and other initiatives in place to foster a positive corporate culture that reflects the behaviours needed for future success. However, poor corporate culture can lead to, amongst other things, unethical practices, lack of trust, poor decision-making, increased employee turnover, reduced motivation and productivity. Any of these outcomes may have a material adverse impact on the Company's operations and financial performance.

Moreover, as with the Company's key personnel, the future success of the Company will depend substantially on its ability to attract and retain high quality staff and consultants. The Company relies on its highly capable staff to manage the operational, sales, compliance and other functions of its business. There is a risk that, if the Company is understaffed (or the workload of existing staff is unsustainable), the Company's operational and financial performance will suffer.

### **Failure of internal risk controls**

The Company has been in the process of developing and implementing improved risk management and governance frameworks designed to capture, assess and report on

management of risks within the business, and to identify, manage and mitigate identified risks in the business (for example in the areas of financial reporting, manufacturing and human resources).

Failure to adequately design, implement and abide by these risk management policies and practices may lead to an inability of the Company to mitigate future risk exposures and/or breaches of regulatory obligations on a timely basis. A failure to successfully do any of these things could result in losses, liabilities reputational damage, fines, penalties, remediation costs, regulatory scrutiny and dissatisfaction among customers.

### **Credit risks**

Credit market conditions and the operating performance of the Company will affect borrowing costs as well as the Company's capacity to repay, refinance and increase its debt.

Deterioration of the credit conditions of key customers (including as a consequence of COVID-19) may also affect the operating performance of the Company.

### **Exchange rate**

The Company purchases inputs and sells to a number of export customers predominantly in United States dollars (**USD**) and reports its financial statements in Australian dollars (**AUD**). Export sales of the Company's products is a growth area of the Company's business. While the Company may seek to hedge part of its foreign currency exposure or sell to export customers in AUD, movements in the currency exchange rate will have an impact on the financial performance of the Group. The Group also trades in Chinese Yuan, New Zealand Dollars and Euros.

### **Access to financial resources**

The Company's business activities require access to equity and debt markets to finance its day-to-day working capital and invest in long-term income-producing assets. Access to these markets can change from time to time based on economic and financial markets conditions, geopolitical issues in the markets in which the Company operates in, the risk appetite of banks and other credit providers, the investment appetite of equity investors and the view of the Company as a suitable party to extend credit to or invest in.

### **Intellectual property**

The Company and its Subsidiaries maintain trademark registrations in various jurisdictions around the world, which provide the legal underpinning for the Company and its Subsidiaries' brands. The Company and its Subsidiaries' trademarks and other intellectual property rights are important to the Company and its Subsidiaries' ongoing success and competitive position.

There is a risk that actions taken by the Company, such as access control, information classification, training and general awareness may not be adequate in all circumstances and may not prevent the misuse or misappropriation of its trademarks and intellectual property rights or prevent product imitation or to prevent others from seeking to block sales of the Company and its Subsidiaries' products. In this case, it may be necessary for the Company and its Subsidiaries to initiate or enter into litigation in the future to enforce the Company and its Subsidiaries' trademark rights. Any legal proceedings could result in an adverse determination, which may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries.

It is also possible that third parties may challenge the Company's intellectual property rights or assert intellectual property infringement, breach of confidentiality or make similar

claims against the Company under copyright, trademark or other intellectual property laws. Such claims, if made, may harm the Company's business and reputation. If the Company is forced to litigate to defend these claims, the costs of such litigation will potentially be significant and will divert the attention of the Company's senior management team from normal commercial operations.

There is also a risk that effective intellectual property, including patent, trademark, copyright and trade secret protection may not be available in every country in which the Company's products are available. As the Company expands its international presence, its exposure to infringements of its trademarks and intellectual property rights may increase. Further, although the Company endeavours to enter into non-disclosure agreements with its employees, licensees and other third parties who may have access to intellectual property and confidential and proprietary information, the Company cannot assure that these agreements or other steps the Company has taken will prevent unauthorised use, disclosure or reverse engineering of its products, which may have an adverse impact on the business, financial performance and operations of the Company and its Subsidiaries.

### **Reputation and brand names**

The success of the Company and its Subsidiaries is highly reliant on its reputation and branding. Any factors or unforeseen issues or events that diminish the Company and its Subsidiaries' reputation or brand names may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries.

In the past, the Company has experienced unfavourable media coverage. If the Company continues to receive unfavourable media or market coverage, including through negative publicity around its products, that publicity could damage the Company's reputation or growth prospects.

### **New products and innovations**

Some of the new products or brands which the Company and its Subsidiaries may launch, and upon which the Company proposes to develop its business, may not be successful. This may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries. There is also a risk that certain new products that the Company and its Subsidiaries intend to introduce will be competitively inferior to similar products manufactured and sold by competitors. In addition, there may be technological or product innovations in the future which may impact on the perceived benefits of the Company and its Subsidiaries' products which may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries.

### **Relationships with suppliers**

The Company and its Subsidiaries have a number of important arrangements with key suppliers. If the Company and its Subsidiaries' relationships with any of these suppliers deteriorates or the supplier ceases trading for any reason and the Company and its Subsidiaries' inventory is depleted, the Company and its Subsidiaries may not be able to source alternative products or raw materials immediately or only on less favourable terms, which may in turn adversely affect the Company's ability to fulfil its customers' orders or the margins achieved on those sales. Any event that results in the Company and its Subsidiaries incurring higher costs from suppliers that cannot be passed on to the consumer, or which results in the Company being unable to fulfil any commitments to its customers, may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries. If the Company is unable to fulfil its customers' orders or meet their payment terms, there is a risk that such relationships could be terminated.

Furthermore, the Company's relationships with its suppliers are important for the overall success of the Group. If suppliers' complaints are not addressed, the Company may experience high supplier turnover which may have a material impact on the Company's reputation, operations and financial performance.

### **Finished goods and raw material price changes**

A number of the finished goods and raw materials (in particular raw milk) purchased by the Company are subject to continual price movement and global pricing. While the Company purchases a number of these items in forward contracts, a number are subject to market conditions. These variations may not provide management and the business adequate time to pass price increases on to the customer through retail pricing or reshape the product to maintain margins.

### **Product liability and compliance**

The Company and its Subsidiaries have procedures and policies in place to ensure compliance with the Australian and New Zealand Food Standards and to ensure the Company's products are free from contamination. Contamination, or an extortion threat on the basis of an alleged or actual contamination, of one of the Company and its Subsidiaries' products, may lead to business interruption, product recalls or liabilities to consumers. While the Company maintains insurance cover with respect to a certain number of these risks, the Company and its Subsidiaries may not be able to enforce its rights in respect of these policies. If the Company and its associate entities do recover an amount under their insurance policies for loss suffered, it may not be sufficient to offset any damage to the financial condition, reputation or prospects of the Company and its Subsidiaries caused by the contamination or extortion threat. Product contamination or an extortion threat may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries.

Failure to comply with Australian and New Zealand Food Standards or other laws and regulations governing the manufacturing and sale of food could result in revocation of licences or registrations the Company and its Subsidiaries require in order to conduct their business. This may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries.

The Company and its subsidiaries operate and export products to international jurisdictions which may require licences or registrations. Failure to comply with the relevant laws and regulations may result in the failure to renew or obtain such licences or registrations that the Company and its Subsidiaries require in order to conduct their business.

### **Supply chain**

The Company's supply chain is reliant on a streamlined integration of producers and suppliers, in-house manufacturing processes, outsourced distribution and logistics, service providers and the technology platforms used by the Company. There is a risk that an operational issue disrupts the flow of the Company's supply chain, such as a disease outbreak affecting livestock, production shortfalls, vessel movements, shipping volatility, updating the Company's manufacturing sites or switching suppliers. There is a further risk that key deliveries of product could be delayed or cancelled. If the Company encounters a material disruption to its supply chain, it could adversely impact the Company's financial performance and lead to consumer dissatisfaction.

### **Insurance**

The Company and its Subsidiaries have in place insurance which it considers appropriate to its circumstances. However, not all material risks relevant or applicable to the

Company and its Subsidiaries' business have been insured, as the relevant insurance may not be available or may not be on terms which the Directors consider appropriate. In addition, no assurance can be given that the Company and its Subsidiaries' insurance will be available in the future on reasonable terms or will provide adequate coverage against claims made. If the Company and its Subsidiaries incur uninsured losses or liabilities, this may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries. There is a further risk that the Group's insurers may not insure every material risk, requiring the Company and its Subsidiaries to consider alternative hedging models.

### **Delisting of a significant number of product lines by a major customer**

The Company's major retail customers list the Group's product ranges and, in conjunction with commercial funding from the Company, support the Group's product ranges with promotional programs and trade marketing visibility. The business has an active process of reviewing and upgrading product lines to assist their competitive position. While the Company's commercial funding lessens the likelihood that its business units will be delisted entirely as a supplier and each of the business' brands have established a segment position that is being actively supported by their retailer customers, there is a risk that certain of the product lines may be delisted due to retailer strategy, competitive pressure or perceived underperformance. Furthermore, while the Company continuously seeks to diversify its customer base and expand into new markets (eg. Asia) there is a risk with overreliance on any single customer, product or geography.

### **Additional funding**

The Group may require additional funding in order to achieve its business objectives and to meet its financial obligations when they fall due. The inability to maintain a strong balance sheet or to secure new capital or credit facilities on favourable terms could impact upon the Group's operational and financial performance and the ability to meet its ongoing liquidity needs. There is no certainty as to the availability of funding on favourable terms, if at all, and further interest charged on these financing facilities may have a material effect on the Group's business, results of operations and financial conditions.

### **Doing business in export markets**

The Company is exposed to a range of risks doing business in international markets, particularly in China and South East Asian markets. Business practices and local laws and regulations differ greatly from country to country. There is a risk that the Company fails to comply with these laws and regulations, notwithstanding the precautions the Company may take to prevent these events occurring. There is also a risk of the Company expanding in regions that may have political, legal and economic instability or legal and regulatory systems that may be subject to unexpected changes.

There are also personal risks to the Company's employees operating in or travelling to these countries that can include arbitrary detention, criminal or civil charges, or fines for alleged illegal business practices.

### **Australia-China trade relations**

Part of the Company's commercial success is dependent upon the international trading and exports of the products it creates. Specifically, a large portion of the Company's revenues derives from international dairy exports, in particular to China. Given the uncertainty in Australia-China trade relationships at this time, the Company cannot guarantee that the export of its products to China, or any other country, will not be subject to tariffs that decrease the commercial viability of those exports.

Further, any governmental or industry measures taken or sanctions imposed on China in response to its involvement or suspected involvement in the Russia-Ukraine conflict, including changes to import/export restrictions across the world, may adversely impact the Group's operations and are likely to be beyond the control of the Group.

The Company is seeking to diversify its export sales away from China, to lessen any potential impacts of geopolitical events on its sales and operations. Moreover, political and economic instability in foreign markets, inconsistent product regulation by foreign agencies or governments, foreign currency fluctuations, foreign taxes, languages and other cultural barriers all pose a risk to the Company's global operations.

### **Animal welfare**

Animal welfare is a critical element for success in any business involving livestock. Animal welfare includes ensuring that animals are not subject to cruelty or undergo undue suffering, even when outside the direct care of the organisation. There is a risk that the appropriate animal husbandry practices may not always be observed by its milk suppliers, contractors and third parties when handling and caring for their livestock. Moreover, the Company's milk suppliers may fail to obtain all necessary licences and approvals to carry on their dairy business. This may lead to adverse regulatory consequences or even significant brand damage if customers begin to associate the Company and its products with animal exploitation. The Company purchases milk from various farmers and holds approximately 10% investment in Australia Fresh Milk Holdings Pty Ltd, Australia's largest dairy farmer. As announced on 22 February 2022, the Company is proposing to sell its holding in AFMH. Please see Section 8.26 for further details.

### **Environment**

The Company and its Subsidiaries' operations are subject to environmental laws and regulations. The Company and its Subsidiaries could incur material costs in order to comply with those laws and regulations, or as a consequence of a breach of those laws and regulations. Such costs could arise due to the historic operations and activities of others conducted on a site owned or operated by the Company and its Subsidiaries. Those costs may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries. In addition, changes to environmental laws and regulations may have a material adverse impact on the operating and financial performance of the Company and its Subsidiaries.

### **Climate change**

As a seller of agricultural products, weather and climatic conditions including bushfires, floods and storms directly affect the Company and its Subsidiaries. In particular, this may impact on the Company's suppliers and impact supply chain processes. The quantity and quality of the Company's products may be adversely affected by adverse weather or climatic conditions, including climate change, water supply issues and drought. Any adverse change to weather or climatic conditions may impact the ability to source milk, grain and other raw material supplies. If a weather or climatic condition disrupts the Company's supply chain, this may have a material adverse impact on the Company's operations and financial performance.

Furthermore, climate-related events have the capacity to:

- (a) restrict the availability, use and pricing of water required for the Company's manufacturing activities;
- (b) impact the cost of milk and other agricultural products; and
- (c) increase energy costs across the Company's key manufacturing sites.

## **Modern slavery**

The Group's supply chains span across the world and across multiple business sectors including manufacturing, sales, distribution and general business activities. The Company recognises the impact of COVID-19 and the potential for an increased risk to modern slavery in its supply chain. The Group has approximately 46 direct milk suppliers from dairy farms across Australia and has approximately 35 key raw materials and packaging suppliers, the majority of which are in Australia. While the Company considers its overall modern slavery risk to be low (given its main purchased ingredient – Australian dairy milk – carries a low-risk likelihood), there is always a risk that the Group's suppliers could adopt unethical practices that militate against the Group's own practices and values. In turn, these practices could cause reputational damage to the Group, resulting in an adverse impact on financial performance.

Furthermore, within the Group's operations, migrant workers account for a proportion of its workforce. Beyond the Company's visa sponsored employees, a small number of migrant workers may be sourced through third party labour providers from time to time. While the Group is sponsoring permanent residency for the majority of its migrant workers, the Group recognises the increased vulnerability of migrant workers and takes appropriate steps to protect their employment and conditions. There is a risk that appropriate employment practices may not always be observed by third party employment service providers when managing their migrant workers.

The Company has adopted its own Modern Slavery Statement, a copy of which is available on the Company's website [www.noumi.com.au](http://www.noumi.com.au).

## **Failure in information, technology and communication systems**

The Company's information, technology and communication systems are vulnerable to certain threats such as hacking, data breaches, human error, severe weather, and electrical, hardware or software failure. The Company has implemented cloud backup services for all on-site information, technology and communication systems to protect against data loss and damage to the Company's digital infrastructure.

There is a risk that the Company could be impacted by a material cyber intrusion which could severely disrupt operations or otherwise compromise critical information. Any significant data loss or notifiable privacy breaches could have a material impact on the Company's operations or financial performance and cause reputational damage. The Company has put in place disaster recovery procedures in the event of a failure of, or disruption or damage to, the Group's network or technology systems. However, such procedures may not be sufficient to ensure that the Group is able to carry on its business in the ordinary course in the event of such a failure, disruption or damage.

## **Taxation implications**

Future changes in taxation law in Australia, including changes in interpretation or application of the law by the courts or taxation authorities in Australia, may affect taxation treatment of an investment in the Company's securities, or the holding or disposal of those securities. Further, changes in taxation law, or to the way taxation law is interpreted in the various jurisdictions in which the Company operates, may impact the Company's future tax liabilities.

## **Changes in laws, regulations and policies**

Government legislation and policies may change at any time. The Company's operations may be affected by changes in international, federal, state or local government laws, regulations or policies which impact on the Company's ability to operate or sell products in particular markets. In particular, the introduction of tariffs or other regulations impacting

international trade could impact the Company's ability to sell its products in foreign markets, such as China, or decrease the price it receives for them. This risk has the potential to affect the Company's ability to generate revenue, and consequently its financial performance and position.

## **7.4 Risks associated with the Capital Raising**

### **Dilution for Shareholders**

Upon Conversion of the Tranche B Notes, the Company will issue Shares to Eligible Noteholders as set out in this Prospectus. The issue of Shares will dilute the interests of existing Shareholders to differing extents depending on the participation of Eligible Noteholders in the Capital Raising. More detail on the potential dilution effect is set out in Section 5.4. It is not possible to predict what the value of the Company's Shares will be following completion of the Capital Raising, or at the time of Conversion of the Tranche B Notes, and the Directors do not make any representation to such matters. The last trading price of Shares on ASX prior to the date of this Prospectus is not a reliable indicator as to the potential trading price of Shares after completion of the Capital Raising.

## **7.5 General risks**

General risk factors outside the Company's control which may have a significant impact on the future performance of the Company include, but are not limited to the following:

- (a) economic conditions in Australia and internationally;
- (b) major structural issues affecting many developed economies, particularly those countries with high sovereign debt levels;
- (c) market volatility, especially given the present uncertainties in international trade, financial and political conditions;
- (d) any force majeure events, including the ongoing volatility posed by the COVID-19 worldwide pandemic and the impact this continues to have on Australia's economy and the economies of other nations;
- (e) changes in government policy, regulations or laws;
- (f) changes in the earnings of companies in Australia (whether as a result of general weakness in economic conditions or otherwise);
- (g) a slowdown in emerging markets, including China, which may impact economic growth in Australia;
- (h) changes in investor sentiment and perceptions in local and international stock markets;
- (i) changes in interest, exchange and inflation rates;
- (j) changes in commodity prices;
- (k) changes in domestic or international fiscal, monetary, regulatory and other government policies, including changes to the taxation of company income and gains and the dividend imputation system in Australia and changes in other general world, economic and political factors may also adversely affect the



Company, its future earnings and capital appreciation of the Company's investments; and

- (l) geo-political conditions such as acts or threats of terrorism, military conflicts or international hostilities.

There are risks associated with any investment in securities. The trading price of the Tranche B Notes and Shares may fall or rise with movements in the equity or debt capital markets in Australia and internationally.

There is no guarantee the Tranche B Notes will trade at or above their Issue Price or the Shares will trade at or above a price reflective of the Conversion Price. The historic share price performance of the Shares provides no guidance as to the future market price of the Shares or the likely trading price of the Tranche B Notes.

**This summary of the risks associated with the Tranche B Notes and the risks associated with the Company's business is not exhaustive and you should read the whole of this Prospectus carefully. If you are unclear about any matter or uncertain if the Company or the Tranche B Notes are a suitable investment, you should seek legal and financial advice.**

## 8 Additional Information

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This Section 8 sets out a number of matters of which you should be aware that have not been addressed in detail elsewhere in this Prospectus. It gives details of the availability of certain other important documents and a summary of some of these documents that are relevant for your investment decision. In addition, certain other prescribed details in respect of the Capital Raising have been set out in this Section 8.

### 8.1 Nature of this Prospectus

This Prospectus is a transaction-specific prospectus issued by the Company in accordance with the provisions of the Corporations Act applicable to a prospectus for continuously quoted securities. It has been prepared in accordance with section 713 of the Corporations Act and *ASIC Corporations (Offers of Convertibles) Instrument 2016/83*.

This Prospectus does not contain the same level of disclosure as an initial public offering prospectus or a prospectus prepared in accordance with section 710 of the Corporations Act.

As a disclosing entity, the Company is subject to regular reporting and disclosure obligations. As a listed company, the Company is subject to the ASX Listing Rules which require, subject to certain exceptions, immediate disclosure to the market of any information of which the Company is aware which a reasonable person might expect to have a material impact on the price or value of the Shares.

Section 713 of the Corporations Act (as modified by *ASIC Corporations (Offers of Convertibles) Instrument 2016/83*) enables a company to issue a transaction-specific prospectus where the securities offered are continuously quoted securities (within the meaning of that term in the Corporations Act) or securities convertible into continuously quoted securities. This generally means that the relevant securities are in a class of securities that were quoted enhanced disclosure securities at all times during the 3 months before the date of the prospectus and that, during the 12 months before the date of the prospectus, the issuing company was not exempted from the continuous disclosure regime and disclosing entity requirements provided for under the Corporations Act and the ASX Listing Rules.

In summary, the content rules for prospectuses involving the issue of continuously quoted securities require such prospectuses to contain information only in relation to the effect of the Capital Raising on the Company, the rights and liabilities attaching to the Tranche B Notes and the rights and liabilities attaching to Shares (as the underlying securities). It is not necessary to include general information in relation to all of the assets and liabilities, financial position, profits and losses or prospects of the Company. Accordingly, this Prospectus does not contain the same level of disclosure as a prospectus of an unlisted company or an initial public offering prospectus or a prospectus prepared in accordance with section 710 of the Corporations Act.

Having taken such precautions and having made such enquiries as are reasonable, the Company believes that it has complied with, and has not been exempted from, the general and specific requirements of ASX (as applicable from time to time throughout the 12 months before the date of this Prospectus) which required the Company to notify ASX of information about specified events or matters as they arise for the purpose of ASX making that information available to the stock market conducted by ASX.

For the purposes of satisfying section 713(5) of the Corporations Act, a prospectus must also incorporate such information if such information:

- (a) has been excluded from a continuous disclosure notice in accordance with the ASX Listing Rules; and
- (b) is information that investors and their professional advisors would reasonably require for the purpose of making an informed assessment of:
  - (i) the assets and liabilities, financial position and performance, profits and losses and prospects of the body; and
  - (ii) the rights and liabilities attaching to the securities being offered.

The prospectus must contain this information only to the extent to which it is reasonable for investors and their professional advisors to expect to find such information in the prospectus.

The Company will make further announcements in respect of any matters in accordance with its disclosure obligations as and when material developments occur.

## 8.2 Company announcements

Investors may view a record of the Company's ASX announcements at the Company's website ([www.noumi.com.au](http://www.noumi.com.au)) or via the ASX website ([www.asx.com.au](http://www.asx.com.au)). ASIC also maintains records in respect of documents lodged with it by the Company, and these may be obtained from or inspected at the office of ASIC. This Prospectus is intended to be read in conjunction with all information previously publicly disclosed by the Company.

The following announcements (continuous disclosure notices) have been made by the Company to ASX since the lodgement of its FY21 Annual Report on 18 October 2021:

Date	Headline
08/04/2022	EGM Results
08/04/2022	Chair's Address to EGM
25/03/2022	CFO Resignation and Appointment
24/03/2022	Conclusion of Auditor's Appointment
17/03/2022	Initial Payment to Blue Diamond and Issuance of Loan Notes
10/03/2022	Notice of EGM – Tranche B Convertible Notes
28/02/2022	1H FY22 Appendix 4D and Financial Report
28/02/2022	1H FY22 Investor Presentation
28/02/2022	1H F22 Results Announcement
25/02/2022	Appendix 3B – Tranche B Convertible Notes
25/02/2022	1H FY22 Results and Investor Presentation Details
22/02/2022	Final Resolution of Dispute with Blue Diamond Growers
22/02/2022	Capital Management Plans Update

31/01/2022	Appendix 4C for Q2 FY22 and 1H Trading Performance Update
24/12/2021	Capital Management Plans Update
17/12/2021	Consolidation of Class Action Proceedings
29/11/2021	Change of ASX Code
18/11/2021	2021 AGM Results
18/11/2021	2021 AGM Presentation, Chair and CEO Addresses
17/11/2021	Capital Management Update
17/11/2021	Resolution of Blue Diamond Dispute
12/11/2021	Completion of Sale of Specialty Seafood Business
04/11/2021	Divestment of Specialty Seafood Business
29/10/2021	Appendix 4C and Activity Report FY22 Q1
18/01/2021	2021 AGM Notice of Meeting
18/10/2021	Appendix 4G and Corporate Governance Statement

### 8.3 Availability of other documents

The Company will provide a copy of any of the following documents, free of charge, to any Eligible Noteholder who so requests during the Offer Period under this Prospectus:

- (a) Company Constitution;
- (b) the Company's FY21 Annual Report;
- (c) the half year financial report for the half year ended 31 December 2021;
- (d) the quarterly activity report for the quarter ended 31 December 2021; and
- (e) any other document used to notify ASX of information relating to the Company under the continuous disclosure provisions of the ASX Listing Rules and the Corporations Act after the date of the annual financial report referred to above and before lodgement of this Prospectus with ASIC.

All requests for copies of the above documents should be addressed to:

*Noumi Limited*

*C/- The Company Secretary*

*80 Box Road, Taren Point*

*NSW 2229*

All documents are also available on the ASX website ([www.asx.com.au](http://www.asx.com.au)).

## 8.4 Rights attaching to Tranche B Notes

The rights attaching to the Tranche B Notes are set out in Schedule 1 of the Trust Deed. The Note Terms (including the rights of the Company, the Trustee and the Noteholders to vary, alter, amend or otherwise change the Note Terms) are set out in detail in Section 9 and a full copy is annexed to this Prospectus.

As announced on 22 February 2022, the Company has received the requisite approvals from its Existing Noteholders and senior financiers to amend the Note Terms as they apply to both the Tranche A Notes and the Tranche B Notes with effect from the issuance of the Loan Notes, being 15 March 2022. A summary of the key changes are as follows:

- (a) **Cash-Settled/Equity Settled Tranche B Notes** – the Note Terms have been updated to provide that, unless and until Shareholder approval is obtained, the Tranche B Notes are capable of being Cash-Settled on conversion, other than those approximately 10.4 million Tranche B Notes which the Company issues on an Equity-Settled basis if Shareholder approval is not obtained at the Meeting, as permitted under its existing placement capacity as calculated in accordance with ASX Listing Rule 7.1. On 8 April 2022, the Company obtained Shareholder approval. Accordingly, the Tranche B Notes are capable of being converted into Shares and are no longer capable of being Cash-Settled on conversion.
- (b) **Initial Interest Term** – the Initial Interest Term (during which Interest for both the Tranche A Notes and Tranche B Notes can be capitalised) has been reduced from 30 months to 27 months from the issue date of the Tranche A Notes (i.e. 27 May 2021).
- (c) **Makewhole Amount** – the Makewhole Amount will not be reduced when the Company issues a Relevant Dispute Notice and elects to redeem the Tranche A Notes and/or the Tranche B Notes.
- (d) **Substantial Noteholder** – a Majority Noteholders' Resolution and Special Resolution will only pass while there is a 'Substantial Noteholder' if that Substantial Noteholder votes in favour of the resolution. A Substantial Noteholder is now defined to mean a noteholder who (either alone or together with its related bodies corporate and associates) holds Notes with a Face Value of more than 40% of the total Face Value of Notes then on issue (rather than 45%).
- (e) **Permitted Debt:**
  - (i) the monetary threshold for 'Pari Passu Debt', which is a form of 'Permitted Debt', has been reduced from \$100 million to \$75 million;
  - (ii) the US\$18 million bank guarantee facility entered into to support the Tranche 2 Settlement Payment is a form of 'Permitted Debt'.
- (f) **Permitted Sale** – the Company's proposed sale of its 10% ownership interest in Australian Fresh Milk Holdings Pty Ltd (**AFMH**) is a 'Permitted Sale' under the Note Terms.
- (g) **Negative Covenants** – the Company is unable to amend, terminate or release the obligations of Leppington Pastoral Investments Pty Limited (**Leppington**) under its underwriting commitment without the approval of a Special Resolution of Noteholders.
- (h) **Equity Conversion Notice** – if a Noteholder elects to convert its Notes into Shares, it must provide an Equity Conversion Notice to the Company. The Equity

Conversion Notice must specify the number of Notes being converted and whether those Notes comprise Tranche A Shares or Tranche B Shares.

- (i) **General Undertakings** – for so long as the Tranche A Notes and Tranche B Notes remain outstanding, the Company undertakes:
  - (i) to do all things which are necessary or desirable to execute the sale of shares held by Noumi Operations Pty Ltd in AFMH by 1 August 2022 and sell those shares for immediate cash payment by that date; and
  - (ii) in respect of the Final Agreement:
    - (A) comply with its obligations under the Final Agreement;
    - (B) not repudiate, rescind, release, surrender or terminate the Final Agreement, other than by way of performance of the Final Agreement in accordance with its terms;
    - (C) not vary or agree to any waiver in respect of the terms of the Final Agreement; and
    - (D) do all things reasonably necessary within its power to keep the Final Agreement valid and enforceable, and not do anything which would or would be likely to render the Final Agreement invalid or unenforceable.
- (j) **Mandatory Conversion** – if the requisite threshold for a mandatory conversion is met and the VWAP of one Share during the 20 Business Days prior to conversion is no less than the conversion price for the Tranche A Notes (i.e. \$0.70), all remaining Notes on issue (including Tranche B Notes) will be converted into Shares.
- (k) **Other** – the amended Note Terms contain consequential changes to reflect the fact that, among other matters:
  - (i) the Company changed its name from “Freedom Foods” to “Noumi” after its recent Annual General Meeting;
  - (ii) the Blue Diamond litigation has been settled;
  - (iii) the two class actions against the Company have been consolidated;
  - (iv) the Group’s sale of the cereals and snacks business successfully completed on 31 March 2021; and
  - (v) the Group’s sale of the seafoods business successfully completed on 12 November 2021.

## 8.5 Rights attaching to Shares

The shares issued on Conversion of the Tranche B Notes will be ordinary shares (**Shares**) and will rank equally with all existing Shares. The rights attaching to the Shares are set out in the Constitution which is available free of charge from the Company (a copy is also accessible on the Company’s website ([www.noumi.com.au](http://www.noumi.com.au))).

The following is a broad summary of the rights which attach to the Shares. It is not intended to be an exhaustive or definitive summary of the rights attaching to the Shares.

(a) *Voting rights*

Each holder of ordinary shares in the Company has the right to attend, and vote at general meetings of the Company. Subject to any restrictions imposed by the Constitution and Corporations Act, at a general meeting of the Company, every Shareholder present in person or by proxy, representative or attorney has one vote on a show of hands and, on a poll, one vote for each fully paid Share held by the Shareholder.

Where two or more persons are registered as the holders of a Share, they hold the Share as joint tenants with rights of survivorship.

(b) *General meetings*

Subject to any restrictions imposed by the Constitution and the Corporations Act, each Shareholder is entitled to receive notice of, attend, and vote at, general meetings of the Company and to receive all notices, accounts and other documents required to be sent to shareholders under the Constitution and the Corporations Act. Five or more members entitled to vote must be present to constitute a quorum.

Except where a resolutions requires a particular majority, questions arising at a general meeting must be decided by a simple majority of votes cast by the members present and entitled to vote at the meeting. A decision made in this way is deemed to be a decision of the members for all purposes.

In the event of an equality of votes cast for and against a proposed resolution, the chair of the meeting is not entitled to a casting vote in addition to any other votes s/he is entitled to cast as a member of the Company and the proposed resolution will not pass.

Except as permitted by the Corporations Act, general meetings must be called on at least the minimum number of days' notice required by the Corporations Act (which at the date of this Prospectus is 28 days) and otherwise in accordance with the procedures set out in the Corporations Act.

(c) *Dividends*

Subject to the Corporations Act and the terms of issue of a Share, the Directors may resolve to pay any interim, bonus or final dividend as, in the Directors' judgment, the financial position of the Company justifies. No interest is payable by the Company on any dividend.

For further information in respect of dividend restrictions under the Note Terms, see Section 9.37(f)(ii).

(d) *Transfer of Shares*

Shares may be transferred by a proper transfer effected in accordance with the Constitution or as otherwise permitted by ASX Settlement Operating Rules or any other electronic system established or recognised by the ASX Listing Rules. Subject to compliance with the Constitution, Shares may be transferred by a written instrument of transfer in any usual or common form or by any other form approved by the Directors. No fee is payable to the Company for the transfer of any Share.

If ASX classifies any of the Company's Shares as restricted securities (as that term is defined in the ASX Listing Rules), then those shares cannot be disposed

of during the applicable escrow period and rights attaching to those shares may be limited if the holder does not comply with the escrow requirements.

Provided that the procedures set out in the Constitution are followed, the Company may sell the Shares of a Shareholder who holds less than a marketable parcel of those Shares. A marketable parcel of Shares is defined in the ASX Listing Rules and is, generally, a holding of Shares with a market value of less than \$500.

(e) *Rights on a winding up*

Subject to the rights or restrictions attached to Shares, on winding up, the surplus assets of the Company remaining after payment of its debts, liabilities and costs will be distributed to Shareholders in proportion to the number of Shares held by them at the commencement of the winding up.

(f) *Issue of further Shares*

Subject to the Constitution and the Corporations Act, the Directors may allot, issue or otherwise dispose of Shares to any persons on the terms, at the issue price and at the times the Directors think fit. This includes the power to issue Shares with any preferential, deferred or special rights, privileges or conditions or with any restrictions in regard to dividend, voting, return of share capital or otherwise.

(g) *Variation of rights*

At present, the Company has two classes of shares on issue, the Shares and convertible redeemable preference shares. The rights attached to any class may be varied with the written consent of the holders of not less than 75% of the issued shares of that class or the sanction of a special resolution passed at a separate general meeting of the holders of the shares of that class.

(h) *Amending the Constitution*

In accordance with section 136(2) of the Corporations Act, Shareholders may, by special resolution, amend the Company's Constitution.

## 8.6 Overview of Senior Facilities

(a) *Overview*

The Company and the Guarantors have provided security over their main assets and undertaking in favour of NAB as the Senior Security Trustee to secure the Senior Facilities (**Senior Security**). The Senior Security will remain in place following completion of the Capital Raising.

The Company and certain of its subsidiaries have also provided the following security:

- (i) specific security in favour of NAB over each of the assets financed (and owned) by NAB under the NAB Asset Financing;
- (ii) specific security in favour of HSBC over certain accounts and chattel paper (being the receivables sold in connection with the debtor financing facilities provided by HSBC); and



- (iii) general security in favour of HSBC over all of Noumi Financing Pty Ltd's present and after acquired property (excluding security interests granted described in paragraph (ii) above); and
  - (iv) specific security in favour of HSBC over Noumi Operations Pty Ltd's shares in Australian Fresh Milk Holdings Pty Ltd and the proceeds of such shares,
- (together the **Permitted Individual Security**).

Separately, the Company and the Guarantors have provided security over their main assets and an undertaking in favour of NAB as the Shortfall Security Trustee to secure liabilities owed to NAB and HSBC in respect of the NAB Asset Financing and the HSBC limited recourse debtor facilities (**Shortfall Security**).

(b) *Revolving cash facility*

Noumi Financing Pty Ltd is party to a two year term \$36 million revolving cash facility with NAB and HSBC, which is secured by the Senior Securities. The revolving cash facility may be utilised by the Company for general corporate and working capital purposes, including payment of restructuring costs (but may not be used to fund cash payments on the Notes or to fund settlement amounts or costs relating to litigation). It contains standard provisions in relation to negatives pledges and undertakings but does not include financial covenants.

(c) *Term Debt*

The Group has no term debt.

(d) *Debtor financing*

HSBC provides both limited recourse and full recourse debtor financing to the Group. The debtor facilities are secured over the receivables sold to HSBC pursuant to the facilities.

The Permitted Individual Security granted to HSBC in connection with the full recourse and limited recourse debtor financing facilities ranks ahead of the other Senior Securities to the extent it secures the same collateral.

The full recourse facility (with a limit of \$25 million) is guaranteed by the Guarantors and is secured by the Senior Securities. The obligations under that guarantee constitute obligations under the Senior Facilities which rank ahead of the Notes.

The limited recourse facility (with a limit of \$65 million) is (in most circumstances) limited in recourse to the receivables assigned or transferred. If there is ever a shortfall to HSBC under the limited recourse facility, that shortfall is guaranteed by the Guarantors, and secured by the Shortfall Securities and constitutes Shortfall Debt which ranks in priority behind the Notes.

The HSBC debtor financing facilities do not include financial covenants.

(e) *NAB Asset Financing*

The terms of the NAB equipment financing are set out in various lease agreements, including two main Master Asset Finance Agreements, pursuant to which NAB and either Noumi Financing Pty Ltd or Pactum Australia Pty Ltd (as applicable) enter into equipment schedules from time to time specifying the leased equipment (**NAB Asset Financing**). The total amount of equipment and

asset financing provided by NAB to the Group as at 31 December 2021 is approximately \$59.9 million.

NAB owns, and holds security over, the plant and equipment it has financed. The equipment financing facilities have varying maturities, some of which extend to 2027. They require regular principal and interest repayments through the life of the facilities.

The Permitted Individual Security over the specific collateral financed under the NAB Asset Financing ranks ahead of the other Senior Securities to the extent it secures the same collateral.

If there is ever a shortfall to NAB under the equipment financing it has provided, that shortfall is guaranteed by the Guarantors and secured by the Shortfall Securities and will constitute Shortfall Debt which will rank in priority behind the Notes.

The NAB Asset Financing facilities do not include financial covenants.

(f) *HSBC Bank Guarantee Facility*

HSBC has provided a USD\$18m bank guarantee facility to Noumi Financing Pty Ltd, which is secured by the Permitted Individual Security over the shares Noumi Operations Pty Ltd holds in Australian Fresh Milk Holdings Pty Ltd (**AFMH Shares**). The HSBC Bank Guarantee Facility is also secured by one or more bank guarantees provided by Arrovest in connection with the offer by Leppington Pastoral Co Pty Ltd for the AFMH Shares (and the Arrovest bank guarantees will be released upon the proceeds of the sale of the AFMH Shares being deposited in an account with HSBC).

(g) *Other Senior Facilities*

Other facilities provided to the Group by the Senior Financiers include transactional facilities and hedging. The indebtedness of the Group under those arrangements form part of the Senior Facilities and are secured by the Senior Securities.

(h) *Other indebtedness*

The Group has other ad hoc asset and equipment-based financing facilities with other third parties. These will remain in place following the Capital Raising.

## 8.7 Permitted Debt, Priority Permitted Debt and Permitted Security Interests

The Note Terms regulate further Financial Indebtedness that the Company may incur, and the security interests it may grant.

(a) *Permitted Debt*

Permitted Debt is Financial Indebtedness that the Group is permitted to incur under the Note Terms. It includes Financial Indebtedness that may rank in priority to the Tranche B Notes, and other Financial Indebtedness (including Financial Indebtedness that ranks equally with, or behind, the Tranche B Notes).

It includes:

- Permitted Senior Debt, up to a limit of \$65 million;
- transactional facilities (up to a cap of \$7 million) and amounts owed in respect of hedging agreements;
- Permitted Full Recourse Debtor Financing up to a limit of \$25 million;
- Permitted Limited Recourse Debtor Financing up to a limit of \$65 million;
- Permitted Asset Financing up to a limit of \$100 million;
- Pari Passu Debt up to \$75 million (subject to a Majority Noteholder Resolution);
- the Shortfall Debt;
- the US\$18 million bank guarantee facility issued pursuant to a letter of offer between HSBC and Noumi Financing Pty Ltd;
- other financial indebtedness provided it does not exceed \$5 million;
- certain other financial indebtedness provided to other members of the Group or which is incurred in the ordinary course of business; and
- any other debt approved by a Special Resolution of Noteholders.

(b) *Priority Permitted Debt*

Priority Permitted Debt is Financial Indebtedness which, under the Note Terms, is permitted to rank in priority to the Notes. Not all Permitted Debt is “Priority Permitted Debt”. It is secured debt, and includes amounts owed in respect of:

- the Permitted Senior Debt (as set out above);
- transactional facilities (up to a cap of \$7 million and amounts owed in respect of hedging agreements);
- Permitted Full Recourse Debtor Financing;
- Permitted Limited Recourse Debtor Financing provided that it is limited to the proceeds of the relevant receivables, inventory or accounts receivable acquired or financed;
- Permitted Asset Financing, provided that it is limited to the proceeds of the relevant equipment and/or assets financed;
- the US\$18 million bank guarantee facility issued pursuant to a letter of offer between HSBC and Noumi Financing Pty Ltd, provided that it is limited to the AFMH Shares and the proceeds of such shares; and
- any other Permitted Debt which the Noteholders agree by Special Resolution may rank in priority to the Notes.

It does not include Shortfall Debt.

(c) *Permitted Security Interests*

Permitted Security Interests are security interests which the Company and its Subsidiaries are permitted, under the terms of the Notes, to grant. They include:

- security interests granted in favour of the Security Trustee;

- security interests which secure Priority Permitted Debt, including the Senior Securities and Permitted Individual Securities;
- security interests which secure Pari Passu Debt;
- the Shortfall Securities;
- any security interests that secure any replacement, refinancing or extension of Priority Permitted Debt;
- other security interests permitted including certain title retention arrangements, certain netting or set-off arrangements, liens arising by operation of law in the ordinary course of trading; and
- security interests authorised by a Special Resolution of Noteholders.

## **8.8 Trustee, Security Trustee, Note Registrar and Paying Agent**

Global Loan Agency Services Australia Specialist Activities Pty Limited (ACN 635 992 308) (**GLAS**) will act as Trustee, Security Trustee, Paying Agent and Note Registrar in connection with the Tranche B Notes.

GLAS is an independent provider of finance administration services in the loan agency and corporate trust market. GLAS only provides financial administration services with no ties to any financial institution, enabling GLAS to provide a totally independent service to its clients.

## **8.9 Trust Deed**

The Trust Deed governs the terms and conditions on which the Notes are issued and is subject to the Corporations Act and ASX Listing Rules. Schedule 1 to the Trust Deed contains the terms of issue of both the Tranche A Notes and Tranche B Notes.

As announced on 22 February 2022, the Company has received the requisite approvals from its Existing Noteholders and senior financiers to amend the Note Terms as they apply to both the Tranche A Notes and the Tranche B Notes with effect from the issue date of the Loan Notes, being 15 March 2022. The Note Terms are summarised in Section 9 of this Prospectus and a full copy is annexed to this Prospectus.

The Trust Deed and the Note Terms are binding on the Noteholders, the Trustee and the Company. It is an express condition of a Noteholder receiving any of the rights or benefits in connection with the Trust Deed, the Note Terms or the Notes that the Noteholder performs all of the obligations and complies with all restrictions and limitations applicable to it under the Trust Deed and the Note Terms.

Pursuant to the Trust Deed, the Trustee holds the benefits of the rights (including Guarantees) on trust for the Noteholders. The term of the trust is 80 years unless terminated earlier.

### **Noteholder meetings**

Schedule 2 to the Trust Deed sets out the rules relating to Noteholder meetings.

#### Power to call meetings

Meetings may be called by the Trustee or the Company at any time upon 10 Business Days' notice (or 15 Business Days' notice for a Special Resolution or Super Resolution).

Noteholders representing at least 25% or more of the aggregate Face Value of the Notes then outstanding may require the Trustee to call a meeting.

Each Noteholder holding Tranche A Notes and/or Tranche B Notes may attend Noteholder meetings.

#### Quorum

For any meeting, two Noteholders present in person or by proxy representing at least 25% of the Face Value of all Notes then outstanding when the meeting begins is a sufficient quorum.

#### Voting

On a show of hands, each Noteholder present at the meeting or by proxy shall have one vote. On a poll, every Noteholder has one vote for every Note of which it is the registered holder.

#### Noteholders bound

A MD Noteholders Resolution, Majority Noteholders Resolution, Simple Majority Noteholders Resolution, Special Resolution or Super Resolution passed at a meeting of the Noteholders will be binding upon all Noteholders (whether or not present at the meeting) and each of the Noteholders shall be bound to give effect to the same.

## **8.10 Security Trust Deed**

In subscribing for the Notes, each Noteholder agrees to be bound by the terms of the Security Trust Deed.

The Company has received the requisite approvals from its Existing Noteholders and senior financiers to amend the Security Trust Deed to give effect to the Capital Raising and the issuance of Tranche B Notes which are secured against the Company's assets.

Pursuant to the Security Trust Deed, the Security Trustee holds the benefits of the rights on trust for itself, the Trustee and the Noteholders.<sup>1</sup> The term of the trust is 80 years unless terminated earlier. The Security Trust Deed sets out the payment mechanics and how amounts received by the Security Trustee will be applied. This includes that payments of liabilities of the Security Trustee (and any controller or attorney appointed by the Security Trustee) will be paid first, and then the remaining proceeds distributed to the beneficiaries of the Security Trust Deed on a pro rata basis.<sup>2</sup> The distribution of proceeds by the Security Trustee is subject at all times to the Security Trustee's obligations under the Intercreditor Deed.

The Security Trustee must exercise or refrain from exercising any power in accordance with the instructions given to it by the beneficiaries to which that power relates. The Security Trust Deed contains a number of limitations of liability and provides the Security Trustee with an indemnity out of the assets of the trust in respect of all liabilities incurred by the Security Trustee (other than by reason of the Security Trustee's fraud, gross negligence or wilful misconduct).

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<sup>1</sup> Prior to the issuance of the Tranche B Notes, and whilst the Loan Notes are on issue, the holders of the Loan Notes are also beneficiaries under the Security Trust Deed.

<sup>2</sup> Prior to repayment of the Loan Notes from the proceeds of the Tranche B Notes, there are certain limited circumstances where holders of the Loan Notes will rank in priority to the Noteholders.

At the request of the Company, the Security Trustee must release an Obligor from the Security Trust Deed if it is instructed by the Trustee (acting on the instructions of Noteholders pursuant to a Special Resolution of Noteholders) to do so.

The Security Trustee may be removed by the Majority Beneficiaries at any time by giving at least 30 days' notice to the Security Trustee and the Company. Upon receipt of such notice, the Security Trustee must resign.

The Security Trust Deed may be amended or waived only in accordance with the amendment procedure set out in the Note Terms. A resolution of Noteholders modifying the Note Terms in the way described in Section 9.39 will be deemed a resolution of beneficiaries for the purposes of the Security Trust Deed.

## **8.11 Agency and Registry Services Agreement**

As with the Tranche A Notes, the Company has appointed GLAS as its Note Registrar and Paying Agent in respect of the Notes pursuant to an Agency and Registry Services Agreement (**ARS Agreement**). Pursuant to the ARS Agreement, GLAS will:

- (a) establish, maintain and conduct a register for the Tranche B Notes on behalf of the Company; and
- (b) make payments on behalf of the Company (or any Guarantor) of principal and any interest on the Tranche B Notes at the times and in the manner provided for in the ARS Agreement and in accordance with the Note Terms and the Trust Deed.

## **8.12 Security arrangements**

### **Guarantee**

Each Guarantor guarantees the obligations of the Company under the Notes and the Transaction Documents pursuant to the guarantee and indemnity contained in the Security Trust Deed.

### **General Security Deeds**

Each of the Company and the Guarantors will enter into a General Security Deed pursuant to which it will grant to the Security Trustee a security interest in all of its present and after-acquired property to secure payment of all of the moneys owing by the Company and the Guarantors under the terms of the Notes and the Trust Deed, and each other Transaction Document.

### **Real Property Mortgages**

Each of the Company and the Guarantors agrees to mortgage in favour of the Security Trustee all real property owned by the Company and the Guarantors to secure payment of all of the moneys owing under the terms of the Notes and the Trust Deed, and each other Transaction Document.

### **Mortgages of Lease**

Each of the Company and the Guarantors agrees to mortgage in favour of the Security Trustee all material leasehold interests held by it to secure payment of all of the moneys

owing under the terms of the Notes and the Trust Deed, and each other Transaction Document.

### 8.13 Intercreditor Deed

Each of the Company and the Guarantors have granted the Senior Securities (which secure the Senior Facilities), the Permitted Individual Securities granted in favour of NAB (which secure the NAB Asset Financing), Permitted Individual Securities granted in favour of HSBC (which secure the debtor financing facilities provided by HSBC), the Collateral Securities (which secure the Notes) and the Shortfall Securities (which secure the Shortfall Debt).

The Intercreditor Deed governs the priority arrangements between the Senior Securities, Permitted Individual Securities, Collateral Securities and Shortfall Securities, and regulates how and when they may be enforced. The form of the Intercreditor Deed has been agreed by the Senior Financiers, the Company and Arrovest. Its key provisions are set out as follows.

#### Ranking of securities

The Senior Securities, Permitted Individual Securities, Collateral Securities and Shortfall Securities in the following order of priority:

- (a) first:
  - (i) in respect of NAB, the Permitted Individual Securities granted to it over the relevant specific collateral the subject of its Permitted Individual Securities (for example, the assets that have been financed) up to the amount owed to NAB under the NAB Asset Financing;
  - (ii) in respect of HSBC and the debtor financing facilities, the Permitted Individual Securities granted to it over the relevant specific collateral the subject of its Permitted Individual Securities (for example, the receivables sold) up to the amount owed to HSBC under the debtor financing facilities; and
  - (iii) in respect of HSBC and the bank guarantee facility, the Permitted Individual Securities granted to it over the relevant specific collateral the subject of its Permitted Individual Securities (for example, the AFMH Shares and the proceeds of the AFMH Shares) up to the amount owed to HSBC under the Bank Guarantee Facility;
- (b) second, the Senior Securities in relation to:
  - (i) amounts owed under the Senior Facilities; and
  - (ii) any shortfall owed to HSBC arising as a result of non-payment of amounts owing under the Permitted Full Recourse Debtor Financing with HSBC;
- (c) third, the Collateral Security in relation to all amounts owed under the Notes;<sup>3</sup> and
- (d) fourth, the Shortfall Security in relation to the Shortfall Debt.

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<sup>3</sup> Prior to repayment of the Loan Notes from the proceeds of the Tranche B Notes, the Collateral Security will also secure the amounts owed under the Loan Notes.

### Standstill Period and enforcement action

The Intercreditor Deed provides for limited standstill periods following an event of default (however described under any of the Senior Group Facilities and/or Transaction Documents). The standstill period is for 90 days (and 120 days for less material events of default) (**Standstill Period**). During a Standstill Period, most enforcement action by any of the Senior Security Trustee, Shortfall Security Trustee, NAB and HSBC is restricted. There are limited exceptions to this restriction, relating to where an insolvency event (as that term is defined in the Intercreditor Deed) has occurred, or there is a breach of AML/CTF requirements (in which case, the Senior Financiers may, among other things, accelerate amounts outstanding, make demands, set-off and close out positions and submit proofs of debt).

Enforcement action may be taken by the Security Trustee (acting on the instructions of the Majority Noteholders) under the Collateral Securities during the Standstill Period, which prevails over any other enforcement action taken by any of the Senior Security Trustee, NAB, HSBC or the Shortfall Security Trustee. The Security Trustee has obligations under the Intercreditor Deed to provide notice to the Senior Financiers and to consult with them in good faith. Notwithstanding that the Security Trustee may take enforcement action on behalf of the Noteholders, it must apply the proceeds of enforcement in accordance with the priority regime described above.

Upon expiry of any Standstill Period (and in other limited circumstances where the Security Trustee has elected not to proceed with enforcement action initiated by it), the Senior Security Trustee, NAB and HSBC (and in some limited circumstances, the Shortfall Security Trustee) may take enforcement action. However, if at the end of the Standstill Period, a controller appointed by the Trustee or Security Trustee is diligently and actively pursuing an enforcement action, the restriction on enforcement may continue for up to 6 months from the date the Security Trustee commenced such enforcement action.

During any Standstill Period, no voluntary repayment of amounts owed in respect of the Notes may be made, no cash interest on the Notes may be paid, no Dividends may be made by the Company and the Senior Facilities may only be drawn with the consent of the Senior Financiers (provided that there are some limited circumstances where existing loans and letters of credit may be rolled or renewed (as applicable) without consent). In respect of HSBC's debtor financing facilities, these may continue to be drawn during the Standstill Period provided there is no increase in the net amount drawn but HSBC has the right to give notice (on at least 90 days' notice, and in some limited circumstances up to 180 days' notice) to terminate those facilities.

### Buy-out right

The Trustee on behalf of a Noteholder (a **Purchasing Noteholder**) may, while a material event of default is subsisting, by giving not less than 15 days' notice to each Senior Financier, require the transfer to such Purchasing Noteholder (or its nominee) of all, but not part, of the rights, benefits and obligations in respect of all Senior Group Facilities, for par value. Where more than one Noteholder wishes to be a Purchasing Noteholder, they may participate pro rata in the buy out.

## **8.14 Related party transactions**

Details of the Company's related party transactions are disclosed in the FY21 Annual Report, the quarterly activities report and Appendix 4C for the quarter ended 31 December 2021 lodged on 31 January 2022 and the H1 FY22 financial results lodged on 28 February 2022. Since the end of the 2021 financial year, the Company has acquired



goods and services under those disclosed related party transactions from those related parties.

## **8.15 Representations by acceptance in respect of Capital Raising**

By completing and submitting an Application Form or making a payment by BPAY® or EFT as outlined in Section 3, you will be deemed to have represented to the Company and the Trustee that you (and any person for whom you are acting):

- (a) represent and warrant that you are an Eligible Noteholder;
- (b) have read and understand this Prospectus and the Application Form in their entirety;
- (c) agree to be bound by the terms of the Capital Raising, the provisions of this Prospectus, the Transaction Documents and the Constitution;
- (d) authorise the Company to register you as the holder(s) of Tranche B Notes allotted to you;
- (e) declare that all details and statements in your Application Form are complete and accurate;
- (f) declare you are over 18 years of age and have full legal capacity and power to perform all of your rights and obligations under the Application Form;
- (g) acknowledge that once the Company receives your Application Form or any payment of Application Monies via BPAY® or EFT, you may not withdraw your Application or funds provided except as allowed by law;
- (h) agree that, if you are an Eligible Noteholder who is also a Loan Noteholder, your Loan Notes are to be redeemed by the issuance of the Tranche B Notes pursuant to the terms of the Loan Notes;
- (i) agree to apply for and be issued up to the number of Tranche B Notes specified in the Application Form, or for which you have submitted payment of any Application Monies via BPAY® or EFT, at the Issue Price per Tranche B Note;
- (j) have made and relied upon your own assessment of the Company and the Capital Raising and have conducted your own investigations with respect to the Tranche B Notes including, without limitation, the particular tax consequences of acquiring, owning or disposing of the Tranche B Notes in light of your particular situation and you have decided to acquire the Tranche B Notes based on your own enquiries and professional advice, and not in reliance upon any act, investigation, research, recommendation or representation made by the Company or any persons acting on behalf of it;
- (k) authorise the Company, Link and their respective officers or agents to do anything on your behalf necessary for the Tranche B Notes to be issued to you, including to act on instructions of Link upon using the contact details set out in your Application Form;
- (l) acknowledge and agree that:
  - (i) eligibility of investors for the purposes of the Capital Raising is determined by reference to a number of matters, including the discretion of the Company;

- (ii) the Company, its related bodies corporate and affiliates, and its Directors, officers, partners, employees and agents disclaim any duty or liability (including negligence) in respect of that determination and the exercise or otherwise of that discretion, to the maximum extent permitted by law;
- (m) acknowledge that the information contained in this Prospectus and your Application Form is not investment advice nor a recommendation that the Tranche B Notes are suitable for you given your investment objectives, financial situation or particular needs;
- (n) acknowledge the statement of risks included in Section 7 of this Prospectus, and that investments in the Tranche B Notes are subject to risk;
- (o) acknowledge that none of the Company, its related bodies corporate and affiliates and its Directors, officers, partners, employees, representatives, agents, consultants or advisers, guarantees the performance of the Company, nor do they guarantee the repayment of capital or any amounts under the Tranche B Notes;
- (p) agree to provide any requested substantiation of your eligibility to participate in the Capital Raising;
- (q) authorise the Company to correct any errors in your Application Form or other form provided by you;
- (r) represent and warrant (for the benefit of the Company and its related bodies corporate and affiliates) that you did not receive an invitation to participate in the Capital Raising either directly or through a nominee, are not an Ineligible Investor and are otherwise eligible to participate in the Capital Raising;
- (s) represent and warrant that the law of any place does not prohibit you from being given this Prospectus and the Application Form, nor does it prohibit you from making an Application for Tranche B Notes and that you are otherwise eligible to participate in the Capital Raising;
- (t) you understand and acknowledge that the Tranche B Notes and the Shares have not been, and will not be, registered under the US Securities Act or the securities laws of any state or other jurisdiction in the United States. Accordingly, the Tranche B Notes and the Shares may not be offered or sold to persons in the United States, except in transactions exempt from, or not subject to, the registration requirements of the US Securities Act and applicable US state securities laws;
- (u) represent and warrant that if, in the future, you decide to sell or otherwise transfer any Tranche B Notes or Shares, you will only do so in a transaction exempt from, or not subject to, the registration requirements of the US Securities Act and applicable US state securities laws, including in a standard (regular way) brokered transaction on the ASX, where neither you nor any person acting on your behalf knows, or has reason to know, that the sale has been pre-arranged with, or that the purchaser is, a person in the United States, in accordance with Regulation S under the US Securities Act;
- (v) represent and warrant that if you (or any person for whom you are acquiring the Tranche B Notes and the underlying Shares) are in Hong Kong, you (and any such person) are a "professional investor" (as defined in the Securities and Future Ordinance of Hong Kong, Chapter 571 of the Laws of Hong Kong);

- (w) represent and warrant that if you (or any person for whom you are acquiring or procuring the Tranche B Notes and the underlying Shares) are in New Zealand, you (and any such person):
- (i) are a person who (i) is an investment business within the meaning of clause 37 of Schedule 1 of the Financial Markets Conduct Act 2013 (New Zealand) (the "FMC Act"), (ii) meets the investment activity criteria specified in clause 38 of Schedule 1 of the FMC Act, (iii) is large within the meaning of clause 39 of Schedule 1 of the FMC Act, (iv) is a government agency within the meaning of clause 40 of Schedule 1 of the FMC Act or (v) is an eligible investor within the meaning of clause 41 of Schedule 1 of the FMC Act (and, if an eligible investor, have provided the necessary certification);
  - (ii) acknowledge that: (i) Part 3 of the FMC Act shall not apply in respect of the offer of Tranche B Notes and the Shares to you, (ii) no product disclosure statement or other disclosure document under the FMC Act may be prepared in respect of the offer of Tranche B Notes and the Shares and (iii) any information provided to you in respect of the offer is not required to, and may not, contain all of the information that a product disclosure statement or other disclosure document under New Zealand law is required to contain;
  - (iii) warrant that if in the future you elect to directly or indirectly offer or sell any of the Tranche B Notes and the Shares allotted to you, you undertake not to do so in a manner that could result in (i) such offer or sale being viewed as requiring a product disclosure statement or other similar disclosure document or any registration or filing in New Zealand, (ii) any contravention of the FMC Act or (iii) the Company or its directors incurring any liability; and
  - (iv) warrant that (i) any person for whom you are acquiring Tranche B Notes and the Shares meets one or more of the criteria specified in subclause (a) above and (ii) you have received, where required, a safe harbour certificate in accordance with clause 44 of Schedule 1 of the FMC Act;
- (x) represent and warrant that if you (or any person for whom you are acquiring the Tranche B Notes and the underlying Shares) are in Singapore, you (and any such person):
- (i) are an "institutional investor" or an "accredited investor" (as such terms are defined in the Securities and Futures Act 2001 of Singapore ("SFA"));
  - (ii) will acquire the Tranche B Notes and the Shares in accordance with applicable provisions of the SFA; and
  - (iii) acknowledge that the offer of the Tranche B Notes and the Shares is subject to the restrictions (including resale restrictions) set out in the SFA;
- (y) represent and warrant that if you (or any person for whom you are acquiring the Tranche B Notes and the underlying Shares) are in the United Kingdom, you (and any such person):
- (i) are a "qualified investor" within the meaning of Article 2(e) of the UK Prospectus Regulation; and

- (ii) fall within the categories of persons referred to in Article 19(5) (investment professionals) or Article 49(2)(a) to (d) (high net worth companies, unincorporated associations, etc.) of the UK Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended;
- (z) represent and warrant that you have not, and will not, send this Prospectus, the Application Form or any other materials relating to the Capital Raising to any person in the United States or any other country outside Australia; and
- (aa) represent and warrant that you are not an Offshore Associate of the Company.

## 8.16 Foreign selling restrictions

This Prospectus does not constitute an offer of Tranche B Notes or the underlying Shares in any jurisdiction in which it would be unlawful. In particular, this Prospectus may not be distributed to any person, and the Tranche B Notes and the underlying Shares may not be offered or sold, in any country outside Australia except to the extent permitted below.

### Hong Kong

WARNING: This Prospectus has not been, and will not be, registered as a prospectus under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong, nor has it been authorised by the Securities and Futures Commission in Hong Kong pursuant to the Securities and Futures Ordinance (Cap. 571) of the Laws of Hong Kong (the “SFO”). Accordingly, this Prospectus may not be distributed, and the Tranche B Notes and the underlying Shares may not be offered or sold in Hong Kong other than to “professional investors” (as defined in the SFO and any rules made under that ordinance).

No advertisement, invitation or document relating to the Tranche B Notes and the underlying Shares has been or will be issued, or has been or will be in the possession of any person for the purpose of issue, in Hong Kong or elsewhere that is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to the Tranche B Notes and the underlying Shares that are or are intended to be disposed of only to persons outside Hong Kong or only to professional investors. No person allotted Tranche B Notes and underlying Shares may sell, or offer to sell, such securities in circumstances that amount to an offer to the public in Hong Kong within six months following the date of issue of such securities.

The contents of this Prospectus have not been reviewed by any Hong Kong regulatory authority. You are advised to exercise caution in relation to the offer. If you are in doubt about any contents of this Prospectus, you should obtain independent professional advice.

### New Zealand

This Prospectus has not been registered, filed with or approved by any New Zealand regulatory authority under the Financial Markets Conduct Act 2013 (the “FMC Act”). The Tranche B Notes and the underlying Shares are not being offered or sold in New Zealand (or allotted with a view to being offered for sale in New Zealand) other than to a person who:

- is an investment business within the meaning of clause 37 of Schedule 1 of the FMC Act;

- meets the investment activity criteria specified in clause 38 of Schedule 1 of the FMC Act;
- is large within the meaning of clause 39 of Schedule 1 of the FMC Act;
- is a government agency within the meaning of clause 40 of Schedule 1 of the FMC Act; or
- is an eligible investor within the meaning of clause 41 of Schedule 1 of the FMC Act.

## **Singapore**

This Prospectus and any other materials relating to the Tranche B Notes and the underlying Shares have not been, and will not be, lodged or registered as a prospectus in Singapore with the Monetary Authority of Singapore. Accordingly, this Prospectus and any other document or materials in connection with the offer or sale, or invitation for subscription or purchase, of Tranche B Notes and underlying Shares, may not be issued, circulated or distributed, nor may the Notes and underlying Shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore except pursuant to and in accordance with exemptions in Subdivision (4) Division 1, Part 13 of the Securities and Futures Act 2001 of Singapore (the “SFA”), or as otherwise pursuant to, and in accordance with the conditions of any other applicable provisions of the SFA.

This Prospectus has been given to you on the basis that you are (i) an “institutional investor” (as defined in the SFA) or (ii) an “accredited investor” (as defined in the SFA). If you are not an investor falling within one of these categories, please return this Prospectus immediately. You may not forward or circulate this Prospectus to any other person in Singapore.

Any offer is not made to you with a view to the Tranche B Notes and the underlying Shares being subsequently offered for sale to any other party. There are on-sale restrictions in Singapore that may be applicable to investors who acquire Notes and underlying Shares. As such, investors are advised to acquaint themselves with the SFA provisions relating to resale restrictions in Singapore and comply accordingly.

## **United Kingdom**

Neither this Prospectus nor any other document relating to the offer has been delivered for approval to the Financial Conduct Authority in the United Kingdom and no prospectus (within the meaning of section 85 of the Financial Services and Markets Act 2000, as amended (“FSMA”)) has been published or is intended to be published in respect of the Notes and the underlying Shares.

The Tranche B Notes and the underlying Shares may not be offered or sold in the United Kingdom by means of this Prospectus or any other document, except in circumstances that do not require the publication of a prospectus under section 86(1) of the FSMA. This Prospectus is issued on a confidential basis in the United Kingdom to “qualified investors” within the meaning of Article 2 of the UK Prospectus Regulation. This Prospectus may not be distributed or reproduced, in whole or in part, nor may its contents be disclosed by recipients, to any other person in the United Kingdom.

Any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received in connection with the issue or sale of the Tranche B Notes and the underlying Shares has only been communicated or caused to be communicated and will only be communicated or caused to be communicated in the

United Kingdom in circumstances in which section 21(1) of the FSMA does not apply to the Company.

In the United Kingdom, this Prospectus is being distributed only to, and is directed at, persons (i) who have professional experience in matters relating to investments falling within Article 19(5) (investment professionals) of the Financial Services and Markets Act 2000 (Financial Promotions) Order 2001 (“FPO”), (ii) who fall within the categories of persons referred to in Article 49(2)(a) to (d) (high net worth companies, unincorporated associations, etc.) of the FPO or (iii) to whom it may otherwise be lawfully communicated (together “relevant persons”). The investment to which this Prospectus relates is available only to relevant persons. Any person who is not a relevant person should not act or rely on this Prospectus.

### **United States**

This Prospectus does not constitute an offer to sell, or a solicitation of an offer to buy, securities in the United States. The Tranche B Notes and underlying Shares have not been, and will not be, registered under the US Securities Act of 1933 or the securities laws of any state or other jurisdiction of the United States. Accordingly, the Tranche B Notes and underlying Shares may not be offered or sold in the United States except in transactions exempt from, or not subject to, the registration requirements of the US Securities Act and applicable US state securities laws.

The Tranche B Notes and underlying Shares will only be offered and sold in the United States to:

- institutional accredited investors (within the meaning of Rule 501(a)(1), (2), (3), (7), (8), (9) or (12) under the US Securities Act); and
- dealers or other professional fiduciaries organized or incorporated in the United States that are acting for a discretionary or similar account (other than an estate or trust) held for the benefit or account of persons that are not US persons and for which they exercise investment discretion, within the meaning of Rule 902(k)(2)(i) of Regulation S under the US Securities Act.

## **8.17 Remuneration of the Trustee, Security Trustee, Note Registrar and the Paying Agent**

Under the Trust Deed, Security Trust Deed and the ARS Agreement, the Company is required to pay an agreed fee to the Trustee, Security Trustee, Note Registrar and the Paying Agent (respectively) for services performed under the Transaction Documents.

The Company has agreed to pay GLAS:

- (a) a fee of \$52,500 per annum (excluding GST) to provide services in acting as Trustee, Note Registrar and Paying Agent; and
- (b) a fee of \$20,000 per annum (excluding GST) to provide services in acting as Security Trustee.

## **8.18 Directors’ interests**

Other than as set out below or elsewhere in this Prospectus, no Director holds at the time of lodgement of this Prospectus with ASIC, or has held in the two years before the lodgement of this Prospectus with ASIC, an interest in:

- (a) the formation or promotion of the Company;
- (b) the Capital Raising; or
- (c) any property acquired or proposed to be acquired by the Company in connection with the formation or promotion of the Company or the Capital Raising.

Other than as set out below or elsewhere in this Prospectus, no Director has been paid or agreed to be paid any amount, nor has any benefit been given or agreed to be given, either to induce him or her to become, or to qualify him or her as, a director or otherwise for services rendered by him or her in connection with the formation or promotion of the Company or the Capital Raising.

### Interests of Directors – existing security interests

As at the date of this Prospectus, relevant interests held by Directors in Shares are set out in the table below:

Director	Shares	Tranche A Notes	Options	Voting power in the Company's Shares (where Tranche A Notes are not converted)	Voting power in the Company's Shares (where Tranche A Notes are converted at the Maturity Date)
Genevieve Gregor	23,500	150,000	7,291	0.0%	0.0%
Tony M. Perich AM	145,556,000	126,142,300	-	52.5%	47.7%
Jane McKellar	1,605	74,190	-	0.0%	0.0%
Timothy Bryan	54,126	25,000	-	0.0%	0.0%
Stuart Black AM	Nil	25,000	-	0.0%	0.0%

As at the date of this Prospectus, the Directors do not hold any performance rights or options to apply for Shares.

### Director remuneration

The Directors are to be paid or provided remuneration for their services at a fixed sum determined by the Board. However, the remuneration for non-executive Directors must not exceed the total amount fixed by the Company at a general meeting, being \$1,050,000 which was last approved by Shareholders at the 2019 Annual General Meeting.

To align Director interests with shareholder interests, the Directors are encouraged to hold Shares in the Company. The current shareholdings of each Director are set out in the table above.

Non-executive Directors do not receive performance-related remuneration. The Directors of the Company are entitled to a Directors' fee that consists of a base director fee, plus a

committee fee for chairing a nominated Board subcommittee. All Director fees are inclusive of statutory superannuation.

The Company's existing executive incentive plan allows the Company to grant a range of different salary sacrifice share scheme interests to all Directors (excluding Tony M. Perich and his alternates), although no arrangements have been put in place to date.

From time to time, the Board may deem it to be acceptable for past Directors to be engaged and paid as consultants to assist the Company. From time to time, the Board may also deem it appropriate for Directors to receive Company securities as consideration for work performed over-and-above the typical duties of a Director.

Pursuant to the Constitution, the Company will also pay Directors all reasonable travel and other expenses properly incurred in attending Board meetings or otherwise in the execution of their duties as Directors.

The following annual base and committee fees are payable to Directors from 1 July 2021:

<b>Position</b>	<b>Fee per annum</b>
<b>Chair of the Board</b>	\$250,000
<b>Deputy Chair of the Board</b>	\$175,000
<b>Other Non-Executive Directors (base fee)</b>	\$140,000
<b>Committee Chair fee</b>	\$10,000

In addition to base fees and committee fees provided to Directors, the Board may from time to time deem it appropriate to provide additional fees to Directors through a per-diem rate in recognition of contribution over-and-above the typical duties of a director.

No retirement benefits are paid other than the statutory superannuation contributions required under Australian superannuation guarantee legislation.

Total fees paid to non-executive Directors for FY21 was \$703,660. The table below sets out the Directors' remuneration paid in FY21, for those Directors who are Directors as at the date of this Prospectus:

<b>Director</b>	<b>Director Fees paid FY21 (\$)</b>	<b>Committee Chair Fee (\$)</b>	<b>Superannuation FY21 (\$)</b>	<b>Total FY21 (\$)</b>
Genevieve Gregor	\$138,659	1,288	\$10,006	\$149,953
Tony M. Perich AM	\$117,199	-	\$11,134	\$128,333
Jane McKellar	\$103,903	\$3,805	\$8,907	\$115,805
Timothy Bryan	\$57,833	\$3,805	\$5,856	\$67,494



Stuart Black AM*	\$28,718	\$2,663	\$2,981	\$34,362
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\*Stuart Black AM was appointed as an independent non-executive Director effective 22 March 2021 and his remuneration reflects time in the role.

### Board exertion payments

In recognition of significant additional contributions made during FY21 in their roles as part of the recapitalisation process, the Board determined to pay exertion payments of \$300,000 to Ms Genevieve Gregor and \$150,000 to Ms Jane McKellar. Additional payments are in recognition of the additional days worked by Ms Gregor and Ms McKellar during the recapitalisation process above those typically required of a Director. Ms Gregor and Ms McKellar agreed to reinvest the after tax amount of the additional payments to acquire Tranche A Notes under the capital raising conducted by the Company in March 2021. Ms Gregor and Ms McKellar acquired Tranche A Notes up to the after-tax amounts of the exertion payments.

### Participation of Directors in Capital Raising

The Directors (and their associated entities) are excluded from participating in the Capital Raising by virtue of the fact that their participation would require Shareholder approval under ASX Listing Rule 10.11.

### Holding of shares by key management personnel

As at the date of this Prospectus, relevant interests held by key management personnel in securities are set out in the table below:

Executive	Number of Shares	Number of Tranche A Notes	Number of Options
Michael Perich  Michael Perich is a Director of Arrovest Pty Ltd, an entity holding a direct interest in the Company	145,556,000	126,142,300	0
Peter Myers	0	0	0
Stuart Muir	194,117	0	0
Justin Coss	98,000	0	7

### Executive remuneration

As noted in the Company's Annual Report for FY21, the Board has adopted a new executive KMP remuneration framework and business performance metrics with the aim of setting employee and executive remuneration that is competitive and appropriate for the markets in which the Group operates. The new framework includes appropriate short-term and long-term incentives in light of the recapitalisation undertaken by the Company to date. While salary reviews for Board approval will be undertaken each year, the Board has adopted the following recommended remuneration mix by level:

Position	Fixed Remuneration	Short-Term Incentive Plan	Long-Term Incentive Plan	Total Targeted Remuneration
Chief Executive Officer*	Up to 50%	Up to 25%	Up to 25%	100%
Chief Financial Officer	Up to 50%	Up to 30%	Up to 20%	100%
Chief Operating Officer	Up to 60%	Up to 20%	Up to 20%	100%

*\*While CEO performance and accountability remains aligned with the business performance metrics of the Group, the Chief Executive Officer, Michael Perich, elected not to participate in the short-term or long-term incentives plans in FY21 and FY22.*

### Indemnities

Subject to stated exceptions in the Constitution and to the extent permitted by law, the Company must indemnify every current or former officer of the Company and/or its related parties against any liability incurred by that person in that capacity, including negligence and legal costs.

The Company, to the extent permitted by law, may pay a premium for a contract insuring a person who is or has been a Director against liability incurred by that person as a Director.

The Company has entered into a policy of prospectus liability insurance. It is intended that the policy would insure the Company and all of its officers in respect of any claims that this document contains untrue or misleading statements or information or omissions and in respect of official investigations in relation to the Capital Raising

## 8.19 Interests of experts and advisers

Except as disclosed in this Prospectus, no:

- (a) person named in this Prospectus as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of the Prospectus;
- (b) promotor of the Company; or
- (c) broker or underwriter to the Capital Raising,

(each a “**relevant person**”) holds, at the time of lodgement of this Prospectus with ASIC, or has held in the two years before lodgement of this Prospectus with ASIC, an interest in:

- (d) the formation or promotion of the Company;
- (e) any property acquired or proposed to be acquired by the Company in connection with its formation or promotion of the Company or the Capital Raising; and
- (f) the Capital Raising.

Except as set out in this Prospectus, no one has paid or agreed to pay any amount or given or agreed to give any benefit for services provided by a relevant person in connection with the formation or promotion of the Company or the Capital Raising. The amounts below are exclusive of GST.

MA Moelis Australia Advisory Pty Ltd has acted as corporate adviser to the Company in respect of the Capital Raising. The Company has agreed to pay approximately \$150,000 (excluding GST and disbursements) for corporate advisory services in connection with the Capital Raising to the date of this Prospectus.

Arnold Bloch Leibler has acted as Australian legal adviser to the Company in connection with the Capital Raising. The Company has agreed to pay approximately \$240,000 (excluding GST and disbursements) for legal services in connection with the Capital Raising and the issuance of the Loan Notes to the date of this Prospectus. Further amounts may be paid to Arnold Bloch Leibler in accordance with its usual time-based charges.

Fees payable to GLAS for acting as Trustee under the Trust Deed, Security Trustee under the Security Trust Deed and as Note Registrar and Paying Agent under the ARS Agreement are described in Section 8.17.

## 8.20 Consents to be named and to the inclusion of information

Each of the parties referred to below (each a “**Consenting Party**”) and each of their respective affiliates, officers, employees and advisers, to the maximum extent permitted by law, expressly disclaims all liabilities in respect of, makes no representations regarding and takes no responsibility for any statements in or omissions from this Prospectus, other than the reference to its name in the form and context in which it is named and a statement or report included in this Prospectus with its consent as specified below.

Each Consenting Party:

- (a) has given and has not, before the lodgement of this Prospectus with ASIC, withdrawn its written consent to be named in this Prospectus in the form and context in which it is named;
- (b) has not (other than as specified below), and its affiliates, officers and employees have not, made any statement in this Prospectus or any statement on which a statement made in the Prospectus is based; and
- (c) does not cause, permit or authorise the issue or lodgement, submission, dispatch or provision of this Prospectus.

Description	Consenting party	Consent
Majority Shareholder	Arrovest	Consent to be named
Australian legal adviser	Arnold Bloch Leibler	Consent to be named
Corporate adviser	MA Moelis Australia Advisory	Consent to be named and for the inclusion of statements in this Prospectus in the form and context in which they appear

GLAS (as Trustee under the Trust Deed, Security Trustee under the Security Trust Deed, Paying Agent and Note Registrar under the ARS Agreement)	GLAS	Consent to be named and for the inclusion of statements in this Prospectus in the form and context in which they appear
Link	Link Market Services Limited	Consent to be named

## 8.21 Transaction costs of the Capital Raising and the issuance of Loan Notes

The total transaction costs of the Capital Raising and the issuance of the Loan Notes including advisory, legal, accounting, tax and administrative fees as well as printing, advertising and other expenses relating to this Prospectus are expected to be approximately \$925,000.

## 8.22 Withdrawal of Capital Raising

The Company and the Directors reserve the right to withdraw or vary all or part of the Capital Raising and this Prospectus at any time prior to the issue of the Tranche B Notes. If the Company withdraws the Capital Raising, the Company will refund Application Monies in relation to the Tranche B Notes not already issued in accordance with the Corporations Act and without payment of interest.

## 8.23 Privacy Disclosure Statement

If you apply for Tranche B Notes, the Company, the Trustee, the Security Trustee, the Note Registrar, the Paying Agent and Link may collect, hold and use additional personal information about you.

Such information may be used to assess your acceptance of Tranche B Notes, service your needs as a Shareholder and/or Noteholder, provide facilities and services that you request and carry out appropriate administration.

To do that, the Company, the Trustee, the Security Trustee, the Note Registrar, the Paying Agent and Link may disclose your personal information, for purposes related to your shareholding, to their agents, contractors or third party service providers to whom they outsource services in order to assess your acceptance of the Tranche B Notes, for ongoing administration of the register, printers and mailing houses for the purposes of preparation and distribution of information and for handling of mail, or as otherwise authorised under the *Privacy Act 1988* (Cth).

Company and tax laws require some personal information to be collected. If you do not provide us with your personal information we may not be able to process your Application.

In most cases you can gain access to your personal information held by (or on behalf of) the Company or Link. The Company aims to ensure that the personal information it retains about you is accurate, complete and up to date. To assist with this, please contact the Note Registrar if any of the details you have provided change. If you have concerns about the completeness or accuracy of the information the Company, Note Registrar or Link have about you, they will take steps to correct it. You can request access to your personal information by contacting the Note Registrar as follows:

*Global Loan Agency Services Australia Specialist Activities Pty Limited*

*Level 23, Governor Phillip Tower*

*1 Farrer Place*

*Sydney NSW 2000*

*Tel: +61 2 7202 4631*

## **8.24 Class Actions**

On 7 December 2020, Slater & Gordon, on behalf of shareholders of the Company, commenced a class action against the Company and its auditors, Deloitte Touche Tohmatsu (**Deloitte**). The class action was brought on behalf of shareholders who acquired securities in the Company between 7 December 2014 and 24 June 2020, excluding shareholders which are associated with or related to the Company or Deloitte.

On 19 February 2021, Phi Finney McDonald, on behalf of shareholders of the Company, commenced a second class action against the Company and Deloitte. This class action was also brought on behalf of shareholders who acquired securities in the Company between 7 December 2014 and 24 June 2020, excluding shareholders who are associated with or related to the Company or Deloitte.

On 18 November 2021, the Court made orders to consolidate the two proceedings into a single proceeding in which Slater & Gordon and Phi Finney McDonald act jointly as solicitors for the plaintiffs. A consolidated statement of claim was served on 16 December 2021.

The class action alleges that the Company has breached its continuous disclosure obligations under the Corporations Act and/or ASX Listing Rules and/or has made misleading and deceptive statements in contravention of the Corporations Act, the *Australian Consumer Law* and the ASIC Act. Those breaches allegedly arise from disclosures made by the Company in financial statements issued by it in the period from financial year 2014 to the half year ending 31 December 2019 and in cleansing notices issued in connection with equity raisings.

Timetabling orders were made on 11 March 2022 providing for various matters, including the filing of defences by the Company and Deloitte Touch Tohmatsu, the giving of initial discovery of the Company and for conferral between the parties regarding substantive discovery. The Company and Deloitte filed their respective defences to the class action on 8 April 2022. Further, on 8 April 2022, the Company filed a notice claiming contribution from Deloitte for any liability the Company is found to owe to the plaintiffs. The Company also received from Deloitte a defensive cross-claim made by it against the Company. The Company will give initial discovery in the proceedings in the week commencing 11 April 2022.

Given the stage of these proceedings, it is not currently possible to determine what the financial impact of this proceeding, if any, may be for the Company. There is also a risk that shareholders may initiate other class action claims against the Company arising from different matters or seeking to prosecute the same issues as in the consolidated class action but for a more limited group of shareholders or time period.

It is also not currently possible to determine whether other class actions or proceedings may be commenced and what the financial impact, if any, of those may be for the Company.

## 8.25 ASIC Investigation

ASIC has commenced an investigation under section 13 of the ASIC Act in relation to suspected breaches of or offences committed under the Corporations Act (including continuous disclosure and financial reporting obligations) by the Company and the officers and directors of the Company, between 1 July 2014 and 30 June 2020 (**ASIC Investigation**).

In the course of the ASIC Investigation, ASIC has issued notices to the Company for the production of books and the provision of reasonable assistance.

The Company has produced to ASIC materials and information as required and continues to cooperate with ASIC in relation to the ASIC Investigation. As far as the Company is aware, the ASIC Investigation has not concluded as at the date of this Prospectus.

## 8.26 Sale of 10% stake in AFMH<sup>4</sup>

As announced on 17 November 2021, the Company has entered into a US\$18 million bank guarantee facility with one of its senior lenders (**Bank Guarantee Facility**) under which the Company will grant a first ranking security over all of its shares in Australia Fresh Milk Holdings Pty Ltd (**AFMH Shares**), and the proceeds of the sale of such shares, to secure the Bank Guarantee Facility. The Company has obtained consent from necessary stakeholders to grant first priority over the AFMH Shares and the proceeds of any sale in connection with the Bank Guarantee Facility. The Bank Guarantee Facility will enable the issuance of a US\$18 million bank guarantee to guarantee the future payments to Blue Diamond and will progressively step down from March 2023 until January 2027.

The Board has also resolved to conduct a process to divest all of its shares in AFMH (with the proceeds of that sale to be pledged to secure the Bank Guarantee Facility).

The Company's proposed divestment of its AFMH Shares is supported by a binding underwriting offer from Leppington Pastoral Investments Pty Limited (**Leppington**) – an entity related to Arrovest – to acquire those shares for not less than \$25 million. To support its underwritten offer to acquire the AFMH Shares, Leppington and Arrovest have agreed to provide a limited guarantee of the Bank Guarantee Facility for an amount of \$25 million.

Leppington's proposed acquisition of the AFMH Shares is subject to AFMH's pre-emptive rights regime and is also subject to the Company obtaining all necessary Shareholder approvals for the sale of the AFMH Shares to Leppington, including under ASX Listing Rule 10.11. Leppington's offer remains binding until 1 August 2022 or such later date as agreed between Leppington and the Company.

## 8.27 Conclusion of auditor's appointment

As announced on 24 March 2022, Deloitte's appointment as auditor is expected to conclude on 13 April 2022.

The Company has commenced a process to appoint a replacement auditor and will provide an update to ASX in due course. In accordance with the Corporations Act, Shareholder approval to confirm the appointment of the new auditor will be sought at the Company's next Annual General Meeting.

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<sup>4</sup> AFMH has recently undertaken a capital raising. As the Company did not participate in that raising, its total shareholding in AFMH will be diluted upon issuance of the new securities.

## **8.28 Negotiations in relation to sale of interest in JLL**

Noumi (China) Pty Ltd (**NCPL**), a subsidiary of the Company, is in discussions with Shenzhen Jia Li Le Co. Limited (**JLL**) and Guangzhou Langfeng Investment Co. Ltd (**Langfeng**) in relation to a potential sale of FFCPL's 10% shareholding in JLL to Langfeng. The parties are also in discussions regarding the replacement of existing milk supply arrangements with new supply terms. The commercial terms are still being negotiated and remain incomplete, and NCPL has not yet agreed to sell its JLL shareholding or enter new supply terms.

## **8.29 Electronic Prospectus**

Pursuant to ASIC Regulatory Guide 107, ASIC has exempted compliance with certain provisions of the Corporations Act to allow distribution of an electronic Prospectus on the basis of a paper Prospectus lodged with ASIC, and the issue of securities in response to an electronic Application Form, subject to compliance with certain provisions. If you have received this Prospectus as an electronic Prospectus, please ensure that you have received the entire Prospectus. If you have not, please email the Company using the details in the Corporate Directory and the Company will send you either a hard copy or a further electronic copy of this Prospectus, or both.

The Company reserves the right not to accept an Application Form from a person if it has reason to believe that when that person was given access to the relevant electronic Application Form, it was not provided with the electronic Prospectus and any relevant supplementary or replacement prospectus or any of those documents were incomplete or altered. In such a case, the Application Monies received will be dealt with in accordance with section 722 of the Corporations Act.

## **8.30 Governing law**

This Prospectus and the contracts which arise on acceptance of Application Forms are governed by the law applicable in New South Wales, and each applicant submits to the non-exclusive jurisdiction of the courts of New South Wales.

## **8.31 Consent to lodgement**

This Prospectus has been approved by unanimous resolution of the Directors of the Company.

Each Director of the Company has given and has not, before the lodgement of this Prospectus, withdrawn their consent to the lodgement of this Prospectus with ASIC.

Dated: 11 April 2022

## 9 Note Terms

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This Section 9 sets out a detailed summary of the Note Terms. A full copy of the Note Terms is annexed in Schedule 1 of the Trust Deed and as **Annexure A** to this Prospectus.

For the purposes of this Section 9 and the Note Terms, **Transaction Documents** include the Trust Deed, each Tranche A Notes, each Tranche B Note, the Security Trust Deed and each Collateral Security (as each of those terms are defined in the Note Terms).

### 9.1 What are the Notes?

The Notes are redeemable convertible notes of the Company and are issued under the Trust Deed. Noteholders are entitled to the benefit of and are bound by the provisions of the applicable Transaction Documents and these Note Terms.

The Notes comprise both the Tranche A Notes and the Tranche B Notes.

The Notes at all times constitute direct and secured debt obligations of the Company. The Notes are secured by the security interests granted by the Company and the Australian Guarantors to the Security Trustee under the Collateral Securities.

### 9.2 Who is the issuer of the Notes?

The Company is the issuer of the Notes.

### 9.3 What is the Issue Price of the Notes?

Each Note will be issued by the Company at an issue price of \$1.00 (the **Issue Price**). The Issue Price must be paid in full on application.

### 9.4 What is the currency of the Notes?

The Notes are denominated in Australian dollars.

### 9.5 No certificates

No certificates will be issued to Noteholders for the Notes, unless the Company determines that certificates should be available or are required by any applicable law.

### 9.6 Non-quotations of the Notes

The Notes will not be quoted on ASX or other securities exchange.

### 9.7 What rights are attached to the Notes?

The Notes do not confer on Noteholders a right to:

- (a) vote at any meeting of members of the Company;
- (b) subscribe or participate in any new issue of securities by the Company; or
- (c) otherwise participate in the profits or property of the Company, except as set out in the Note Terms or the Transaction Documents.



If an amendment to the Note Terms will, in the Trustee's opinion, be materially prejudicial to the interests of Noteholders, a Special Resolution of Noteholders will be required.

If an amendment relates to an extension of the Maturity Date or reduction to payment amounts in respect of the Notes, a Super Resolution of Noteholders will be required.

## **9.8 What Security has been granted to Noteholders?**

The Notes are secured by the security interests granted by the Company and its Australian Subsidiaries to the Security Trustee under the Collateral Securities. The Security Trustee holds the rights under the Collateral Securities on trust for the benefit of itself, the Trustee and the Noteholders in accordance with the terms of the applicable Transaction Documents. The Collateral Securities are substantially the same as the securities granted to secure the Senior Facilities.

An Intercreditor Deed has been entered into which governs the way in which competing security interests will rank in priority, and how that security can be enforced. See Section 8.13 for a summary of the Intercreditor Deed.

## **9.9 Where do the Notes rank in the event of a Winding Up of the Company?**

In the event of a Winding Up of the Company, each Note ranks:

- (a) after all Priority Permitted Debt;
- (b) equally with each other Note, and any other Permitted Debt which the Noteholders by Majority Noteholder Resolution agree ranks equally with the Notes;
- (c) ahead of all Shortfall Debt;
- (d) ahead of all other Permitted Debt not otherwise covered above;
- (e) ahead of all present and future unsubordinated and unsecured debt obligations of the Company, subject to the laws and principles of equity affecting creditor rights or obligations preferred by mandatory provisions of applicable law; and
- (f) ahead of all Shares.

Details of what constitutes Priority Permitted Debt and other Permitted Debt is set out in Section 8.7.

## **9.10 Can the Notes be transferred?**

Yes. A Noteholder may transfer any Notes by delivery of the Note certificate issued in respect of that Note, with a duly executed transfer form, to the specified office of the Note Registrar for registration (along with all other information required by the Issuer and/or the Note Registrar to effect the transfer and administer the Notes, including in accordance with their appointment as Note Registrar).

Notes may only be transferred if the offer or invitation for the transfer, sale or purchase of the Notes is received by a person:

- (a) in Australia, only if the minimum aggregate consideration payable at the time of the transfer is at least A\$500,000 (or its equivalent in an alternative currency and,

in each case, disregarding moneys lent by the transferor or its associates to the transferee) or the Notes are transferred in circumstances that do not otherwise require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act and the transfer complies with all applicable laws and directives; and

- (b) if, in a jurisdiction outside Australia, the transfer complies with all other applicable laws and directives in the jurisdiction in which the transfer takes place.

### 9.11 When is the Maturity Date?

27 May 2027.

### 9.12 What is the Conversion Price?

If the Notes are Converted into Shares, the number of Shares issued on Conversion will be calculated by dividing the Equity Conversion Amount by the Conversion Price.

The Conversion Price:

- (a) in respect of Tranche A Notes, is \$0.70; and
- (b) in respect of Tranche B Notes, is \$0.32,

which may be adjusted in accordance with the Note Terms including adjustments for reorganisations, dividends, rights issues and bonus issues and capital returns.

### 9.13 How does interest accrue, and when is it payable?

The Company must either pay or capitalise (to the extent then able to be capitalised) the interest payable on the Notes quarterly.

Interest will accrue daily on the Face Value of the Notes and will be paid, at the Company's election, in the following ways:

- (a) for any Interest Period beginning in the term of 27 months from the Issue Date of the Tranche A Notes (being 27 May 2021):
  - (i) entirely in cash (**Cash Interest**);
  - (ii) entirely by increasing the principal amount of the outstanding Notes by an amount equal to interest for the applicable Interest Period (**PIK Interest**); or
  - (iii) by paying a proportion in cash and the balance of accrued interest by increasing the principal amount of the outstanding Notes by that amount (**Initial Combination Interest**);
- (b) for any Interest Period beginning after the term of 27 months from the Issue Date of the Tranche A Notes (being 27 May 2021):
  - (i) entirely in cash; or
  - (ii) by paying the interest partly in cash (**Partial Cash Interest**) and partly by increasing the principal amount of the outstanding Notes (**Partial PIK Interest**), in accordance with the Note Terms.

The amount of Interest payable on each Note for an Interest Period is calculated according to the following formula:

$$\text{Interest payable} = \frac{\text{Interest Rate} \times \text{Face Value} \times N}{365}$$

Where:

N means, in respect of:

- (i) the first Interest Payment Date of a Note, the number of days from (and including) its Issue Date to (but excluding) that first Interest Payment Date; and
- (ii) each subsequent Interest Payment Date, the number of days from (and including) the preceding Interest Payment Date to (but excluding) that Interest Payment Date or, in the case of the last Interest Period, the Maturity Date, Conversion Date or Redemption Date.

## 9.14 What interest is payable on the Notes?

The Note Terms set out a formula for the calculation of Interest payable on the Notes.

Subject to a reduction to the amount of Interest payable where the Company has issued a Relevant Disputes Notice:

- (a) Cash Interest on the Notes will accrue at a rate of 7.00% per annum and be payable in cash;
- (b) PIK Interest on the Notes will accrue at a rate of 8.5% per annum and be payable by increasing the principal amount of the outstanding Notes by an amount equal to the PIK Interest for the applicable Interest Period;
- (c) Initial Combination Interest on the Notes will accrue at a rate of 8.5% per annum and may be paid in whatever proportion of cash and by increasing the principal outstanding as the Company elects (by notice to the Trustee with a copy to the Paying Agent in writing);
- (d) Partial Cash Interest on the Notes will accrue at a rate of 5% per annum and be payable in cash; and
- (e) Partial PIK Interest on the Notes will accrue at a rate of 3.5% per annum and be payable by increasing the principal amount of the outstanding Notes by an amount equal to the Partial PIK Interest for the applicable Interest Period.

If the Company has issued a Relevant Disputes Notice:

- (f) each of the Cash Interest, PIK Interest and Initial Combination Interest will reduce by 1.00% per annum; and
- (g) the Partial Cash Interest and Partial PIK Interest will (in aggregate) reduce by 1.00% per annum, on and from the date on which the Relevant Dispute Notice has been issued,

in relation to those Notes which are, at the relevant time, Convertible into Shares.

### **9.15 When does default interest apply and what is the rate?**

If an amount is not paid under the Note Terms on or before the due date, interest accrues on the unpaid amount at 2% per annum from the due date to (but excluding) the date on which payment is made to the Noteholder of the full unpaid amount.

### **9.16 Can the Company change how it pays Interest?**

The Company may in its absolute discretion elect at any time to pay in cash any interest that had previously been paid in kind (being PIK Interest and Partial PIK Interest). The payment of Interest in this way will not constitute a partial voluntary redemption of the Notes.

### **9.17 When can the Notes be Cash-Settled?**

The Company obtained Shareholder approval to convert both the Tranche A Notes and Tranche B Notes into Shares on 25 May 2021 and 8 April 2022 respectively. The Note Terms contained cash-settled provisions to accommodate the issuance of those Tranche B Notes where Shareholder approval was not obtained. Accordingly, the Cash-Settled provisions no longer apply in respect of conversion.

### **9.18 When can the Notes be Converted into Shares?**

Subject to the Note Terms and the Company obtaining the Shareholder Approvals, a Noteholder has the right to Convert some or all of its Notes into a number of Shares (**Equity Conversion Right**) by giving the Trustee (with a copy to the Note Registrar) notice in writing of its intention to do so (**Equity Conversion Notice**).

The Face Value of the Notes the subject of an Equity Conversion Right must be at least the lesser of \$2,000 or the balance of the Noteholder's holding of the Notes.

### **9.19 What does an Equity Conversion Notice need to contain?**

An Equity Conversion Notice must:

- (a) be in writing (in such form as the Company may accept);
- (b) specify the number of Notes to be Converted into Shares and whether those Notes comprise:
  - (i) Tranche A Notes;
  - (ii) Tranche B Notes; or
  - (iii) a combination of the two; and
- (c) be signed by the Noteholder or an authorised representative or officer of the Noteholder.

### **9.20 What are the consequences of an Equity Conversion Notice?**

Once an Equity Conversion Notice has been given to the Company:

- (a) the notice cannot be withdrawn without the written consent of the Company;

- (b) the Noteholder must not deal with, transfer, dispose or otherwise encumber any Notes the subject of the Equity Conversion Notice; and
- (c) the Noteholder must provide such evidence of title to the Notes the subject of the Equity Conversion Notice as may be reasonably required by the Company and the Note Registrar.

An Equity Conversion Notice will not be effective if it is given less than 10 Business Days before the Maturity Date.

## 9.21 When will the Notes mandatorily Convert into Shares?

If, at any time, the aggregate of (without double counting):

- (a) the number of Notes that have Converted into Shares; and
- (b) the number of Notes that Noteholders have elected to Convert into Shares on the Equity Conversion Date (as that term is defined in the Note Terms),

equals or exceeds :

- (c) if there is no Substantial Noteholder – 75% or more of the number of all Notes issued by the Company (calculated by reference to the aggregate Face Value of all Notes issued by the Company); or
- (d) in all other circumstances – 84% or more of the number of all Notes issued by the Company (calculated by reference to the aggregate Face Value of all Notes issued by the Company),

and provided the VWAP of one Share during the 20 Business Days prior to Conversion is no less than the Conversion Price for the Tranche A Notes, then:

- (e) the remaining Notes will automatically Convert into Shares; and
- (f) each relevant Noteholder will be deemed to have provided to the Trustee and the Company an Equity Conversion Notice specifying that all of its remaining Notes are to be Converted into Shares.

## 9.22 What is the effect of the Notes being Converted into Shares?

On the Equity Conversion Date (as that term is defined in the Note Terms):

- (a) the Noteholder's Note will be taken to have been Redeemed, and the Noteholder will be taken to have agreed to pay the Equity Conversion Amount to the Company by way of subscription for new Shares (**Conversion Shares**) at an issue price per Conversion Share that:
  - (i) in respect of Tranche A Notes, is equal to \$0.70 (as adjusted under the Note Terms); and
  - (ii) in respect of Tranche B Notes, is equal to \$0.32 (as adjusted under the Note Terms);
- (b) the Company will be taken to have issued to the Noteholder, and must register the Noteholder as the holder of, the Conversion Shares;

- (c) the Noteholder agrees to be registered as the holder of the Conversion Shares in the Company's register of members;
- (d) a holding notice in respect of the Conversion Shares is to be sent to the Noteholder at its registered address in respect of the relevant Notes;
- (e) the Company must use all reasonable endeavours to procure and maintain quotation of the Conversion Shares on ASX; and
- (f) upon the issue of the Conversion Shares, all other rights conferred or restrictions imposed by the Note under the Note Terms will no longer have effect.

### **9.23 How will the Conversion Shares rank?**

The Conversion Shares will be fully paid and will in all respects rank pari passu with all other fully paid Shares on issue on the relevant Equity Conversion Date, except that they will not be entitled to any dividend or any other distribution or entitlement that has not been paid as at the Equity Conversion Date but for which the record date was prior to the Equity Conversion Date.

### **9.24 When will the Conversion Price be adjusted?**

Adjustments to the Conversion Price will occur in any of the following circumstances:

- (a) if the Company or Subsidiary makes a pro rata issue or bonus issue (as those terms are defined under the ASX Listing Rules) of Shares to holders of Shares generally;
- (b) if the Company undertakes an off market buy-back under a buy-back scheme which, but for any applicable restrictions on transfer, would be generally available to holders of Shares (or otherwise cancels Shares for consideration);
- (c) if at any time the Company makes a pro rata return of capital to holders of Shares without cancellation of any Shares; or
- (d) where Shares are reconstructed, consolidated, divided or reclassified into a lesser or greater number of securities, subject to the ASX Listing Rules;

in accordance with the formulae specified in the Note Terms.

If the Company forms the opinion that the effect of any adjustments specified above are not appropriate, or where any other event occurs in relation to the Company that in the Company's opinion may have a dilutive or concentrative effect on the value of the Shares, the Company may make adjustments to the Conversion Price as it considers appropriate or necessary to maintain the relative value of Notes and the Shares and so that the Noteholder will not receive a benefit that Shareholders do not receive and so that Shareholders will not receive a benefit that the Noteholder does not receive, acting in good faith.

None of the Trustee, Security Trustee, Note Registrar or the Paying Agent is under any duty to monitor or ascertain whether any event or circumstance has happened to exists which may require an adjustment to be made to the Conversion Price.

### **9.25 When are the Notes scheduled to be Redeemed?**

On the Maturity Date, each Note is Redeemable by the Company for the Makewhole Amount unless:

- (a) the Note has been previously Converted;
- (b) the Note has been previously Redeemed; or
- (c) the Note has been purchased by the Company and cancelled.

## 9.26 When can the Notes be Redeemed early?

Subject to certain conditions in the Intercreditor Deed, the Company may voluntarily redeem the Notes at any time prior to the Maturity Date by giving at least 10 Business Days written notice to the Trustee, Note Registrar, Paying Agent and the Noteholders of the intention of the Company to Redeem the Notes (**Early Redemption Notice**). The Intercreditor Deed requires that any voluntary redemption by the Company of the Notes is funded by fresh equity or is otherwise undertaken at the same that all Senior Group Facilities are repaid.

If a Noteholder delivers a Equity Conversion Notice for some or all of its Notes, the Equity Conversion Notice will prevail for the Notes that are the subject of the Equity Conversion Notice.

## 9.27 What is an Exit Event?

An Exit Event is:

- (a) a Sale Event; or
- (b) a Change of Control Event.

The Company must provide written notice of any proposed Sale Event or Change of Control Event Trigger to the Trustee, Note Registrar, Paying Agent and the Noteholders (and where possible, subject to confidentiality obligations, at least 20 Business Days prior to the proposed Sale Event) (**Exit Notice**).

## 9.28 What information is contained in an Exit Notice?

An Exit Notice must:

- (a) specify the occurrence, or proposed occurrence, of the Exit Event;
- (b) specify the date on which the Exit Event occurred or is proposed to occur;
- (c) notify that each Noteholder (with a copy to the Trustee) may elect to either:
  - (i) Redeem all of its Notes on the Redemption Date specified in the Exit Notice (which must be no later than immediately prior to the Exit Event) at the applicable Makewhole Amount; or
  - (ii) exercise its Equity Conversion Right;
- (d) enclose the form of the notice required to be given by a Noteholder if it elects to notify the Company that it wishes to have its Notes Redeemed on the Redemption Date specified in the Exit Notice (**Redemption Notice**); and
- (e) such other information relating to the Exit Event as the Trustee may reasonably require to be given to the Noteholders.

## **9.29 What can Noteholders do on the Trustee's receipt of an Exit Notice?**

Each Noteholder may, upon its receipt of an Exit Notice:

- (a) exercise its Equity Conversion Right by delivering an Equity Conversion Notice for some or all of its Notes at least 5 Business Days before the applicable Equity Conversion Date; or
- (b) notify the Company that it wishes to have its Notes Redeemed on the Redemption Date specified in the Exit Notice by delivering a Redemption Notice, in which case the Company must pay the applicable Makewhole Amount on that date.

## **9.30 What is the effect of a Redemption Notice?**

Once a Noteholder provides a Redemption Notice to the Company:

- (a) the notice cannot be withdrawn without the written consent of the Company;
- (b) the Noteholder must not deal with, transfer, dispose or otherwise encumber any Notes the subject of the Redemption Notice; and
- (c) the Noteholder must provide such evidence of title to the Notes the subject of the Redemption Notice as may be reasonably required by the Company and the Note Registrar.

If a Noteholder delivers a Redemption Notice for some or all of its Notes, the Redemption Notice will prevail for the Notes that are the subject of the Redemption Notice and those Notes will be Redeemed by the Company on the Redemption Date at the applicable Makewhole Amount.

## **9.31 Is the Company restricted from purchasing Notes?**

Subject to compliance with any applicable law or requirement of ASX, the Company and any of its Related Bodies Corporate (or any third party nominated by the Company) may, at any time, purchase Notes in the open market or otherwise at any price agreed with one or more Noteholders.

## **9.32 What is the Makewhole Amount**

Where the Redemption of Notes occurs at any time on or prior to the Maturity Date for any reason, the Company (unless Noteholders otherwise elect to Convert) must pay to the relevant Noteholders on the relevant Redemption Date, an amount calculated so that the total amount payable by the Company on Redemption is equal to the applicable percentage in the table below corresponding to the period in which the Redemption Date occurs multiplied by the aggregate of the Initial Face Value of the Notes being redeemed, less the amount of all Interest paid (but not capitalised) prior to the Redemption Date (**Makewhole Amount**).



Period following issuance of the Note in which Redemption occurs	Applicable makewhole percentage
Years 1 & 2	175%
Years 3 & 4	185%
Year 5	220%
Year 6 (including the Maturity Date)	230%

### 9.33 When does an Event of Default occur?

An Event of Default occurs in relation to the Notes if:

- (a) the Company fails to issue Shares on Conversion in accordance with the Note Terms within 10 Business Days after the date on which such issue is to be made;
- (b) the Company does not pay any amount due in respect of the Notes Terms within 5 Business Days after the date on which it is due and, where the sole reason for the default is a technical or administrative difficulty within the banking system being used to effect payment, such default is not remedied within 2 Business Days;
- (c) a member of the Group fails to comply with any of the undertakings stipulated in Section 9.37(f) and such failure remains unremedied for a period of 10 Business Days;
- (d) a member of the Group fails to comply with the covenants specified in Sections 9.37(f)(ii) or 9.37(g)(iv);
- (e) the Company fails to materially comply with any of its other obligations under the Note Terms or the Transaction Documents and such failure remains unremedied for a period of 15 Business Days;
- (f) any Group Member has a controller appointed, or is in receivership, is in receivership and management, in liquidation, in provisional liquidation, under administration or wound up or has had a receiver appointed to any part of its property;
- (g) any other Insolvency Event occurs in respect of a member of the Group;
- (h) a final judgment or determination (including injunctive relief and an order for specific performance) is received in relation to any litigation, arbitration, administrative or government against any member of the Group or its assets which have, or has or is reasonably likely to have, a Material Adverse Effect;

- (i) any financial indebtedness in an amount exceeding \$10 million of the Group (or any member of the Group) is not paid when due nor within any applicable grace period or is declared to be due and payable prior to its specified maturity as a result of an event of default;
- (j) the Company's Shares cease to be quoted on ASX;
- (k) any security interest over an asset of the Group with a value greater than \$10 million is enforced;
- (l) the Company or a Guarantor ceases or suspends the conduct of its business or a substantial part of its business;
- (m) at any time, it is unlawful for the Company to perform any of its payment obligations under the Notes;
- (n) all or substantially all of the assets of the Group are resumed or compulsorily acquired by any Government Agency; or
- (o) all or any rights or obligations of the Company, Noteholders or the Trustee under the Trust Deed or the Note Terms are terminated or are or become void, illegal, invalid, unenforceable or of limited force and effect.

Certain Events of Default have cure periods, as specified in the Note Terms.

### **9.34 What are the consequences of an Event of Default?**

If an Event of Default occurs and is continuing in relation to the Notes, the Trustee may, at its discretion:

- (a) declare by notice to the Company (with a copy to the Noteholders, the Note Registrar and the Paying Agent) that all the Notes are to be Redeemed for the Makewhole Amount;
- (b) take enforcement action against the Company and the relevant Group Member (as applicable) in relation to the Event of Default in accordance with the Transaction Documents.

The Trustee is not bound to take any action to enforce the obligations of the Company with respect to the Trust Deed or the Notes or any other proceeding or action pursuant to or in connection with the Transaction Documents unless:

- (c) it is indemnified and/or secured and/or prefunded, to its satisfaction, against all liabilities which may be incurred (including legal costs on a solicitor and own client basis) in connection with that action;
- (d) it is first placed in funds by the Company sufficient to cover the liabilities that it may incur as a result of doing so; and
- (e) it is not restricted or prohibited from taking such action by any order of any competent court or any applicable law.

### **9.35 What are the restrictions on the Trustee enforcing an Event of Default?**

The Trustee must not take action to enforce the Event of Default as specified in Section 9.34 unless:

- (a) in respect of an Event of Default referred to in Sections 9.33(a), 9.33(b) or 9.33(f):
  - (i) it has been so directed by an MD Noteholders Resolution; or
  - (ii) if the Trustee has not received any direction within 5 Business Days of the Trustee notifying Noteholders of the occurrence of the Event of Default and provided no Noteholder holds Notes with a Face Value of more than 85% of the total Face Value of Notes then on issue, then the Trustee shall have been so directed by such number of Noteholders (excluding the Substantial Noteholder) which represent at least 75% of the Face Value of all Notes held by Noteholders excluding the Substantial Noteholder; or
- (b) in respect of an Event of Default referred to in Sections 9.33(c), 9.33(d), 9.33(e) or 9.33(g) to 9.33(o):
  - (i) it shall have been so directed by a Simple Majority Noteholders Resolution; or
  - (ii) if the Trustee has not received any direction within 20 Business Days of the Trustee notifying Noteholders of the occurrence of the relevant Event of Default and no Noteholder holds Notes with a Face Value of more than 85% of the total Face Value of Notes then on issue, then the Trustee shall have been so directed by such number of Noteholders (excluding the Substantial Noteholder) which represent at least 75% of the Face Value of all Notes held by Noteholders excluding the Substantial Noteholder.

If the Trustee forms the view (acting reasonably) that enforcement action directed by a MD Noteholders Resolution or a Simple Majority Noteholders Resolution is or could be inconsistent with the Note Terms, the Transaction Documents, the Corporations Act or any applicable law, it must take steps to seek as soon as reasonably practicable a court direction or order to set aside or vary the direction given by Noteholders in accordance with the above, and, while those steps are underway, the Trustee is not obliged to take any action or proceedings it has been directed to take by Noteholders in accordance with the above.

Any enforcement by the Trustee or the Security Trustee of the Transaction Documents is subject to the Intercreditor Deed.

### **9.36 Can Noteholders enforce the Note Terms?**

Unless the Trustee, having become obliged to take action to enforce the rights of the Noteholders under the Transaction Documents and the Note Terms, fails to do so within 20 Business Days of being obliged to do so and such failure is continuing, the rights of each Noteholder to enforce the obligations of the Company under the Notes are limited to the exercise of its rights to enforce and seek due administration by the Trustee of the Trust Deed.

In particular, unless the Trustee, having become obliged to take action to enforce the rights of the Noteholders under the Transaction Documents and the Note Terms, fails to do so within 20 Business Days of being obliged to do so and such failure is continuing, no Noteholder may, with respect of any amount due under the Notes held by it:

- (a) sue the Company;
- (b) obtain judgment against the Company; or

- (c) apply for or seek that the Company be wound up.

Any enforcement by the Trustee or the Security Trustee of the Transaction Documents is subject to the Intercreditor Deed.

### **9.37 What undertakings has the Company provided?**

For so long as the Notes remain outstanding, the Company must and must procure that the Guarantors provide customary covenants and undertakings in respect of (but not limited to):

- (a) authorising the performance of its obligations under the Transaction Documents;
- (b) general obligations relating to complying with laws, maintenance of corporate existence, payment of taxes, insurances, mergers, maintenance of material assets, key supplier agreements and solvency;
- (c) seeking Noteholders' consent (via a Majority Noteholders' Resolution) to any resolution or matter requiring Shareholder consent;
- (d) doing all things which are necessary or desirable to execute the sale of shares held by Noumi Operations Pty Ltd in Australian Fresh Milk Holdings Pty Ltd by 1 August 2022 and sell those shares for immediate cash payment by that date;
- (e) in respect of the Final Agreement:
  - (i) complying with the Company's obligations under the Final Agreement;
  - (ii) not repudiating, rescinding, releasing, surrendering or terminating the Final Agreement, other than by way of performance of the Final Agreement in accordance with its terms;
  - (iii) not varying or agreeing to any waiver in respect of the terms of the Final Agreement; and
  - (iv) doing all things reasonably necessary within its power to keep the Final Agreement valid and enforceable and not do anything which would or would be likely to render the Final Agreement invalid or unenforceable;
- (f) restrictions on the Company and its Subsidiaries, without the approval of a Special Resolution:
  - (i) agreeing to an asset sale or disposal where Shareholder consent is required under the ASX Listing Rules or Corporations Act, or a sale or disposition of assets worth more than 10% of the Group's gross assets per annum, subject to an aggregate cap of 25% of the Group's gross assets until all notes have been Converted or Redeemed (unless the sale or disposal is a Permitted Sale);
  - (ii) declaring or paying dividends in certain circumstances (including where defaults are subsisting, PIK Interest or Partial PIK Interest remains outstanding, or where net leverage is greater than 4.0x);
  - (iii) redeeming, purchasing, cancelling, reducing, returning capital or acquiring any share or other securities issued by a member of the Group for repayment or return of capital in a Winding Up;

- (iv) providing financial accommodation or guarantees to any third party;
  - (v) incurring any Financial Indebtedness or agreeing to do so, except Permitted Debt;
  - (vi) issuing any Pari Passu Debt unless each Noteholder is entitled to participate pro rata in the issuance of that Pari Passu Debt;
  - (vii) agreeing to any amendment, termination or release (other than as a result of performance) of Leppington Pastoral Investments Pty Limited's obligations or undertakings for the benefit of the Company pursuant to its letter to the Company dated 22 February 2022;
  - (viii) creating new security interests over any assets of the Group;
- (g) restrictions on the Company and its Subsidiaries, without the approval of a Majority Noteholders Resolution:
- (i) acquiring any asset or business where such acquisition requires Shareholder consent under the ASX Listing Rules and/or Corporations Act;
  - (ii) substantially changing the scope of the Company or Group's business from that carried on at 27 May 2021;
  - (iii) entering into any hedging agreement other than in accordance with its hedging policy.
  - (iv) agreeing or consenting to any settlement or resolution of:
    - (A) *Nicholas Gehrke and Lester Buch v Freedom Foods Group Limited & Deloitte Touche Tomatsu*, Supreme Court proceeding no. S ECI 2020 04505; or
    - (B) any same or similar shareholder class actions brought or threatened against the Company in respect of the same facts, matters or circumstances arising prior to 27 May 2027,

where the Company and/or any other Group Member are required to contribute to payment of a settlement sum (other than where funded by contributions from third parties permitted under the Transaction Documents and/or insurance) (the **Disputes Undertaking**).

### 9.38 Can the Note Terms be amended without the consent of Noteholders?

At any time, and from time to time, but subject to clause 18.1 of the Trust Deed, the Note Terms may be modified, altered, cancelled, amended or added to (collectively **Modified**) at any time without the consent of Noteholders if such Modification is, in the opinion of the Trustee (acting reasonably):

- (a) of a formal or technical nature or made to cure any ambiguity or correct any manifest error;
- (b) necessary to cure any ambiguity or correct or supplement any defective or inconsistent provision;

- (c) necessary or expedient to comply with the provisions of any law or regulation or the requirements of any statutory authority,

provided that, in each case, in the opinion of the Trustee (acting reasonably), such amendment is not materially prejudicial to the interests of the Noteholders as a whole.

In respect of a Modification sought by a party in reliance on any one of clauses 9.38(a) to 9.38(c), the Trustee may (without limiting its general rights under the Trust Deed) obtain an opinion from legal, taxation or accountancy advisers of recognised standing in New South Wales, which opinion is in a form satisfactory to the Trustee (acting reasonably) and is addressed to or is otherwise able to be relied on by the Trustee, to the effect that such Modification (taken as a whole and in conjunction with all other Modifications) is:

- (a) a Modification within the scope of any one or more clauses of 9.38(a) to 9.38(c); and
- (b) not materially prejudicial to the interests of Noteholders of the Notes (taken as a whole).

### **9.39 When can Noteholders amend the Note Terms?**

Subject to the below provisos and clause 18.2 of the Trust Deed, the Note Terms may be Modified at any time if such Modification is authorised by a Majority Noteholders Resolution.

If:

- (a) the Trustee considers the Modification will be materially prejudicial to the interests of Noteholders of the Notes (taken as a whole) (including any approvals of acquisitions and dispositions), then the Modification must be authorised by a Special Resolution;
- (b) the Modification extends the Maturity Date, reduces the payment amounts in respect of the Notes, amends the Conversion terms in respect of the Notes or amends clauses 11.3 or 17.3(c) of the Note Terms, then the Modification must be authorised by a Super Resolution.

If a clause of the Note Terms provide for Noteholders to give a direction to the Trustee:

- (a) by a Special Resolution, then that clause may only be Modified if such Modification is authorised by a Special Resolution; or
- (b) by a Super Resolution, then that clause may only be Modified if such Modification is authorised by a Super Resolution.

## 10 Glossary

The following definitions apply throughout this Prospectus unless the context requires otherwise.

<b>1936 Act</b>	means the <i>Income Tax Assessment Act 1936</i> (Cth).
<b>1997 Act</b>	means the <i>Income Tax Assessment Act 1997</i> (Cth).
<b>ABN / CAN</b>	means Australian Business Number / Australian Company Number.
<b>Access Code</b>	means the unique access code sent by Link to each Eligible Noteholder on or around 20 April 2022 which must be used in order to complete the online Application Form.
<b>Accounting Policies</b>	means the accounting policies set out in the Company's FY21 Annual Report.
<b>AFMH</b>	means Australian Fresh Milk Holdings Pty Limited CAN 606 506 290.
<b>AFMH Shares</b>	means the shares held by Noumi Operations Pty Ltd in AFMH.
<b>AML/CTF</b>	means the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> (Cth).
<b>Applicant</b>	means an Eligible Noteholder who lodges an Application.
<b>Application</b>	Means a valid application for Tranche B Notes under this Prospectus made via <a href="https://events.miracle.com/noumi-bnotes">https://events.miracle.com/noumi-bnotes</a> .
<b>Application Form</b>	means an application form available at <a href="https://events.miracle.com/noumi-bnotes">https://events.miracle.com/noumi-bnotes</a> and relating to the Capital Raising.
<b>Application Monies</b>	means the amount payable on each Application (other than an Application made by an Eligible Noteholder who is also a Loan Noteholder), being the Issue Price multiplied by the number of Tranche B Notes applied for.
<b>Arrovest</b>	means Arrovest Pty Ltd ACN 117 953 205.
<b>ARS Agreement</b>	means the agency and registry services agreement entered into between, among others, the Company and the Trustee, as described in Section 8.11.
<b>ASIC</b>	means Australian Securities and Investments Commission.
<b>ASIC Act</b>	means <i>Australian Securities and Investments Commission Act 2001</i> (Cth).
<b>ASIC Investigation</b>	means the investigation into the Company by ASIC under section 13 of the ASIC Act, further details of which are set out in Section 8.25.
<b>Associate</b>	has the meaning given to it in section 128F(9) of the 1936 Act.
<b>ASX</b>	means ASX Limited ABN 98 008 624 691 or the securities market it operates, as the context requires.
<b>ASX Listing Rules or Listing Rules</b>	means the official listing rules of ASX.
<b>ASX Settlement</b>	means ASX Settlement Pty Limited ABN 49 008 504 532.
<b>ASX Settlement Operating Rules</b>	means the operating rules of ASX Settlement.
<b>ATO</b>	means the Australian Taxation Office.
<b>AUD or \$ or A\$</b>	means Australian dollars.

<b>Australian Accounting Standards</b>	means accounting standards set by the Australian Accounting Standards Board for the purposes of section 334 of the Corporations Act.
<b>Australian Consumer Law</b>	means schedule 2 of the <i>Competition and Consumer Act 2010</i> (Cth).
<b>Australian Guarantor</b>	means each Guarantor incorporated in Australia.
<b>Blue Diamond</b>	means Blue Diamond Growers.
<b>Board</b>	means the board of Directors of the Company.
<b>BPAY®</b>	means BPAY Pty Limited ABN 69 079 137 518.
<b>Business Day</b>	means: <ul style="list-style-type: none"> <li>(a) in the context of the Note Terms, a day on which banks are open for general banking business in Sydney, New South Wales, Australia and Melbourne, Victoria, Australia, excluding Saturdays, Sundays and public holidays in those cities; and</li> <li>(b) otherwise, has the meaning given to that term in the ASX Listing Rules.</li> </ul>
<b>Capital Raising</b>	means the offer of a minimum of \$26.4 million in Tranche B Notes to Eligible Noteholders pursuant to this Prospectus.
<b>Cash Interest</b>	has the meaning given to that term in Section 9.13 and the Note Terms.
<b>Cash-Settled</b>	means, in relation to Conversion of the Notes, that the Notes are capable of being settled in cash. For the avoidance of doubt, the Notes are no longer capable of being Cash-Settled given the Company's receipt of Shareholder approval.
<b>CGT</b>	means Capital Gains Tax.
<b>Change of Control Event</b>	means each of: <ul style="list-style-type: none"> <li>(a) a takeover bid is made to acquire all of the Shares and: <ul style="list-style-type: none"> <li>(i) the bidder has acquired at any time during the offer period a relevant interest in more than 50% of the Shares on issue; and</li> <li>(ii) the takeover bid is or has become unconditional; and</li> </ul> </li> <li>(b) a transaction or transactions: <ul style="list-style-type: none"> <li>(i) occur or are implemented, which will; or</li> <li>(ii) are announced or entered into which, if completed or implemented, would result in an entity or persons (other than the Current Majority Shareholder and/or their related bodies corporate) Controlling the Company (whether by takeover bid, scheme of arrangement, shareholder approved acquisition, reverse takeover, dual-listed company structure, recapitalisation or any other transaction or arrangement); and</li> </ul> </li> <li>(c) a court approves (by order under section 411(4)(b) of the Corporations Act) a proposed scheme of arrangement which, when implemented, will result in a person having a relevant interest in 100% of the Shares on issue.</li> </ul>
<b>Change of Control Event Trigger</b>	means: <ul style="list-style-type: none"> <li>(a) in respect of paragraph (a) of the Change of Control Event definition, when the Company receives the bidder's statement in respect of that takeover bid under step 3 of section 633 of the Corporations Act;</li> </ul>



	<p>(b) in respect of paragraph (b) of the Change of Control Event definition, when a legally binding agreement to implement a transaction or transactions which, if implemented in accordance with its terms, would result in an entity or persons (other than the Current Majority Shareholder) and/or their related bodies corporate) Controlling the Company is entered into; and</p> <p>(c) in respect of paragraph (c) of the Change of Control Event definition, when an agreement to propose and implement the scheme of arrangement is entered into.</p>
<b>Closing Date</b>	5.00pm (Sydney time) on 28 April 2022, being the latest time and day by which completed Application Forms and BPAY® payments of Application Monies will be accepted (subject to variation).
<b>Collateral Security</b>	<p>means:</p> <p>(a) each General Security Deed; and</p> <p>(b) each other Collateral Security specified in Schedule 2 of the Note Terms.</p>
<b>Company</b>	means Noumi Limited ACN 002 814 235.
<b>Consenting Party</b>	means a party who consents to be named in this Prospectus as set out in Section 8.20.
<b>Constitution</b>	means the constitution of the Company (as amended from time to time).
<b>Control</b>	has the meaning given to that term in section 50AA of the Corporations Act, and the words <b>Controlling</b> and <b>Controller</b> bear a corresponding meaning.
<b>Conversion</b>	means the conversion of a Note in accordance with the Note Terms and the words <b>Convert</b> , <b>Convertible</b> , <b>Converting</b> and <b>Converted</b> bear a corresponding meaning.
<b>Conversion Date</b>	has the meaning given to that term in the Note Terms.
<b>Conversion Price</b>	<p>means:</p> <p>(c) in respect of the Tranche A Notes, \$0.70; and</p> <p>(d) in respect of the Tranche B Notes, \$0.32,</p> <p>as may be adjusted in accordance with the Note Terms.</p>
<b>Conversion Shares</b>	has the meaning given to that term in Section 9.22 and the Note Terms.
<b>Corporate Directory</b>	means the corporate directory at the back of this Prospectus.
<b>Corporations Act</b>	means the <i>Corporations Act 2001</i> (Cth).
<b>Current Majority Shareholder</b>	means Arrovest Pty Ltd ACN 117 953 205.
<b>Director</b>	means a director of the Company.
<b>Disputes Undertaking</b>	has the meaning given to it in the Note Terms and as described in Section 9.37.
<b>Dividend</b>	means the distribution of some of the Company's earnings to its Shareholders, as determined by the Board from time to time.
<b>Early Redemption Notice</b>	means a notice given by the Company to the Trustee, the Note Registrar, the Paying Agent and the Noteholders as described in Section 9.26 and the Note Terms.
<b>EFT</b>	means electronic funds transfer.

<b>Eligible Noteholder</b>	<p>means an institutional or professional who:</p> <p>(a) is the registered holder of Tranche A Notes (i.e. an Existing Noteholder) in the Company as at the Record Date; <b>and</b></p> <p>(b) is not Arrovest Pty Ltd or an Existing Noteholder who would otherwise require Shareholder approval under ASX Listing Rule 10.11 to participate in the Capital Raising;</p> <p>(c) if in Australia, is a “sophisticated” or “professional” investor under sections 708(8) and 708(11) of the Corporations Act; or</p> <p>(d) if in New Zealand, is a person who (i) is an investment business within the meaning of clause 37 of Schedule 1 of the Financial Markets Conduct Act 2013 (New Zealand) (the “FMC Act”), (ii) meets the investment activity criteria specified in clause 38 of Schedule 1 of the FMC Act, (iii) is large within the meaning of clause 39 of Schedule 1 of the FMC Act, (iv) is a government agency within the meaning of clause 40 of Schedule 1 of the FMC Act, or (v) is an eligible investor within the meaning of clause 41 of Schedule 1 of the FMC Act (and, if an eligible investor, have provided the necessary certification); or</p> <p>(e) if in Singapore, is an “institutional investor” or an “accredited investor” (as such terms are defined in the Securities and Futures Act of Singapore); or</p> <p>(f) if in Hong Kong, is a “professional investor” as defined under the Securities and Futures Ordinance of Hong Kong, Chapter 571 of the Laws of Hong Kong; or</p> <p>(g) if in the United Kingdom, is a (i) “qualified investor” within the meaning of Article 2(e) of the UK Prospectus Regulation and (ii) fall within the categories of persons referred to in Article 19(5) (investment professionals) or Article 49(2)(a) to (d) (high net worth companies, unincorporated associations, etc.) of the United Kingdom Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended; or</p> <p>(h) if in the United States, is (i) an “institutional accredited investor” (within the meaning of Rule 501(a)(1), (2), (3), (7), (8), (9) or (12) under the US Securities Act); or (ii) a dealer or other professional fiduciary organised or incorporated in the United States that is acting for a discretionary or similar account (other than an estate or trust) held for the benefit or account of persons that are not US persons for which it has and is exercising investment discretion, within the meaning of Rule 902(k)(2)(i) of Regulation S under the US Securities Act,</p> <p>and who has a registered address in the relevant jurisdiction.</p>
<b>Equity Conversion Amount</b>	has the meaning given to that term in the Note Terms.
<b>Equity Conversion Date</b>	has the meaning given to that term in the Note Terms.
<b>Equity Conversion Notice</b>	has the meaning given to that term in Section 9.18 and the Note Terms.
<b>Equity Conversion Right</b>	has the meaning given to that term in Section 9.18 and the Note Terms.
<b>Event of Default</b>	means any of the events listed in Section 9.33 and the Note Terms.

<b>Executive Management</b>	means the members of the Company's executive management team.
<b>Existing Noteholder</b>	means a registered holder of Tranche A Notes as at the Record Date.
<b>Exit Event</b>	means a Sale Event and/or Change of Control Event.
<b>Exit Notice</b>	means a notice given by the Company to the Trustee, the Note Registrar and the Noteholders as described in Section 9.27.
<b>Exposure Period</b>	means the period of 7 days after the date of lodgement of this Prospectus with ASIC, which period may be extended by ASIC by not more than 7 days pursuant to section 727(3) of the Corporations Act.
<b>Extraordinary General Meeting</b>	means the extraordinary general meeting of Shareholders held on 8 April 2022.
<b>Face Value</b>	means the nominal principal amount of each Note (subject to adjustments set out in the Note Terms).
<b>Final Agreement</b>	means the full-form settlement agreement between NMPL and Blue Diamond, the financial terms of which were announced on 21 February 2022.
<b>Financial Indebtedness</b>	has the meaning given to Financial Indebtedness in the Note Terms.
<b>FMC Act</b>	means the Financial Markets Conduct Act 2013 (New Zealand).
<b>FY or Financial Year</b>	means the financial year ending 30 June.
<b>FY21 Annual Report</b>	means the Company's annual financial report for the year ended 30 June 2021, released to ASX on 18 October 2021.
<b>General Security Deeds</b>	means: <ul style="list-style-type: none"> <li>(a) the general security deeds, dated on or about the Issue Date between the Security Trustee and each of the Company and its Australian Guarantors; and</li> <li>(b) each other general security deed granted by an Australian Guarantor in favour of the Security Trustee from time to time, summarized in Section 8.10.</li> </ul>
<b>GLAS</b>	means Global Loan Agency Services Australia Specialist Activities Pty Limited ACN 635 992 308.
<b>Government Agency</b>	means the Crown, a government, a government department or a governmental, semi-governmental, statutory, administrative, parliamentary, provincial, public, municipal, local, judicial or quasi-judicial body.
<b>Group</b>	means the Company and its Subsidiaries together.
<b>Group Member</b>	means any member of the Group.
<b>GST</b>	means goods and services tax.
<b>Guarantee</b>	means the guarantee provided by each of the Initial Guarantors pursuant to the Security Trust Deed in respect of the Company's obligations under the Trust Deed, the Note Terms and other Transaction Documents.
<b>Guarantor</b>	means each Subsidiary that has guaranteed the Company's obligations under the Trust Deed, the Note Terms and other Transaction Documents pursuant to the Guarantee.
<b>HBAU</b>	means HSBC Bank Australia Limited ABN 48 006 434 162.
<b>HSBC</b>	Means The Hongkong and Shanghai Banking Corporation Limited, Sydney Branch ABN 65 117 925 970.

<b>IFRS</b>	means International Financial Reporting Standards.
<b>Ineligible Investor</b>	means a person who is not an Eligible Noteholder.
<b>Initial Combination Interest</b>	has the meaning given to that term in Section 9.13 and the Note Terms.
<b>Initial Face Value</b>	has the meaning given to that term in the Note Terms.
<b>Initial Guarantor</b>	means each entity set out in Schedule 1 of the Note Terms.
<b>Insolvency Event</b>	has the meaning given to that term in the Note Terms.
<b>Intercreditor Deed</b>	means the intercreditor deed dated between, among others, the Company, the Trustee and the Senior Financiers dated 27 May 2021, as amended from time to time.
<b>Interest</b>	means the interest payable from time to time in respect of a Note including Cash Interest, PIK Interest, Initial Combination Interest, Partial Cash Interest and Partial PIK Interest.
<b>Interest Payment Date</b>	means, in respect of a Note: <ul style="list-style-type: none"> <li>(a) each Quarter Date;</li> <li>(b) the Conversion Date (if the Company elects not to include the Interest accrued but unpaid on the Note in the Equity Conversion Amount);</li> <li>(c) the Maturity Date; and</li> <li>(d) any Redemption Date.</li> </ul>
<b>Interest Period</b>	means, for a Note, each period beginning on (and including) an Interest Payment Date (as that term is defined in the Note Terms) and ending on (but excluding) the next Interest Payment Date, subject to certain exceptions set out in the Note Terms.
<b>Interest Rate</b>	means the Interest rates specified in Section 9.13.
<b>Issue Date</b>	means 29 April 2022 (indicative only).
<b>Issue Price</b>	means \$1.00 per Tranche B Note.
<b>Leppington</b>	means Leppington Pastoral Investments Pty Limited ACN 606 130 358.
<b>Link</b>	means Link Market Services Limited ACN 083 214 537.
<b>Loan Noteholder</b>	means, in respect of a Loan Note, the registered holder of that Loan Note.
<b>Loan Notes</b>	means the secured loan notes issued by the Company to certain Existing Noteholders on 15 March 2022 to obtain the bridging financing necessary to meet the Tranche 1 Settlement Payment deadline.
<b>Majority Noteholders Resolution</b>	has the meaning given to that term in the Note Terms.
<b>Makewhole Amount</b>	has the meaning given to that term in Section 9.32 and the Note Terms.
<b>Master Asset Finance Agreement</b>	means each document entitled "Master Asset Finance Agreement", including: <ul style="list-style-type: none"> <li>(a) the master asset finance agreement between NAB and Noumi Financing Pty Ltd dated 1 December 2017, as amended from time to time; and</li> <li>(b) the master asset finance agreement between NAB and Pactum Australia Pty Ltd dated 23 May 2013, as amended from time to time.</li> </ul>
<b>Material Adverse Effect</b>	has the meaning given to that term in the Note Terms.

<b>Maturity Date</b>	means 27 May 2027.
<b>MD Noteholders Resolution</b>	has the meaning given to that term in the Note Terms.
<b>Meeting Provisions</b>	means the rules relating to meetings of Noteholders contained in Schedule 2 of the Trust Deed.
<b>Modification or Modified</b>	means, in relation to the Note Terms, a modification, alteration, cancellation, amendment or addition to the Note Terms as set out in Section 9.38 and the Note Terms.
<b>NAB</b>	means National Australia Bank Limited ABN 12 004 044 937.
<b>NAB Asset Financing</b>	has the meaning given to that term in Section 8.6(e).
<b>NMPL</b>	means Noumi Manufacturing Pty Ltd (formerly Freedom Foods Pty Limited) ACN 068 972 181.
<b>Non-Executive Director</b>	means a non-executive Director of the Company.
<b>Note Registrar or Registrar</b>	means the agent responsible for establishing and maintaining a register for the Notes, initially being Global Loan Agency Services Australia Specialist Activities Pty Limited ACN 635 992 308.
<b>Note Terms</b>	means, in relation to both the Tranche A Notes and Tranche B Notes, the terms and conditions of issue of that Note (which terms form Schedule 1 to the Trust Deed and are summarised in Section 9 of this Prospectus). A full copy of the Note Terms, including definitions relevant to the Notes, is attached to this Prospectus as <b>Annexure A</b> .
<b>Noteholder</b>	means, in respect of a Note, the person from time to time whose name is entered on the Note register as the holder of that Note.
<b>Notes</b>	means the Tranche A Notes and the Tranche B Notes.
<b>Offer Information Line</b>	means 1800 774 615 (within Australia) or +61 1800 774 615 (outside Australia), open from 8:30am to 5:30pm (Sydney time), Monday to Friday (excluding public holidays).
<b>Offer Period</b>	means 5:00pm (Sydney time) on 20 April 2022 to 5:00pm (Sydney time) on 28 April 2022.
<b>Officer</b>	means an officer of the Company.
<b>Offshore Associate</b>	has the meaning given to it in Section 6.
<b>Options</b>	means the listed options (ASX:FNPO) issued by the Company on 30 July 2021.
<b>Pari Passu Debt</b>	means secured Financial Indebtedness ranking pari passu to the Notes, including pursuant to further Note issuances.
<b>Partial Cash Interest</b>	has the meaning given to that term in Section 9.13 and the Note Terms.
<b>Partial PIK Interest</b>	has the meaning given to that term in Section 9.13 and the Note Terms.
<b>PAYG</b>	means the Pay As You Go system established under <i>A New Tax System (Pay As You Go) Act 1999</i> (Cth).
<b>Paying Agent</b>	means the agent responsible for making payments on behalf of the Company of amounts owing in respect of the Notes, initially being Global Loan Agency Services Australia Specialist Activities Pty Limited ACN 635 992 308.
<b>Permitted Asset Financing</b>	has the meaning given to it in the Note Terms.
<b>Permitted Debt</b>	has the meaning given to it in the Note Terms and as described in Section 8.7.
<b>Permitted Full Recourse Debtor Financing</b>	has the meaning given to it in the Note Terms.

<b>Permitted Individual Security</b>	has the meaning given to that term in Section 8.6(a).
<b>Permitted Limited Recourse Debtor Financing</b>	has the meaning given to it in the Note Terms.
<b>Permitted Security Interests</b>	has the meaning given to that term in the Note Terms.
<b>Permitted Senior Debt</b>	has the meaning given to it in the Note Terms and as described in Section 8.7.
<b>PIK Interest</b>	has the meaning given to that term in Section 9.13 and the Note Terms.
<b>PPSA</b>	means the <i>Personal Property Securities Act 2009</i> (Cth).
<b>PPSR</b>	means the register established under section 147 of the PPSA.
<b>Priority Permitted Debt</b>	has the meaning given to it in the Note Terms and as described in Section 8.7.
<b>Privacy Act</b>	means the <i>Privacy Act 1988</i> (Cth).
<b>Prospectus</b>	means this prospectus dated 11 April 2022 and any replacement or supplementary prospectus.
<b>Quarter Date</b>	means the last day of each calendar quarter.
<b>Record Date</b>	means 5.00pm (Sydney time) on 19 April 2022.
<b>Redemption</b>	means the redemption of a Note in accordance with the Note Terms and the words <b>Redeem</b> , <b>Redeemable</b> and <b>Redeemed</b> bear their corresponding meanings.
<b>Redemption Date</b>	has the meaning given to that term in the Note Terms.
<b>Redemption Notice</b>	has the meaning given to that term in Section 9.28 and the Note Terms.
<b>Related Body Corporate</b>	has the meaning given to that term in section 9 of the Corporations Act.
<b>Relevant Disputes Notice</b>	has the meaning given to that term in the Note Terms.
<b>Sale Event</b>	means where the Company has entered into, or agreed to enter into, an agreement or arrangement pursuant to which it will sell or transfer all, or substantially all, of: <ul style="list-style-type: none"> <li>(a) the assets of the Company or the Group; or</li> <li>(b) the assets and brands of the Group's plant-based beverages segment in accordance with the Group's segment reporting.</li> </ul>
<b>Secured Property</b>	means all of the assets of any Group member which from time to time are the subject of the Collateral Securities.
<b>Security Trust Deed</b>	means the trust deed titled 'Security Trust Deed for the FNP Notes Security Trust' dated on 26 May 2021 between the Company and the Security Trustee (as amended from time to time), summarised in Section 8.10.
<b>Security Trustee</b>	means the person from time to time acting as the trustee of the trust constituted by the Security Trust Deed, initially being Global Loan Agency Services Australia Specialist Activities Pty Limited ACN 635 992 308.
<b>Senior Facilities</b>	means the debt facilities which the Senior Financiers provide to the Group, being: <ul style="list-style-type: none"> <li>(a) the \$36 million revolver facility;</li> <li>(b) interest rate hedging facilities from NAB and HBAU and FX hedging facilities from HSBC; and</li> </ul>

	(c) credit card facilities from HBAU.
<b>Senior Financiers</b>	means: (a) NAB; (b) HSBC; and (c) HBAU, and any of their permitted assigns, transferees or replacement lender(s).
<b>Senior Group Facilities</b>	means all facilities with the Senior Financiers, including the NAB Asset Financing, the Permitted Limited Recourse Debtor Financing, the Permitted Full Recourse Debtor Financing and the US\$18 million bank guarantee facility.
<b>Senior Security Trustee</b>	means NAB in its capacity as security trustee under a security trust deed originally dated 1 December 2017 and pursuant to which it holds (as senior security trustee) the Senior Securities.
<b>SFA</b>	means the Securities and Futures Act of Singapore.
<b>Share</b>	means a fully paid ordinary share in the capital of the Company.
<b>Shareholder</b>	means a holder of one or more Shares in the Company.
<b>Shareholder Approvals</b>	means the Shareholder approvals to be sought by the Company in relation to the Recapitalisation as set out in Section 5.5.
<b>Shortfall Beneficiary</b>	means a beneficiary under the Shortfall Security Trust Deed and includes HSBC and NAB.
<b>Shortfall Debt</b>	means financial indebtedness owed by the Company and the Guarantors to a Shortfall Beneficiary under the Shortfall Security Trust Deed. It includes all liabilities owed to: (a) HSBC in respect of the Permitted Limited Recourse Debtor Financing, which are not repaid from the proceeds of the relevant receivables, inventory or accounts receivable acquired or financed; and (b) NAB in respect of the NAB Asset Financing which are not repaid from the proceeds of the relevant equipment and/or assets financed.
<b>Shortfall Security</b>	has the meaning given to that term in Section 8.6(a).
<b>Shortfall Security Trust Deed</b>	means the security trust deed to be entered into prior to completion of the Capital Raising and pursuant to which the Shortfall Security Trustee will hold the Shortfall Securities on trust for the Shortfall Beneficiaries.
<b>Shortfall Security Trustee</b>	means the trustee to be appointed under the Shortfall Security Trust Deed.
<b>Special Resolution</b>	has the meaning given to that term in the Note Terms.
<b>Standstill Deed</b>	means the Standstill Deed dated 9 September 2020 between, among others, the Company, Freedom Foods Group Financing Pty Ltd and the Senior Financiers.
<b>Subsidiary</b>	has the meaning given to that term in the Corporations Act, but an entity will also be taken to be a Subsidiary of an entity if it is controlled by that entity (as defined in section 50AA of the Corporations Act) and, without limitation: (a) a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share; and

	(b) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation.
<b>Substantial Noteholder</b>	has the meaning given to that term in the Note Terms and, as at the date of this Prospectus, the Substantial Noteholder is Arrovest.
<b>Super Resolution</b>	has the meaning given to that term in the Note Terms.
<b>TFN</b>	means Tax File Number.
<b>Tranche 1 Settlement Payment</b>	means the payment by the Company to Blue Diamond of US\$17 million on 17 March 2022.
<b>Tranche 2 Settlement Payment</b>	means the future payments by the Company to Blue Diamond totalling US\$18 million paid in 16 equal quarterly instalments of US \$1,125,000 commencing on 15 August 2022, which will be supported by the provision of a US\$18 million bank guarantee.
<b>Tranche A Notes</b>	means the unlisted, subordinated secured convertible notes issued by the Company to the Existing Noteholders on 27 May 2021.
<b>Tranche B Notes</b>	means the unlisted, subordinated secured convertible notes to be issued by the Company to Eligible Noteholders under the Capital Raising.
<b>Transaction Documents</b>	means the Trust Deed, each Note, the Security Trust Deed, the Guarantee, the ARS Agreement, the Intercreditor Deed and each Collateral Security.
<b>Trust</b>	means the 'FNP Note Trust' established under the Trust Deed.
<b>Trust Deed</b>	means the trust deed titled 'Trust Deed for the FNP Note Trust' between the Company and the Trustee dated 26 May 2021 (as amended from time to time).
<b>Trustee</b>	means the person from time to time acting as the trustee of the trust constituted by the Trust Deed (acting in that capacity) and the Security Trust Deed, initially being Global Loan Agency Services Australia Specialist Activities Pty Limited ACN 635 992 308.
<b>US Securities Act</b>	means the US Securities Act of 1933.
<b>USD or US\$</b>	means United States dollars.
<b>VWAP</b>	means the volume-weighted average price.
<b>Winding Up</b>	means, in respect of a person, the appointment of a liquidator or provisional liquidator of that person, and where the appointment is made by a court, by a court of competent jurisdiction in Australia.



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## Corporate Directory

### **Directors**

Genevieve Gregor  
Tony Perich  
Jane McKellar  
Timothy Bryan  
Stuart Black

### **Group General Counsel and Company Secretary**

Justin Coss

### **Registered Office**

80 Box Road  
Caringbah NSW 2229  
www.noumi.com.au

### **Australian Legal Adviser**

Arnold Bloch Leibler  
Level 21, 333 Collins Street  
Melbourne, Victoria 3000

### **Corporate Adviser**

MA Moelis Australia Advisory Pty Ltd  
Level 27, Brookfield Place  
10 Carrington Street  
Sydney NSW 2000

### **Trustee, Security Trustee, Note Registrar and Paying Agent**

Global Loan Agency Services Australia  
Specialist Activities Pty Limited  
Level 23, Governor Phillip Tower  
1 Farer Place  
Sydney NSW 2000

### **Link**

Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000

### **Offer Information Line**

1800 774 615 (within Australia)  
+61 1800 774 615 (outside Australia)  
Open between 8:30am to 5:30pm (Sydney  
time) Monday to Friday (excluding public  
holidays)

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## Annexure A Note Terms

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*[Refer to separate attachment]*

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## Annexure B US Investor Certificate

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*[Refer to separate attachment]*