

# Notice appointing trustee for holders of debentures

If there is insufficient space in any section of the form, you may photocopy the relevant page(s) and submit as part of this lodgement

## Lodgement details

Who should ASIC contact if there is a query about this form?

Firm/organisation

Baker & McKenzie

Contact name/position description

Richard Lustig (Partner)

ASIC registered agent number (if applicable)

2131

Telephone number

03 9617 4433

Postal address

Level 19, 181 William Street

MELBOURNE VIC 3000

## 1 Details of borrower

### Address of borrower

If the borrower is a company, this must be the company's principal place of business address.

Name of borrower

RAC Finance Limited

ACN/ARBN/ABN (if applicable)

009 066 862

Office, unit, level

Street number and Street name

832 Wellington Street

Suburb/City

WEST PERTH

State/Territory

WA

Postcode

6005

Country (if not Australia)

## 2 Details of trustee

### Address of trustee

Name of trustee

The Trust Company (Australia) Limited

ACN/ARBN/ABN (if applicable)

000 000 993

Office, unit, level

Level 12

Street number and Street name

Angel Place, 123 Pitt Street

Suburb/City

SYDNEY

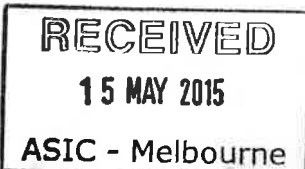
State/Territory

NSW

Postcode

2000

Country (if not Australia)



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**DEED OF RETIREMENT AND APPOINTMENT  
TRUSTEE FOR DEBENTURE ISSUE**

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Perpetual 

Perpetual Legal Services  
Level 12, Angel Place, 123 Pitt Street  
Sydney  
Ph: 02 9229 9000

RECEIVED  
15 MAY 2015  
ASIC - Melbourne

## DEED OF RETIREMENT AND APPOINTMENT

Date 15 May 2015

### Parties

**The Trust Company (Australia) Limited** ABN 21 000 000 993 of Level 12, Angel Place, 123 Pitt Street, Sydney NSW 2000 (**New Trustee**)

**Perpetual Trustees WA Limited** ABN 98 008 666 886 of Level 12, Angel Place, 12 Pitt Street, Sydney NSW 2000 (**Retiring Trustee**)

**R.A.C. Finance Limited** ACN 009 066 862 of 832 Wellington Street, West Perth, WA 6872 (**Company**)

### Background

- A By trust deed dated 8 February 1989 (as amended by amendment deeds dated 21 September 1999 and 18 September 2003) (**Trust Deed**) between the Company and the Retiring Trustee, the Retiring Trustee was appointed as Trustee for the purposes of the Trust and Chapter 2L of the *Corporations Act*.
- B In accordance with the requirements of Chapter 2L of the *Corporations Act* (in particular sections 283BD(c) and 283AE(1)) the Retiring Trustee has agreed to retire as Trustee and the new Trustee has consented to its appointment by the Company as Trustee and agreed to be Trustee for the purposes of the Trust Deed and Chapter 2L of the *Corporations Act*.
- C The parties to this deed wish to provide for the retirement and appointment as set out in this deed.

### Operative provisions

#### 1 Interpretation

In this deed:

- (a) headings are for convenience only and do not affect interpretation; and unless the context indicates a contrary intention:
- (b) terms used have the same meaning as in the Trust Deed;
- (c) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (d) the following words have the following meanings in this deed:

**Effective Time** means the date of this deed.

**Stockholders** has the meaning set out in the Trust Deed.

**Trust** means the Trust established for the benefit of Stockholders.

#### 2 Retirement and Appointment

With effect from the Effective Time:

- (a) the Retiring Trustee retires as Trustee under and for the purposes of the Trust Deed;
- (b) the Company appoints the New Trustee as Trustee under the Trust Deed;
- (c) by executing this deed, the New Trustee accepts the appointment by the Company to become the Trustee;
- (d) the New Trustee covenants with the Retiring Trustee and the Company to act in accordance with the Trust Deed as amended from time to time; and

- (e) the New Trustee will exercise all the powers and may enjoy and exercise all the rights, and will be subject to all the obligations and duties of the Trustee under the Trust Deed as if the New Trustee had been originally named as Trustee under the Trust Deed.

### **3 Vesting in the New Trustee**

The Retiring Trustee must on retirement:

- (a) deliver to the New Trustee as soon as possible, all books, documents and records in its possession or under its control in relation to the Trust; and
- (b) at the request of the New Trustee, give other reasonable assistance to the New Trustee to facilitate the change of Trustee (including, without limitation, the matters stated in clause 4.3).

### **4 Indemnity and release**

#### **4.1 Release**

Subject to clause 4.2 and the Corporations Act, the Retiring Trustee is released on and from the Effective Time from all rights, obligations and covenants under the Trust Deed.

#### **4.2 Qualifications to release**

The release in clause 4.1 does not extend to obligations or liabilities under or in connection with this deed or the undertakings and representations contained in it.

#### **4.3 Indemnity of the Retiring Trustee**

Without limiting any indemnity provided under the Trust Deed, the Company indemnifies the Retiring Trustee for any liability incurred arising out of the Retiring Trustee's proper performance of its duties and obligations of the Trust in the period up to and including the Effective Time.

Nothing in this deed limits the rights of the Retiring Trustee to be indemnified in respect of any matter relating to the period it acted as Trustee, whether such indemnity arises under the Trust Deed or under the law generally.

#### **4.4 Security**

The Company and the Retiring Trustee will cooperate and do everything necessary or required by the New Trustee to perfect the transfer and/or assignment to the New Trustee of any charge, mortgage or other security interest which is to be transferred or assigned pursuant to or in consequence of the change of Trustee with effect from the Effective Time.

### **5 Fees**

- (a) The Retiring Trustee is entitled to any fees payable to the Trustee under the Trust Deed in respect of the period up to and including the Effective Time.
- (b) The New Trustee is entitled to any fees payable to the Trustee under the Trust Deed in respect of the period after the Effective Time.

### **6 Representations, warranties, undertakings and acknowledgements**

#### **6.1 Mutual representations and warranties**

Each party represents and warrants to the other that:

- (a) it is a corporation having limited liability, registered and validly existing under the Corporations Act 2001 (Cth);
- (b) it has full power and authority to enter into and perform its obligations under this deed; and
- (c) it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms.

## **6.2 Representations and warranties by the New Trustee**

The New Trustee represents and warrants that:

- (a) it has and at all times while it remains the trustee of the Trust will continue to have the skill, systems and facilities, capacity and staff necessary to perform its duties and obligations as trustee of the Trust in accordance with the Trust Deed; and
- (b) it is not aware of any information or matter that would adversely impact on its ability to carry out its duties as Trustee.

## **6.3 Representations and warranties by the Retiring Trustee**

The Retiring Trustee represents and warrants to the Company and the New Trustee that:

- (a) except as otherwise advised in writing to the New Trustee, it is not aware of any claim or demand against it or its officers or employees relating to its role as Trustee other than in respect of amounts payable in the ordinary course of its operation and normal outgoings;
- (b) it has disclosed to the New Trustee all contracts, agreements and undertakings, whether made with parties within Australia or overseas, to which the Retiring Trustee is a party in the capacity of Trustee;
- (c) it will provide, prior to the Effective Time, such sign-offs, representation letters, information and assistance to the Company, the New Trustee and any auditor of the Trust, as they may reasonably request for the purpose of finalising any audit, financial reporting or regulatory return; and
- (d) except as otherwise advised in writing to the Company and the New Trustee, it is not aware of any breach by the Retiring Trustee of its obligations under the Trust Deed.

## **6.4 Future potential change in trustee**

The New Trustee undertakes to the Company to facilitate a possible future change to a replacement trustee if required by the Company provided that:

- (a) any such future change is implemented in accordance with and subject to the terms and requirements of the Trust Deed and Corporations Act; and
- (b) at least 3 months notice by the Company is given to the New Trustee before the change takes effect.

## **7 Costs and stamp duty**

### **7.1 Costs**

The New Trustee agrees that to the extent permitted by the Trust Deed, the New Trustee will reimburse the Retiring Trustee and the Company for any reasonable expenses incurred by the Retiring Trustee in connection with the change of Trustee and transfer of the security referred to in clause 4.4 and any reasonable expenses directly incurred by the Company in connection with this deed that is notified by the Company to the New Trustee within 6 months of the Effective Date.

### **7.2 Stamp duty**

The New Trustee shall pay any and all stamp duty, registration or other documentary taxes or charges payable in relation to this deed and in relation to any instrument or transaction contemplated by this deed.

## **8 General**

### **8.1 Further acts and documents**

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to:

- (a) the retirement of the Retiring Trustee and the appointment of the New Trustee;

- (b) the vesting of any security interest in the New Trustee; and
- (c) the novation, if possible, in favour of the New Trustee of any relevant agreements entered into by the Retiring Trustee, unless otherwise agreed with the New Trustee in any case.

#### **8.2 Co-operation in relation to Claims**

- (a) Subject to clause 8.3, the New Trustee and the Retiring Trustee agree to consult and co-operate with each other in respect of the manner in which a claim that the Retiring Trustee would be entitled to be indemnified, or the manner in which a claim that the New Trustee would be entitled to be indemnified is dealt with.
- (b) Subject to the Retiring Trustee making appropriate arrangements reasonably satisfactory to the New Trustee and/or the Company to ensure that no inappropriate cost or other disadvantage will be suffered by the New Trustee or the Stockholders, the New Trustee and the Company agree to permit the Retiring Trustee to take any action it sees fit for the purpose of contesting a claim that the New Trustee would be entitled to be indemnified, against any third parties involved.
- (c) Subject to the New Trustee making appropriate arrangements satisfactory to the Retiring Trustee and the Company to ensure that no cost or other disadvantage will be suffered by the Retiring Trustee, the Company or the Stockholders, the Retiring Trustee and the Company agree to permit the New Trustee to take any action it sees fit for the purpose of contesting a claim that the Retiring Trustee would be entitled to be indemnified, against any third parties involved.

#### **8.3 Limitation of Obligations**

The obligations of the New Trustee under this clause 8 are subject to its compliance with its obligations and duties under the Trust Deed, Chapter 2L of the *Corporations Act* and the general law. Nothing in clause 8 requires the New Trustee to appoint the Retiring Trustee as its agent. Any relationship of agency or partnership between the parties is expressly excluded. Except as provided for in this deed, neither party is authorised to act on behalf of the other unless an express authorisation is given in writing signed by a person or people authorised to bind the authorising company in that regard.

#### **8.4 Governing law**

This deed is governed by and must be construed according to the law applying in Western Australia. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia, and the courts of appeal from them.

#### **8.5 No Confirmation**

Nothing expressly or impliedly contained in this deed is effective to confirm, declare or otherwise acknowledge the trust declared under the Trust Deed or terminate or to impress any new or additional trust upon property held on trust as at the date of this deed.

#### **8.6 Counterparts**

This deed may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

#### **8.7 Severance**

If a provision of this deed is illegal or unenforceable in any relevant jurisdiction, it may be severed for the purposes of that jurisdiction without affecting the enforceability of the other provisions of this deed.

**Executed** as a deed.

**Signed sealed and delivered by**

as attorney for **The Trust Company  
(Australia) Limited** ABN 21 000 000 993  
under power of attorney dated *16 September 2014*

in the presence of

  
\_\_\_\_\_

Signature of witness

**Melanie Nangle**

\_\_\_\_\_  
Name of witness (print)

←  \_\_\_\_\_ ←  


Signature of attorney

**Ankit Shah**  
Manager

**Alexander Pampel**  
Senior Manager

**Signed sealed and delivered by**

as attorney for **Perpetual Trustees WA  
Limited** ABN 98 008 666 886 under power  
of attorney dated *16 September 2014*

in the presence of

  
\_\_\_\_\_

Signature of witness

**Melanie Nangle**

\_\_\_\_\_  
Name of witness (print)

←  \_\_\_\_\_ ←  


Signature of attorney

**Ankit Shah**  
Manager

**Alexander Pampel**  
Senior Manager

**Executed by R.A.C. Finance Limited** )

  
..... )

Company Secretary/Director

**Geoffrey Brian Mather**  
Secretary

.....  
Name (print)

  
.....

Director

**Terry Thomas Agnew**  
Director

.....  
Name (print)