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Update to Shareholders – ASIC Reporting Relief

**Alita Resources Limited (Subject to Deed of Company Arrangement) (Receivers and Managers
Appointed)
ACN 147 393 735
(Alita)**

I refer to:

- the appointment of Rob Kirman and Rob Brauer as Administrators of Alita on 4 December 2020 and our subsequent appointment as Deed Administrators on 23 December 2020;
- the relief granted by ASIC from Alita's financial reporting and annual general meeting obligations pursuant to section 340 and 250PAB of the Corporations Act 2001 (**Act**) (**Relief**); and
- my previous updates to the Shareholders in relation to the Relief (**Previous Updates**). This update should be read in conjunction with the Previous Updates.

Defined terms have the same definitions as used in the Previous Updates unless otherwise specified.

1 Actions taken during the relevant period (i.e. subsequent to previous updates)

The Deed Administrators highlight the following key developments since our previous update:

Conditions Precedent

There are three remaining conditions precedent which must be satisfied or waived before the Parent DOCA can effectuate. An update on the position for each of these is below:

- FIRB – Austroid has advised the Deed Administrators that the statutory timeframe which FIRB has to respond to Austroid's revised FIRB application (submitted on 23 August 2022) has been extended to 17 March 2023.
- ASIC – For the reasons outlined in our update to Shareholders dated 8 September 2022, the Deed Administrators withdrew their s606 relief application to ASIC on 10 August 2022. In late December 2022, the Deed Administrators sought clarification from ASIC whether ASIC would accept the Deed Administrators' previous s606 relief application, or if a fresh relief application was necessary. The Deed Administrators sought clarification on what additional material would be required for ASIC to consider a s606 relief application noting ASIC had previously stated it needed to consider if the independent experts' opinion is still that there is no residual value in Alita's shares. On 15 December 2022, ASIC confirmed that notwithstanding the 444GA Orders obtained by the Deed Administrators, ASIC requires the Deed Administrators to obtain an updated independent expert report (**IER**) on the value of Alita's shares for the purposes of any future s606 relief application.



- SGX - SGX maintains its position that it will not consider the Deed Administrators' delisting application until the ASIC and FIRB conditions precedent have been satisfied. Accordingly, the Deed Administrators will be required to resubmit a delisting application to the SGX once the ASIC and FIRB conditions have been satisfied.

Request to vary the sunset date:

- The sunset date for the Parent DOCA was 31 January 2023 (**Sunset Date**).
- On 14 December 2022, Austroid wrote to the Deed Administrators requesting the Sunset Date be extended by 12 months, to 31 January 2024.
- On 20 December 2022, Canaccord Genuity (Australia) Limited and Chalmsbury Nominees Pty Limited (together, **Canaccord**) (a purported shareholder of Alita) wrote to the Deed Administrators objecting to any further extension of the Sunset Date. The Deed Administrators received similar correspondence from a number of other shareholders.
- On 23 December 2022, pursuant to Insolvency Practice Schedule (Corporations) (**IPS**) s75-15(1)(c), Austroid directed the Deed Administrators to convene a meeting of creditors to put forward a resolution to the effect that the Sunset Date of the Parent DOCA be amended from 31 January 2023 to 31 July 2023 (i.e. a six month extension to the sunset date).
- In compliance with the above-mentioned direction which Austroid was entitled to issue under the Corporations Act and IPS, the Deed Administrators convened a meeting of creditors for 13 January 2023. At that meeting, a resolution to extend the Sunset Date to 31 July 2023 was passed. Notwithstanding the passing of the resolution, the Deed Administrators took the view that their consent was required to effect any variation to the Parent DOCA.
- On 19 January 2023, the Deed Administrators sought proposals from three experts with a view to obtaining a new IER.
- The Deed Administrators estimate it will take between three and four months to receive the updated IER. On 14 February 2023, the Deed Administrators agreed with Austroid to extend the Sunset Date to the earlier of (i) four weeks after receipt of the IER, and (ii) 29 May 2023 to preserve the status quo while a valuation and IER is prepared and reviewed. The expiry date of the Deed Administrators Loan Facility Agreement with Austroid has also been extended consistent with the extension to the Sunset Date.

Court Proceedings:

Directions Application

- On 27 January 2023, the Deed Administrators' lawyers filed an Originating Process in the Supreme Court of Western Australia (**Court**) seeking directions under IPS s90-15, that the Deed Administrators would be justified in consenting to a 6 month extension of the Sunset Date (**Directions Application**).
- Subsequent to filing the Directions Application, Austroid and the Deed Administrators agreed to a shorter extension of the Sunset Date, being the earlier of (i) four weeks after receipt of the IER, and (ii) 29 May 2023. After reaching this agreement, the Deed Administrators no longer considered the Directions Application to be necessary and the Deed Administrators sought and obtained orders to discontinue the Directions Application.



445D Application

- On 1 February 2023, Canaccord filed an Originating Process with the Court under s445D of the Act seeking to terminate the Parent DOCA (**445D Application**). At a hearing on 9 February 2023, the Court made orders that the 445D Application be scheduled for programming on 16 February 2023.
- At the hearing on 16 February 2023, the Court heard that Austroid wished to file for summary judgement seeking to have the 445D Application dismissed. The Court made an order that Austroid file and serve an application for summary judgment by 24 February 2023.
- A hearing has been scheduled for 10:00am (AWST) on Monday 13 March 2023 to hear the summary judgment application.

The Deed Administrators have issued a number of updates to shareholders in respect of the above developments. Each of these updates can be obtained from McGrathNicol's website, (www.mcgrathnicol.com/creditors/alita-group).

2 Actions required to complete the Parent DOCA

The actions required by the Deed Administrators under the Parent DOCA are as follows:

- Appearing and responding to the 445D Application commenced by Canaccord and complying with any Orders made by the Court.
- Obtaining an updated IER.
- Applying to ASIC for s606 relief.
- Monitoring Austroid's progress with FIRB approval condition.
- Liaising with SGX in seeking issuance of waivers or relief from the Singapore Code as are necessary or convenient in connection with the transfer of shares to Austroid, or the parties being satisfied that the Singapore Code does not apply to Alita, including by reason of Alita being de-listed.

Upon effectuation:

- All creditor claims against Alita (except Austroid's secured debt) will be discharged, satisfied, released and extinguished.
- Control of Alita will revert to the Directors and the Deed Administrators will not have any obligation or responsibility for the affairs of Alita.
- The Deed Administrators will transfer all issued shares of Alita to Austroid in accordance with 444GA Orders, in consideration for the release of up to the full amount of the debt the subject of the Loan Facility Agreement dated 29 November 2019.
- Austroid will fully release and discharge the Deed Administrators from all claims, debt and liability in relation to the Administrators' Loan Agreement, being the funding advanced to the Administrators by Austroid to fund the Administrators and Deed Administrators.
- The Parent DOCA will terminate.
- The Deed Administrators will lodge written notice with ASIC.

3 Expected timeframe to complete the Deed Administration

It is difficult for the Deed Administrators to estimate the expected timeframe to complete the Parent DOCA for the following reasons:

- The 445D Application is on foot and it is unclear how long it will take to be resolved.



- It is unclear at this stage if the Deed Administrators will require any directions from the Court.
- The Deed Administrators have not yet received the IER.

As mentioned above, the Sunset Date has been amended to the earlier of (i) 4 weeks after the Deed Administrators' receipt the IER, or (ii) 29 May 2023.

Further updates will continue to be issued to shareholders when appropriate.

If you have any queries, please contact Amber Andre of my staff on (08) 6363 7665.

Dated: 5 March 2023

Yours faithfully

Rob Kirman
Deed Administrator