



HERBERT  
SMITH  
FREEHILLS

Deed

# Shareholders Agreement - Deed of Accession

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Phoenix Industrial Minerals Pty Ltd



## Deed of Accession

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Date ►

### 1 Introduction

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- (a) This deed poll is made, in respect of the Shareholders Agreement (**Shareholders Agreement**) dated 23 June 2023 and as amended from time to time between Phoenix Industrial Minerals Pty Ltd ACN 667 231 816 (**Company**) and each other Shareholder who is a party to the Shareholders Agreement as at the date of this deed poll (collectively the **Parties**), a current copy of which is attached to this deed poll, by *[insert name of New Investor Entity]* (the **New Party**) in favour of the Parties.
- (b) The New Party wishes to *[purchase or have issued to it] / [have transferred or issued to the Custodian to hold on bare trust for the New Party on the terms set out in the Custodian Terms]* the Shares specified in clause 4 subject to the terms of the Shareholders Agreement and with effect on and from the date that *[it is entered into the Company's register of members] / [such Shares are entered into the Company's register of members as being held by the Custodian]* (**Accession Date**).
- (c) *[Other Shares may be transferred or issued to the Custodian to hold on bare trust for the New Party from time to time as contemplated under clause 19 of the Shareholders Agreement.]*
- (d) This deed poll may be relied on and enforced by each Party in accordance with its terms even though the Parties are not a party to this deed poll.

### 2 Definitions, interpretation and general clauses

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- (a) In this deed poll, capitalised words and expressions have the same meaning as in the Shareholders Agreement, unless those words or expressions are otherwise defined in this deed poll.
- (b) Clause 2 of Schedule 1 of the Shareholders Agreement applies to this deed poll.
- (c) Clauses 14 and 17 of the Shareholders Agreement apply to this deed poll and are taken to be incorporated in this deed poll with the necessary changes being made.
- (d) This deed poll is irrevocable.

### 3 Accession

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The New Party:



- (a) agrees to become a party to the Shareholders Agreement and to assume all the rights enjoyed by and perform all the obligations applying to the parties under the Shareholders Agreement who are Shareholder *[and who are Beneficial Holders in respect of all Shares transferred or issued to the Custodian to hold on bare trust for the New Party]*;
- (b) agrees to be bound by the Shareholders Agreement on and from the Accession Date in every way *[in respect of all Shares transferred or issued to the Custodian to hold on bare trust for the New Party]* as if the New Party were named as a party to the Shareholders Agreement as a Shareholder *[and a Beneficial Holder]*;
- (c) acknowledges that it has received a copy of the Shareholders Agreement together with all other information it has required in connection with this deed poll and the Shareholders Agreement; and
- (d) appoints each Attorney as its agent and attorney on the terms of clause 11.6 of the Shareholders Agreement and, if applicable, clause 12.6.

## 4 Details

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The details of the New Party for the purposes of Part [#] of Schedule 2 of the Shareholders Agreement are as follows:

Name	Attention	Address	Email	Share Class	Number of shares [in which the Beneficial Holder holds beneficial title]
[New Party]	[insert]	[insert]	[insert]	[insert]	[insert]

## 5 Warranties

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The New Party represents and warrants to each of the Parties that:

- (a) it has the power to enter into and perform its obligations under this deed poll and the Shareholders Agreement;
- (b) it has taken all necessary action to authorise the entry into and performance of its obligations under this deed poll and the Shareholders Agreement;
- (c) its obligations under this deed poll are valid and binding; and
- (d) the entry into and performance of its obligations under this deed poll and the Shareholders Agreement will not breach in any respect any provision of its constituent documents (including any constitution or any trust deed), any other document, agreement or other arrangement binding upon it or its assets, or any law or direction of any Governmental Agency.



## 6 Acknowledgment regarding liability

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If the New Party is a trustee, responsible entity, investment manager, general partner, custodian, subcustodian or nominee (as the case may be) of a trust, fund or entity, clause 18 of the Shareholders Agreement applies to the New Party mutatis mutandis as if that clause were set out in full in this deed poll.

## 7 General

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- (a) This deed poll is governed by and construed in accordance with the laws of New South Wales, Australia.
- (b) The New Party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia.
- (c) Any provision of, or the application of any provision of, this deed poll which is prohibited in any jurisdiction is, in that jurisdiction ineffective only to the extent of that prohibition.
- (d) Any provision of, or the application of any provision of, this deed poll which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

### Executed as a deed poll

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#### New Party

Signed sealed and delivered by

**[New Party]**

by

*sign here* ►

\_\_\_\_\_ **[Signatory 1]**

\_\_\_\_\_ **[Signatory 2]**

*print name* \_\_\_\_\_