



# **Pacific Equity Partners Capital Solutions Fund (Australasia)**

## **Confidential Private Placement Memorandum**

**August 2023**

**PACIFIC EQUITY PARTNERS CAPITAL SOLUTIONS FUND (AUSTRALASIA)  
UNIT TRUST INTERESTS**

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By accepting this Memorandum, the recipient agrees to be bound by the following terms and conditions.

This Memorandum is provided and endorsed by Pacific Equity Partners Investors Administration Pty Ltd (“PEP IA”) in strict confidence solely to provide certain information about the Pacific Equity Partners Capital Solutions Fund (Australasia) (the “Fund”) for prospective investors who are “wholesale clients” (as defined in the *Corporations Act 2001* (Cth) (the “Corporations Act”) in connection with their consideration of an investment in the Fund. Neither this Memorandum nor any other information provided by (or on behalf of) PEP IA or the Fund may be disclosed to any other party, except for the purpose of obtaining independent advice. Any reproduction of all or part of this Memorandum is strictly prohibited. In the event that the recipient does not participate in the Fund, this Memorandum, along with all related materials, must be returned to PEP IA immediately upon demand.

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No Fund entity will be required to be registered as a managed investment scheme under the *Corporations Act*.

Units in the Fund will be issued by Pacific Equity Partners Investors Administration Pty Ltd (ABN 99 161 245 263; AFSL No. 454251) in its capacity as the trustee of the Fund (the “Trustee”) in accordance with the trust deed of the Fund (the “Trust Deed”). The Fund will be managed by Pacific Equity Partners Capital Solutions Pty Limited (ABN 36 646 630 239) (the “Manager”).

This Memorandum contains a summary of the terms of the Trust Deed and certain other documents. However, prospective investors should refer to the complete legal documentation for the Fund.

Prospective investors should not construe the contents of this Memorandum as tax or investment advice. No financial product advice is purported to be provided in this Memorandum and nothing in it should be taken to constitute a recommendation or statement of opinion that is intended to influence a person or persons in making a financial product decision. Any advice given by PEP IA or its associates or representatives in connection with the Fund or in this Memorandum is general advice only. This Memorandum does not purport to be complete, accurate or contain all information which its recipients may require to make an informed assessment of whether to invest in the Fund. This Memorandum does not take into account the objectives, circumstances (including financial situation) or needs of any particular person (including any prospective investor). Before acting on the information contained in this Memorandum, or making a decision to invest in the Fund, potential

investors should make their own enquiries and seek professional advice (including financial product advice from an independent person licensed by the Australian Securities and Investments Commission (“ASIC”) to give such advice) as to whether investing in the Fund is appropriate in light of their own circumstances.

Neither PEP IA nor any other person or entity guarantees any income or capital return from the Fund. There can be no assurance that the Fund will achieve particular results.

This Memorandum has been prepared to the best of the knowledge and belief of PEP IA. It comprises statements of intent and opinion, many of which may or may not be realised or be accurate. Whilst PEP IA believes the information in this Memorandum including statements of intent and opinion is based on reasonable assumptions, neither PEP IA nor any other person makes any representation or warranty that any statement, whether based on fact or opinion, projection or forecast is true, complete or accurate.

***Certain investment performance and track record information outlined throughout this Memorandum relates to Pacific Equity Partners-advised or managed private equity buyout and secure asset funds (the “PEP Equity Funds”). Each PEP Equity Fund has a materially different investment strategy and target return profile from the Fund. On that basis, investment performance and track record information in relation to the PEP Equity Funds, as referred to in this Memorandum, is not representative of, and should not be interpreted as an indication of, the expected performance or return profile of the Fund. However, PEP IA believes the PEP Equity Funds’ investment performance and track record information is relevant to a consideration of the Fund, given that performance and track record is representative of the rigorous and disciplined approach to the diligence, execution and realisation of investments that is also core to Capital Solutions and the investment strategy of the Fund. In addition, Capital Solutions will have its own dedicated team with access to a common platform and capability shared across Pacific Equity Partners’ Private Equity and Secure Assets strategies, including extensive networks and origination channels, broad sector and operational experience, established decision-making and monitoring processes, and the largest private markets investment team in the Australia and New Zealand region.***

PEP IA, the Trustee and their respective agents, directors, officers and employees:

- do not warrant or represent the accuracy, completeness or currency of, or accept any responsibility for errors or omissions in, this Memorandum or any related information (whether oral or written); and
- disclaim and exclude all liability (to the maximum extent permitted by law) for all losses and claims arising in any way out of or in connection with this Memorandum or any related information (whether oral or written), including by reason of reliance by any person on this information.

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The distribution of this Memorandum or an investment in the Fund in certain jurisdictions may be restricted by law, and persons who come into possession of this Memorandum are required to observe all such restrictions. This Memorandum does not constitute an offer to sell, or the solicitation of an offer to buy, in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction.

Unless otherwise specified, capitalised terms used but not defined in the body of this Memorandum have the meaning given in **Section 10: Glossary of Defined Terms** or in the Trust Deed, as the context requires.

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## 1. Executive Summary

### PEP

Pacific Equity Partners Pty Limited (“PEP”) is a leading investment firm operating in Australia and New Zealand. The Firm was established in 1998 and, since inception, has been deeply involved in developing the private investment market in the region. PEP believes it has deployed more capital than any other private investment firm currently in the Australian and New Zealand market. Underpinning PEP’s privileged position in this market is a deep, experienced and accomplished investment team, supported by a well organised and motivated team of legal, financial, compliance, investor relations and administrative resources.

### Capital Solutions

Historically, funds advised or managed by PEP (“PEP Funds”) invested solely in control equity transactions of operating businesses (“Private Equity”). Over the past several years, additional investment strategies / products have been added, including value-added infrastructure (“Secure Assets”) and more recently, credit. This credit strategy is called Capital Solutions (the strategy and team are collectively referred to as “Capital Solutions”). Capital Solutions seeks to deploy structurally protected capital to address inefficiencies in the Australian and New Zealand credit markets and deliver attractive risk-adjusted returns to investors with a focus on downside protection.

### Investment Opportunity

Funding gaps are emerging as traditional lenders shift their focus to retail lending and higher-rated corporate borrowers. PEP believes that this shift, combined with a relatively underdeveloped alternative capital market in Australia and New Zealand, means significant unmet demand exists for non-dilutive capital to help support high quality, mid-market businesses. The Pacific Equity Partners Capital Solutions Fund (Australasia) (the “Fund”), supported by a dedicated Capital Solutions investment team and backed by PEP’s networks and operational experience, seeks to take advantage of these opportunities.

### Fund Strategy

The Fund provides debt funding to borrowers in the form of structured capital with appropriate protections. The Fund invests across the debt capital structure, with a typical investment holding period of three to five years. In managing the Fund, Capital Solutions sources, conducts due diligence and manages investments across a range of industries, with a focus on the skill base, sectors and situations in which PEP is experienced. This includes broad exposure to defensive sectors such as healthcare, consumer products, financials, industrials, education, and technology, in each case where the primary operations of the business are in Australia and New Zealand.

### Investment Process & Team

Since the establishment of its first private equity fund in 1998, PEP has developed and refined a rigorous and disciplined investment advisory process to manage opportunities through sourcing, diligence, execution, management, and realisation. There are distinct philosophies and approaches that support success at each stage in the process and these extend to Capital Solutions and the Fund.

Capital Solutions comprises a dedicated team of professionals with a combination of credit and private equity experience. While the full resources and capabilities of the Firm are available, when necessary, to Capital Solutions, the team is incentivised based on the specific performance of the Fund which creates direct responsibility and accountability for the success of the Capital Solutions strategy. Further alignment is achieved through co-investment in or alongside the Fund by Capital Solutions and members of the broader PEP team.

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## 2. Overview of Principal Terms

The following information is presented as a summary of certain of the Fund's principal terms and its structure. This summary is qualified in its entirety by reference to the more detailed information appearing in **Section 7: Summary of Principal Terms of the Fund**, and elsewhere in this Memorandum and to the governing documents of the Fund.

<b>The Fund:</b>	Pacific Equity Partners Capital Solutions Fund (Australasia) (the " <u>Fund</u> ").
<b>Trustee:</b>	Pacific Equity Partners Investors Administration Pty Ltd (ABN 99 161 245 263; AFSL No. 454251) (the " <u>Trustee</u> ").
<b>Manager of the Fund:</b>	Pacific Equity Partners Capital Solutions Pty Limited (ABN 36 646 630 239) (the " <u>Manager</u> ").
<b>Adviser:</b>	Pacific Equity Partners Capital Solutions Advisory Pty Limited (ABN 21 646 630 113) (the " <u>Adviser</u> ").
<b>Fund Structure:</b>	The Fund is structured as an unregistered Australian unit trust. The Fund's primary purpose is to generate returns by providing debt funding to borrowers primarily located in Australia or New Zealand in accordance with the terms of the Trust Deed.
<b>Minimum Commitment:</b>	A\$10M or such lesser amount as the Trustee determines.
<b>Acceptance of Commitments:</b>	The Trustee generally expects to accept Commitments on the first day of each month, however, the Trustee has absolute discretion as to when it accepts an application for Ordinary Units. The Trustee also has absolute discretion as to whether to accept or reject, in whole or in part, any application for Ordinary Units.
<b>Term:</b>	Subject to earlier termination pursuant to law or the terms of the Trust Deed, the Fund is open-ended.
<b>Classes of Ordinary Units:</b>	<p>The beneficial interest in the assets of the Fund is divided into Units. Unless otherwise approved in the manner set out in the Trust Deed, there will be two classes of Units in the Fund, namely ordinary units ("<u>Ordinary Units</u>") and sponsor units ("<u>Sponsor Units</u>"). Sponsor Units will carry no rights, except for their entitlement to sponsor distributions or performance fees (as described below) and limited voting rights.</p> <p>The Paid Up Capital of an Ordinary Unit is allocated to two pools of assets of the Fund. One pool comprises cash and cash equivalents, including high-grade, liquid instruments. The other pool comprises all other assets of the Fund including loan assets. The portion of the Paid Up Capital of an Ordinary Unit referable to the first pool is designated as the 'Non-Deployment Series' of that Ordinary Unit. The portion of the Paid Up Capital of an Ordinary Unit referable to the second pool is designated as the 'Deployment Series' of that Ordinary Unit.</p>

The Trustee may in the future issue additional classes of Units in accordance with the terms of the Trust Deed.

**Investment Strategy:** The Fund provides debt funding to borrowers in the form of structured capital with appropriate protections. The Fund invests across the debt capital structure, with a target investment holding period of three to five years.

The Fund may also seek additional return, including from fees and paid-in-kind interest, attributable to the value-add provided by PEP's unique operational skillset.

**Distributions:** The Trustee intends to distribute income on a Quarterly basis, but retains the sole discretion to make distributions at other times or not at all.

**Management Fees:** The Manager will be paid a management fee at the annual rate of 1.5% of the Total Investment held directly or indirectly by the Fund and its Affiliates.

**Performance Fees:** Ordinary Unitholders will bear a performance fee (payable to Sponsor Unitholders and referred to as "Performance Entitlement" in the Trust Deed) of 15% of any outperformance of the pool of assets referable to the Deployment Series, subject to maintaining a net 7% p.a. return on the Deployment Series portion of the Ordinary Units.

### 3. PEP

Pacific Equity Partners Pty Limited ("PEP") is a leading investment firm operating in Australia and New Zealand. The Firm was established in 1998 and, since inception, has been deeply involved in developing the private investment market in the region. For many years, PEP Funds invested solely in control equity transactions of operating businesses ("Private Equity"). Over the past several years, additional investment strategies have been developed, including value-added infrastructure ("Secure Assets") and more recently, credit. This credit strategy and team are collectively referred to as "Capital Solutions".

Common to all PEP Fund investments is a systematic and disciplined approach to identifying investment opportunities, evaluating commercial and structural risks and delivering improved operational and financial performance to generate attractive risk-adjusted returns for investors. Underpinning this approach is a deep and experienced team, which possesses a strong management consulting heritage and extensive corporate, banking and advisory networks. This platform has delivered strong returns over time, which routinely rank PEP-managed or advised Private Equity funds in the top quartile of private equity funds.<sup>1</sup> Capital Solutions replicates this approach and has direct access to the broader PEP investment team, enabling Capital Solutions to leverage PEP's depth of experience as well as accessing the broad networks that PEP has developed.

#### Culture and Team

Underpinning PEP's privileged position in Australasian private markets is a deep, experienced and accomplished investment team, supported by a well organised and motivated team of legal, financial, compliance, investor relations and administrative resources.

#### Consulting Heritage

A common thread within PEP's investment team is its management consulting heritage: of the 13 Managing Directors in the investment team, 10 are former senior level employees of Bain & Company. A number of PEP's Directors and Associates also share the Bain & Company heritage. This allows the Firm to apply a management consulting 'tool-kit' to evaluating and resolving business problems as well as identifying and implementing step changes in performance at investee companies. PEP's management consulting background is augmented by other members of the team who bring complementary experience from other industries and asset classes.

#### Apprenticeship Model

Another defining feature of PEP's approach to managing human resources is its 'apprenticeship model'. This philosophy is designed to identify and foster talent and promote from within. This approach has resulted in a highly cohesive senior team with limited turnover. These same principles apply to Capital Solutions.

#### Collegial, Open Approach

A distinguishing characteristic of PEP is its highly collegial culture, underpinned by open lines of communication, active participation, consensus building and collaboration. This manifests itself in all aspects of PEP's day-to-day business, from broad participation in weekly team meetings through to active involvement in investee company monitoring and investment committees.

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<sup>1</sup> Benchmarked per Cambridge Associates Global Buyout (Ex US). Data provided at no charge.

PEP operates out of offices in Sydney. The Firm has a competitive culture that celebrates teamwork and open communication. This atmosphere encourages regular and active discussion amongst all members of the Firm across each of the investment strategies as the team seeks to make thoughtful decisions and optimise the value of every investment. Capital Solutions also fosters this approach in its day-to-day business.

## PEP Platform

PEP's private markets investment team is one of the largest and most experienced in the Australian and New Zealand private investment market. The distinctive characteristics of team depth, experience, knowledge and networks are invaluable points of differentiation relative to other participants in the Australian and New Zealand private investment market, and are necessary for the resource-intensive approach that Capital Solutions takes to sourcing, diligence, execution, monitoring and realisation of the Fund's investments.

## Capital Solutions

Capital Solutions comprises a dedicated team of professionals with a combination of credit and private equity experience. The team is led by Jake Haines, a Managing Director, who originally joined PEP in 2002 and since that date has been involved in all aspects of the Firm's investing activities. Capital Solutions comprises seven dedicated professionals with significant experience across principal investing, restructuring, origination of corporate and leveraged finance within large banking systems, and asset management across both equity and credit platforms. The current investment team will continue to develop as the Fund's deployment increases.

Capital Solutions is further supported by the broader resources of PEP. Capital Solutions can leverage the experience and networks of the senior leadership of PEP with extensive experience in Australia, New Zealand and internationally. Current members of Capital Solutions are profiled below.

**Jake Haines (Managing Director):** Originally joined PEP in 2002 and has been heavily involved throughout his career across all aspects of the Firm's investing activities, including extensive experience structuring financings in Australia and New Zealand and offshore. Prior to 2002, he was a consultant with Bain & Company based in Toronto. He received an HBA from the Richard Ivey School of Business.

**Alexander Wheen (Director):** Joined PEP in 2019. Prior to PEP, Xander worked for credit and equity funds in the US and Australia after beginning his career at JPMorgan in New York. He received an MBA from the University of Oxford and a Bachelor of Arts from Harvard University.

**Angus Larcombe (Director):** Joined the Firm in 2021 with nearly 10 years of experience in structured finance with RBC and Investec. He has a broad base of experience structuring and executing debt transactions across the capital structure both locally and offshore. Angus completed a Bachelor of Commerce (Liberal Studies) at the University of Sydney and is a CFA Charterholder.

**Ben Webster (Associate Director):** Joined PEP in 2019. Prior to joining PEP, he worked in the financial markets in London for BGC Partners. Ben holds a Bachelor of Commerce (Finance) from the University of New South Wales.

**Andrew Robertson (Associate):** Joined the Firm in 2021. Previously he spent four years as a corporate lawyer in Sydney and Melbourne, specialising in private equity, M&A and corporate governance across

a range of sectors. Andrew received an MBA from INSEAD and Juris Doctor (Law) and Bachelor of Arts degrees from the University of Melbourne.

**James Scott (Associate):** Joined the Firm in 2022. Prior to joining PEP, he worked at Commonwealth Bank of Australia within Institutional Bank & Markets, most recently in the Private Equity and Structured Financing team. James completed a Bachelor of Commerce (Finance) at the University of Sydney.

**William Chen (Associate):** Joined the Firm in 2023. Prior to joining PEP, he worked in credit, special situations and private equity at Banyan Tree and Aura Group. William received a Bachelor of Commerce and Laws from the University of Sydney.

Capital Solutions is supported by additional Firm resources and, where necessary, has access to further support from the broader pool of PEP resources.

### Incentives

Alignment with investor interest, merit-based incentives and a team culture are key tenets of the PEP philosophy, and this is reflected in the compensation model across the Firm. The incentives of Capital Solutions are entirely linked to the performance of the Fund and individual contributions. Compensation is awarded based on a 360° review of each team member on an annual basis, with longer-term vesting of certain entitlements. Further alignment is achieved through co-investment in or alongside the Fund by Capital Solutions and members of the broader PEP team.

### Investment Performance

*Certain investment performance and track record information outlined throughout this Memorandum relates to the PEP Equity Funds. Each PEP Equity Fund has a materially different investment strategy and target return profile from the Fund. On that basis, investment performance and track record information in relation to the PEP Equity Funds, as referred to in this Memorandum, is not representative of, and should not be interpreted as an indication of, the expected performance or return profile of the Fund. However, PEP believes the PEP Equity Funds' investment performance and track record information is relevant to a consideration of the Fund, given that performance and track record is representative of the rigorous and disciplined approach to the diligence, execution and realisation of investments that is also core to Capital Solutions and the investment strategy of the Fund.*

### Pacific Equity Partners

Since the Firm's establishment in 1998, the PEP Funds have completed 41 platform investments, representing A\$44B of transaction value, and more than 150 bolt-on investments, financed by a series of PEP Funds and co-investment vehicles. Overall, PEP Funds have returned over A\$10B to investors generating an average gross IRR of >40% since inception<sup>2</sup>

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<sup>2</sup> Simple arithmetic average of gross IRR at Fund level for Buyout Funds I-VI and Secure Assets Fund I as at 30-Jun-2023. Gross returns do not reflect the impact of management fees, carried interest and fund level expenses. All figures in Australian Dollars (AUD)

World-Class Returns		Largest ANZ Alternatives Firm		Deeply Experienced Team	
<b>41%</b>	average gross IRR since inception in 1998 <sup>2</sup>	<b>\$9.1B</b>	Assets under Management (AuM) <sup>3</sup>	<b>87</b>	team members <sup>4</sup>
<b>2.6x</b>	average gross MoM since inception in 1998 <sup>2</sup>	<b>Five</b>	Investment strategies	<b>&gt;600</b>	years cumulative experience <sup>4</sup>
<b>Exited investments acquired since 2010:</b>		<b>Deepest deal experience in market:</b>		<b>Quarter of a century of longevity:</b>	
<b>53%</b>	average gross IRR <sup>5</sup>	<b>&gt;190</b>	investments made <sup>6</sup>	<b>12/13</b>	Managing Directors who spent all / vast majority of investing career at PEP <sup>7</sup>
<b>3.2x</b>	average gross MoM <sup>5</sup>	<b>\$44B</b>	combined value of all transactions <sup>8</sup>	<b>25</b>	years of operation with unchanged founding team

## Profit Growth

The PEP investment model is centred around identifying good businesses that are under-achieving relative to their full potential. The Firm works with capable management teams to develop and execute distinct strategies and supports them with resources and capital as appropriate. The vast majority of value uplift realised by the PEP Funds is generated from profit growth, which has averaged over 90%<sup>9</sup> over the PEP Funds' period of investment and is driven by a series of discrete initiatives within each investment. This approach helps to generate consistent results and insulate the PEP investment strategy from the variability of market cycles. Capital Solutions applies this same approach to address attractive non-control investment opportunities.

## Capital Solutions Performance

Since inception in March 2021, Capital Solutions has committed over \$400M of capital across a portfolio of investments primarily comprised of senior-secured, variable-rate loans. The current gross cash yield on the portfolio is the Bank Bill Rate plus 6-8% with expected IRR at maturity of 2-4% above that level. We continue to see strong deal flow and the pipeline of prospective investments in diligence is significant.

## Peer Group Recognition

PEP has received widespread recognition for its investment activities, including Private Equity Firm of the Year for Australia and Australasia, Deal of the Year, and Exit of the Year which the Firm has received from multiple publications (The M&A Advisor, the Australian Investment Council, the New Zealand Private Equity & Venture Capital Association, Private Equity International, AVCJ, Mergermarket and Acquisition International) across numerous years. Importantly, PEP has also been recognised for responsible investing and its contribution to charitable workplace giving, which is a major focus of the Firm.

<sup>3</sup> As at 31-Mar-2023.

<sup>4</sup> As at 30-Jun-2023

<sup>5</sup> Simple average of gross IRR and gross multiple of money ("MOM") for investments made between Jan-2010 and Jun-2020 across the Private Equity and Secure Asset funds that have been fully or partially exited (n=15) as at 30-Jun-2023. Gross returns do not reflect the impact of management fees, carried interest and fund level expenses. All figures in Australian Dollars (AUD).

<sup>6</sup> 41 platform investments and >150 bolt-ons as at 30-Jun-2023.

<sup>7</sup> Twelve of the thirteen Managing Directors in the Investment Team.

<sup>8</sup> Sum of enterprise value of all Private Equity and Secure Assets platform investments and transformative bolt-ons at acquisition and exit (where exited), as at 30-Jun-2023.

<sup>9</sup> Calculated over fully and partially realised investments acquired under the Private Equity strategy from Jan-2010 only, as at 31-Mar-2023 (n=11); excludes iNova, which PEP remains invested in via Fund VI.

## 4. Investment Opportunity

Funding gaps are emerging as traditional lenders shift their focus to retail lending and larger, higher-rated corporate borrowers. PEP believes that this shift, combined with a relatively underdeveloped alternative capital market in Australia and New Zealand, means significant unmet demand exists for non-dilutive capital to help support high quality, mid-market businesses. The Fund, supported by a dedicated Capital Solutions investment team and backed by PEP's networks and deep operational experience, seeks to take advantage of these opportunities.

### Highlights

- Mid-market corporates have traditionally been limited to banks for non-dilutive capital.
- Increased regulation and shifting focus have caused banks to move away from mid-market lending.
- Distinct to overseas markets, this gap has not been filled by alternative capital providers in Australia and New Zealand.
- The level of unmet demand has accelerated and is particularly acute during periods of disruption.
- Mid-market corporates are seeking operational capabilities alongside capital to enable growth.
- Capital Solutions is uniquely positioned to form 'value-added' partnerships given our local presence and track record of driving growth.
- Capital Solutions' approach and flexibility creates distinct opportunities for attractive risk-adjusted returns with emphasis on cash yield and downside protection.

### Background

#### Traditional Lenders

Traditional lenders, primarily large domestic banks, have dominated the Australian and New Zealand credit markets. In particular, the 'big four' domestic banks provide ~A\$3 trillion of financing, predominantly to households in the form of mortgages.<sup>10</sup> The banks have enjoyed strong market positions and have been instrumental in defining the provision of credit to corporates. Corporate credit is a meaningful component of bank activity accounting for approximately a third of lending portfolios.<sup>11</sup>

#### Regulation

Following the Global Financial Crisis, international regulation, led by the Basel Accords, increasingly forced banks to retain greater capital buffers against their lending portfolios. These international standards have been implemented domestically, often ahead of global rollouts and with more severe requirements.

These regulations increase the cost of lending generally and are especially impactful in non-core segments, such as for lending to small or mid-market corporates which, in some instances, is now

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<sup>10</sup> RBA, 2022

<sup>11</sup> RBA, 2022

unprofitable for the banks. As a result, domestic bank exposure to this type of corporate lending is receding.

Banks are still active lenders, but increasingly avoid non-core and higher regulatory cost credits, maintaining only minimal exposure to retain relationships and to benefit from other revenue streams, such as transactional banking.

### **Credit Demand**

These structural changes mean large pockets of corporate credit demand are currently unmet. This has disproportionately affected smaller corporates, where the gaps in available capital are widening. For many of these businesses, the only options to source the required capital are from banks, where the amount of support is limited, or via the sale of equity, which is costly and often disruptive to operations and governance. PEP has identified a growing segment of businesses that are increasingly interested in access to flexible non-bank capital, matched with operational experience, as an alternative to ceding control.

### **Bank Partnership**

Banks often seek to retain the corporate relationship and transactional banking, even as lending into mid-market corporates contracts. To do so, they need support from an external capital partner to minimise the regulatory capital impact of holding the loans on balance sheet. Banks have shown reluctance to partner with offshore credit organisations in this capacity, preferring to interact with local institutions where there is a strong history of successful partnership over many years. Capital Solutions believes there is significant opportunity to partner with banks to access high quality credits that sit outside the strict parameters required for banks to retain these assets on balance sheet.

### **Non-Bank Lenders**

Since banks have been forced to withdraw from certain segments of the credit market, non-bank lenders have entered, partially filling the gap. These firms typically have a specific focus, often in unsecured personal or small business lending, and do not have flexible mandates or the operational expertise to assess mid-market corporates.

The current domestic non-bank lending market is underdeveloped relative to the corresponding markets in the United States and Europe. The lack of maturity of the local market, in terms of scale, liquidity and competition, often creates pricing or access inefficiencies, which provide opportunities to realise favourable risk and return outcomes relative to markets overseas.

Capital Solutions believes there is significant opportunity to support high-quality non-bank platforms to continue to grow and develop within this expanding market.

### **Recent Acceleration**

The impact of the COVID-19 pandemic accelerated the structural shifts in banking. Government direction through the Australian Prudential Regulation Authority ("APRA") and other regulators promoted 'holidays' for interest repayments and covenant tests at banks. Relaxing lending terms meant that banks were temporarily able to carry risk above their preferred risk appetite without penalty, even as uncertainty within the macroeconomic landscape (a key input into the assessment of probability of loss) increased. As a result, banks have exceeded the risk thresholds they would have otherwise chosen to maintain. Unable to restructure their books, given government directives and a



lack of internal resources, lenders are increasingly focused on minimising non-core lending in new origination and continuing to deal with these exposures in their existing loan books.

### **Macro-Economic Environment**

Notwithstanding relatively strong household balance sheets and record levels of employment, the dynamic of rising interest rates combined with supply chain and inflationary pressures is increasing uncertainty in the macro-economic environment. This is causing traditional capital providers to retreat as market volatility and unpredictability increases.

### **Increased Capital Need**

The current environment has forced businesses to reassess their capital planning. For some, uncertainty around future trading has driven a desire to bolster their current funding position, while others that have experienced strong growth are looking for capital to support expansion. Both drivers mean capital is increasingly demanded at the same time as traditional supply is increasingly constrained.

### **Opportunity for the Fund**

Capital Solutions is uniquely positioned to address this emerging opportunity by providing flexible capital alongside proven operational capability. By primarily structuring our investments as senior secured, floating rate instruments with a focus on downside protection, the strategy is insulated from increasing interest rates and provides strong structural advantages relative to alternative forms of investment. PEP has deep experience executing a consistent and disciplined strategy to address complexity and grow profits within mid-market companies. The Firm has one of the largest and most experienced private market investment team in Australia and New Zealand, with strong connections to both corporates and traditional lenders, with whom PEP has been a trusted partner for over 20 years. Capital Solutions' ability to apply rigorous analysis assisted by established networks, resources and capabilities sets it apart as a value-added provider of flexible, non-diluting capital to businesses.

## 5. Fund Strategy

The Fund targets opportunities created by the inefficiencies in the Australian and New Zealand credit and alternative capital markets. The Fund provides debt funding to borrowers in the form of structured capital with appropriate protections. The Fund invests across the debt capital structure, with a target investment holding period of three to five years. The Fund may also seek additional return, including from fees and paid in kind interest, attributable to the value-add provided by PEP's unique operational skillset.

In managing the Fund, Capital Solutions sources, conducts due diligence and manages investments across a range of industries, with a focus on the skill base, sectors and situations in which PEP is experienced but, in each case, where the primary operations of the business are in Australia and New Zealand.

### Flexible Capital

The ability to be responsive and flexible to the specifics of different investment situations is integral to the Fund's strategy. However, there are basic principles, which guide the investment selection process and are common across the majority of the Fund's investments. This includes the quality of the underlying business and the Fund's ability to underwrite the sustainability of a baseline set of cash flows to service interest payments and deleverage over time. PEP diligence (across all PEP Funds) is grounded in forming a detailed understanding of the market in which companies operate, their competitive positioning and potential external impacts that could cause disruption. Opportunities that satisfy this initial review will progress through to more detailed diligence and discussions around structuring to accommodate the specifics of each situation.

### Structure

The Fund seeks to optimise the security and downside protection in each investment. Investments are primarily structured as senior secured instruments with the Fund often being the majority or whole-of-structure debt capital provider. However, there are also attractive opportunities to invest in partnership and syndicated deals, and subordinated or structured instruments, and the Fund invests across the debt capital structure to optimise risk-adjusted returns. This includes both fixed and floating rate instruments that comprise cash pay interest and payment-in-kind mechanisms. Overall, Capital Solutions expects the balance of the portfolio to be weighted towards senior secured instruments with floating rate exposure and material cash pay interest components.

### Transaction Size

The Fund typically deploys initial investments of between A\$20M and A\$100M. Investment size is, among other factors, driven by the particular sector in which the borrower operates and the specific circumstances surrounding the requirement for capital. In most cases, investee businesses in Australia typically fall within the range of enterprise values between A\$100M and A\$1.5B, while those in New Zealand may be smaller.

### Leverage

In deploying capital, the Fund may utilise leverage as both a bridging facility to initially finance an investment ("Bridge Financing"), and also to increase exposure to a specific investment opportunity and efficiently enhance the return on invested capital ("Fund Leverage"). The assets of the Fund may

be used as collateral for both Bridge Financing and Fund Leverage. The target for Fund Leverage over the medium-term will be 25% of the assets of the Fund.

## Geography

Consistent with the strategy of utilising deep market connections and knowledge, and capitalising on the benefit of Capital Solutions' local presence and ability to directly engage with borrowers, the Fund focuses on investing in businesses predominantly in Australia and New Zealand.

## Industry

Consistent with prior and existing PEP Funds, the Fund does not focus on a specific industry, but targets the most attractive opportunities available in a variety of sectors of the Australian and New Zealand economies. Over the last three decades, members of the PEP investment team have accumulated both consulting and investing experience in all of the major sectors of the economy.

Capital Solutions seeks to minimise the Fund's exposure to large external risks that can impact the sustainability and growth of company earnings and cash flows. As a consequence, for example, the Fund is unlikely to invest in businesses that depend on commodity prices. The Fund will also not invest in tobacco, or in gaming and gambling assets.

## PEP Assets

Significant equity capital is deployed through the PEP Equity Funds ("PEP Assets") and these transactions are typically financed with external debt. Certain of these situations may provide attractive debt investment opportunities for the Fund, given the inherent alignment of interest between debt and equity holders to improve and grow the underlying business. Over the medium-term, Capital Solutions expects no more than 25% of the assets of the Fund will comprise PEP Assets.

The investment management process relating to the debt of PEP Assets is governed by specific procedures designed to minimise the risk of potential conflicts arising. The below outlines the decision-making, governance and conflicts processes which will apply in situations where the Fund invests in existing and new debt of a PEP Asset.

## Decisions to Invest

Recommendations of investment decisions in the debt of PEP Assets will be made by Capital Solutions. Where investment decisions do not relate to a PEP Asset, Capital Solutions will seek advice and leverage the experience and networks of the senior leadership of PEP. All investment decisions will ultimately be made by the Fund, based on an independent review of the recommendations made by the Investment Committee ("IC").

## Conflicts

The interests of PEP as equity sponsor of PEP Assets and the Fund as a lender to PEP Assets are generally aligned in that the success of both parties' interests in the business depends on a well performing borrower. That fact notwithstanding, to prevent a conflict of interest from arising, strict procedures apply in instances where the Fund proposes to be a lender to PEP Assets, as described below.

**Measures to Reduce Conflicts of Interest**

To minimise the risk of potential conflicts where the Fund is seeking to provide financing to, or invest in the securities of, PEP Assets, the Fund adheres to the specific procedures which govern the activities of Capital Solutions and also situations when the “Conflicts Committee” must be notified.

Information barriers between Capital Solutions and the PEP Equity Funds teams exist where both the Fund and one or more PEP Equity Funds is invested in the same PEP Asset. In such instances, Capital Solutions is prevented from liaising with, or seeking advice from, the PEP Equity Funds team in respect of the relevant PEP Asset (and vice versa).

**How Conflicts Will Be Resolved**

If there is an actual conflict of interest, the Conflicts Committee will determine how to address such conflict. In doing so, the Conflicts Committee may consult with PEP employees, outside counsel, and other external third-party advisers or agents.

Any decision made by the Conflicts Committee will be made on a case-by-case basis and in accordance with the required procedures. As there is often a lack of “bright line rules” with respect to these conflicts of interest, and because relevant facts may change over time, these procedures may need to be adjusted in certain circumstances. Personnel will accordingly consult with the Conflicts Committee prior to taking action in relation to a PEP Fund.

## 6. Investment Process

Since the establishment of its first investment fund in 1998, PEP has developed and refined a rigorous and disciplined investment advisory process to manage opportunities through sourcing, diligence, execution, management, and realisation. There are distinct philosophies and approaches that support success at each stage in the process and are utilised by Capital Solutions and the Fund.

### Sourcing

PEP is a large and active participant in the Australian and New Zealand private capital markets. This, coupled with PEP's experience and deal execution capability, ensures it is able to access a broad, and often proprietary, flow of investment opportunities. The sourcing capabilities of the Firm enhance the specific experience of Capital Solutions, who have developed considerable networks within the local and offshore credit markets. PEP typically sources deals through four channels:

- **Corporate Network:** Through a deeply experienced team that has over 600 years of accumulated professional experience, the Firm possesses an extensive network of relationships with senior executives across Australia and New Zealand. This professional and personal network allows PEP to gain early and often preferential access to investment ideas and opportunities.
- **Brand Presence with Advisers and Intermediaries:** PEP has developed strong relationships with the intermediary and adviser community in Australia and New Zealand. Given PEP's scale and deal execution track record, the Firm receives significant attention. PEP believes its Funds have deployed more capital than any other private investment firm currently in the Australian and New Zealand market.
- **Internal Analysis:** PEP tracks potential targets on an ongoing basis, identifying situations where there is a known, or potential, catalyst for opportunity. Additional diligence is conducted to refine perspectives before approaching such companies to initiate discussions.
- **Deal Development:** PEP maintains a database of the potential targets that have the attributes of good businesses with growth potential and monitors this list on an ongoing basis. PEP regularly and methodically approaches business owners and company management, as well as other industry participants, to elicit more information about the business and position for a possible investment.

Capital Solutions benefits from PEP's corporate network and its strong relationships with intermediaries and advisers and utilises PEP's tools and philosophies to enhance its own analysis of potential targets for the Fund.

### Diligence

Prior to making an investment on behalf of a PEP Fund, PEP carries out an exhaustive evaluation of the potential opportunity. Capital Solutions undertakes a similar approach. The first step in this process is formulating a view of the soundness of the underlying business fundamentals, including the size and sustainability of the current earnings. From this point, PEP focusses its evaluation on the controllable levers available to improve the company's cashflows and de-lever the capital structure through both paydown and enterprise value expansion.

If sufficient opportunity is identified through this initial process, the relevant team will further diligence the operating plan and more critically assess potential downsides. The structure of the investment is then formulated and assessed with the benefit of a fulsome understanding of the business. There will also be a review of trading and transaction multiples, which will inform a perspective on the level of security and 'buffer' available to ensure capital recovery. Additional security in the form of realisable assets or other forms of collateral and capital (e.g. equity raisings) are also considered. The team will independently assess the value of the security pool associated with an investment under a variety of scenarios.

Whenever possible, PEP seeks to engage directly with company management to carry out this evaluation, refine the operating plan and tailor the capital structure. Given the consulting heritage of the Firm, PEP places heavy reliance on internally generated analysis in the assessment of opportunities, an investment approach which is routinely supplemented by expert opinions and resources from a large network of advisors.

## Key Meetings & Resources

Throughout the diligence process, there are multiple Investment Committee meetings to discuss the business, operating plan, potential risks and downsides, capital structure, and approach. Below is a snapshot of the various meetings and resources that comprise the PEP investment process. This investment process applies across all of the PEP Funds including Capital Solutions and the Fund, except with respect to investments by the Fund in PEP Assets. Where the Fund is contemplating an investment in a PEP Asset, the PEP investment team will not be involved in the investment process and, aside from meetings of the Conflicts Committee, if required, the following meetings outlined below will not take place. Instead, all recommendations in respect of PEP Assets will be made solely by Capital Solutions.

### Monday Morning Meeting ("MMM")

The Capital Solutions team meets every Monday to discuss deal opportunities and the workflow for the week ahead. Key agenda items include:

- Initial review of new deal opportunities and the decision to proceed or not;
- Ongoing review of progress across deal processes underway;
- Preview of upcoming pipeline opportunities;
- Review of significant events / issues within each portfolio business; and
- Resourcing decisions.

### Investment Committee ("IC")

Each transaction that a PEP Fund seeks to undertake will typically involve multiple IC meetings. PEP's IC for the Capital Solutions strategy comprises the Founding Managing Directors, the Chief Operating Officer, the Managing Directors and the Directors of Capital Solutions (meetings will also usually be conducted in the presence of other Capital Solutions investment professionals, which is an important part of PEP's apprenticeship model).

Feedback and concerns are discussed prior to making an investment decision to ensure IC members are supportive of the outcome of decisions. Ultimately, the recommendation of the IC in respect of investment decisions is necessarily made on a unanimous or near unanimous basis.

The members of the governing bodies of each of the PEP Funds independently review the recommendations made by the IC and the advice from the IC with respect to investment and divestment decisions. In deciding whether to participate in (or exit) an investment, they will give weight to advice and recommendations provided by the IC, but they are under no legal obligation to accept or follow such advice or recommendations.

### **Operating Committee ("OC")**

This group comprises the managing directors of the investment team and is designed to provide objective review and discipline at the level above the investment. The objective of the group is to provide oversight around portfolio construction, each investment's progress against plan and, where required, to encourage discipline with respect to remediation and liquidity. Review meetings are scheduled Quarterly or as otherwise deemed necessary.

### **Executive Committee ("ExCo")**

The Executive Committee is comprised of selected senior members of the Firm, including Capital Solutions. The ExCo operates in a similar capacity to a corporate board and is responsible for the review and approval of key decisions across all aspects of the Firm.

### **Conflicts Committee**

The Conflicts Committee comprises the Chief Compliance Officer, a Founding Managing Director and a Senior Adviser. When meeting, the Committee is joined by a Managing Director representative of each side of the conflict. The purpose of the Conflicts Committee is to make decisions according to PEP policy where a perceived conflict is apparent or when referred to by a member of the Director Group or IC. The Conflicts Committee can make a binding decision or refer the matter to investors.

### **Investment Monitoring**

The process of monitoring Capital Solutions investments is rigorous and draws from PEP's experience as an active equity investor. This includes the regular review of financial and reporting packages prepared for board meetings, and regular interactions with management teams. Where Capital Solutions has specific information and access rights, it often requests additional information and reporting based on specific areas of focus. Regular discussions take place within Capital Solutions and relevant questions are submitted to the investee companies' board and management team, as required. These include questions and observations about short-term financial performance but also tracking against specific milestones relating to strategic initiatives and other longer-term targets.

Information received from investee companies is compiled into a portfolio tracking tool, allowing Capital Solutions to monitor performance at the level of an individual investment but also at the broader portfolio level. Any potential issues (e.g. servicing or covenant compliance) are flagged early and elevated with company management, as well as being raised internally with the IC and OC. As the situation becomes clearer, either the issue is resolved or specific remediation plans are established and put in motion (including enforcement of the Fund's contractual rights). In the normal course, the status of each investment is reviewed each quarter by the OC and input received on specific company issues as well as overall liquidity and portfolio management.

## 7. Summary of Principal Terms of the Fund

This Memorandum, the trust deed establishing the Fund (the “Trust Deed”) and an application form for Ordinary Units (the “Application Form” and together with this Memorandum and the Trust Deed, the “Trust Agreements”) will be furnished to each potential investor. The following statements, together with statements elsewhere in this Memorandum, summarise certain provisions of the Trust Agreements and are qualified in their entirety by reference to the Trust Agreements. Prospective investors should review carefully the Trust Agreements prior to executing and delivering an Application Form. Capitalised terms used but not defined in this section or **Section 10: Glossary of Defined Terms** have the meaning given in the Trust Agreements.

<b>The Fund:</b>	<p>Pacific Equity Partners Capital Solutions Fund (Australasia) (the “Fund”) is structured as an unregistered Australian unit trust and provides debt funding to borrowers in the form of structured capital with appropriate protections. The Fund invests across the debt capital structure, with a target investment holding period of three to five years.</p> <p>The Fund may also seek additional return, including from fees and paid-in-kind interest, attributable to the value-add provided by PEP's unique operational skillset.</p> <p>The Fund may invest directly or indirectly through interposed companies, trusts, or other entities.</p>
<b>Trustee:</b>	<p>Pacific Equity Partners Investors Administration Pty Ltd (ABN 99 161 245 263; AFSL No. 454251) (the “Trustee”) is registered with ASIC as a proprietary company. Its registered office is at Level 31, 126 Phillip Street, Sydney NSW Australia.</p>
<b>Manager:</b>	<p>Pacific Equity Partners Capital Solutions Pty Limited (ABN 36 646 630 239) (the “Manager”) is registered with ASIC as a proprietary company. Its registered office is at Level 31, 126 Phillip Street, Sydney NSW Australia. The Manager provides corporate and investment advisory services to the Trustee, and sources, conducts due diligence and manages the debt investments for the Fund.</p>
<b>Adviser:</b>	<p>Pacific Equity Partners Capital Solutions Advisory Pty Limited (ABN 21 646 630 113) (the “Adviser”) is registered with ASIC as a proprietary company. Its registered office is at Level 31, 126 Phillip Street, Sydney NSW Australia. The Adviser provides corporate and investment advisory services to the Manager.</p>
<b>Functional Currency:</b>	<p>Australian Dollars (“<u>A\$</u>”).</p>
<b>Offering Units:</b>	<p>Units in the Fund (“Units”) are offered only to wholesale clients (as that term is defined in the Corporations Act). Commitments are denominated in Australian dollars. The minimum capital commitment to the Fund for Ordinary Unitholders is A\$10M. However, the Trustee reserves the right to waive the minimum commitment requirement in its sole discretion.</p>
<b>Issue of Units:</b>	<p>The beneficial interest in the assets of the Fund is divided into Units. Unless otherwise approved in the manner set out in the Trust Deed, there will be two classes of Units in the Fund, namely ordinary units (“Ordinary Units”) and sponsor units (“Sponsor Units”). Sponsor Units will carry no rights,</p>



except for their entitlement to sponsor distributions or performance fees (as described below) and limited voting rights.

The Paid Up Capital of an Ordinary Unit is allocated to two pools of assets of the Fund. One pool comprises cash and cash equivalents, including high-grade, liquid instruments. The other pool comprises all other assets of the Fund including loan assets. The portion of the Paid Up Capital of an Ordinary Unit referable to the first pool is designated as the 'Non-Deployment Series' of that Ordinary Unit. The portion of the Paid Up Capital of an Ordinary Unit referable to the second pool is designated as the 'Deployment Series' of that Ordinary Unit.

Returns to Ordinary Unitholders will be calculated and reported based on the returns for the pool of assets referable to the Non-Deployment Series and the pool of assets referable to the Deployment Series.

The Trustee, in consultation with the Manager, has the power to designate and re-allocate Paid Up Capital as referable to the Deployment Series or Non-Deployment Series depending on the investment allocation of the Fund at any given time.

The Trustee will be entitled to issue fully or partly paid Ordinary Units, but will only be entitled to issue fully paid Sponsor Units.

**Classes of Ordinary Units:**

The Trustee may in the future issue additional classes of Units in accordance with the terms of the Trust Deed.

**Issue Price of Units:**

The Issue Price for any Ordinary Unit will be calculated based on a fraction, the numerator of which is equal to the Net Asset Value of the Non-Deployment Series and Net Asset Value of the Deployment Series of Ordinary Units and the denominator of which is equal to the number of Ordinary Units on issue, in each case calculated as at the date of issue of the Ordinary Unit.

The Issue Price for each Sponsor Unit will be A\$0.01 (other than in specified circumstances where the Manager is replaced).

**Number of Units Issued:**

The number of Ordinary Units issued in respect of an application for such Ordinary Units will be calculated by dividing the amount of the Commitment (or, in the case of Sponsor Units, application) of the applicant by the applicable Issue Price of the Ordinary Units at the time of issue of the Ordinary Unit.

**Acceptance of Commitments:**

Although the Trustee generally expects to accept Commitments on the first day of each month, the Trustee has absolute discretion as to when it accepts an application for Ordinary Units. The Trustee also has absolute discretion as to whether to accept or reject, in whole or in part, any application for Ordinary Units.

**Drawdowns of Committed Capital:**

The Trustee may request a drawdown against the Undrawn Commitment of an Ordinary Unitholder (if any) at any time by serving a Drawdown Notice on that Ordinary Unitholder. The Drawdown Date will not be less than 10 Business Days after the date of that Drawdown Notice.

The Trustee may serve one or more Drawdown Notices on an Ordinary Unitholder in respect of a Commitment in accordance with the terms of that

Ordinary Unitholder's Application Form and the Trust Deed. An Ordinary Unitholder's Application Form may provide for that Ordinary Unitholder's Commitment to be drawn down over a specified period of time ("Commitment Period"). The Trustee generally expects to draw down Commitments from Ordinary Unitholders which are subject to the same Commitment Period on a pro rata basis but may draw down Commitments on another basis in its discretion (taking into account its duties as trustee of the Fund).

**Alternative  
Investment Structure:**

If the Manager determines that because of a change to laws relating to taxation or for other legal, tax, regulatory or other similar reasons, it is desirable that an investment be made through an alternative investment structure, the Manager may structure the making of all or a portion of an investment through an entity other than the Fund by requiring one or more Ordinary Unitholders to fund that investment directly or indirectly through another entity.

**Use of Proceeds:**

The net proceeds from the issue of Ordinary Units will be used to make investments as permitted under the terms of the Trust Deed, and to pay the expenses and other liabilities of the Fund. Interim cash balances may be invested in high-grade, liquid instruments.

**Term:**

Subject to earlier termination pursuant to law or the terms of the Trust Deed, the Fund is open-ended.

**Liquidity:**

At the end of each calendar Quarter, the Trustee intends to offer Unitholders the opportunity to redeem Ordinary Units subject to the Fund having available sufficient liquid assets. Fund liquidity will be assessed with regard to a range of factors including, but not limited to, the amount of principal repayments received during the relevant quarter, required funding for new and existing investments, and other commitments of the Master Fund. It is not expected that the Fund's investments will be realised outside of the normal course to satisfy Unitholder redemptions which may impact the availability of liquid assets to satisfy redemptions.

Redemption requests are required to be submitted by Unitholders no later than 30 days prior to the end of each calendar Quarter. The Trustee will aim to satisfy redemption requests within 30 days after the end of each calendar Quarter where the Trustee has resolved to accept redemptions.

In accordance with the terms of the Trust Deed, the Trustee may accept or reject a Unitholder's redemption request in whole or in part in its absolute discretion.

If there are insufficient liquid assets available to meet redemption requests in a particular Quarter, Unitholders whose redemption requests have been accepted will be redeemed pro rata having regard to the size of their redemption request relative to aggregate redemption requests and the liquid assets the Trustee has resolved to treat as available to satisfy redemption requests in that Quarter. Any Ordinary Units the subject of a redemption request that the Trustee has resolved to accept, but which have not been redeemed in a particular Quarter, will not be rolled over and redeemed at the end of the next Quarter. Instead, Unitholders whose Ordinary Units that are the subject of an accepted redemption request but which have not been redeemed in full in a particular Quarter will need to

reapply to have those residual Ordinary Units redeemed at the end of the next Quarter in which the trustee resolves to accept redemption requests.

**Distributions:**

The Trustee intends to make distributions of income Quarterly but retains the sole discretion to make distributions at other times. The Trustee intends to provide Ordinary Unitholders with a breakdown of returns received in respect of both the Deployment Series and Non-Deployment Series during the Quarter referable to Ordinary Unitholders' Ordinary Units.

On termination of the Fund, the Trustee may only make distributions of assets rather than cash as permitted under the transfer provisions in the Trust Deed and only if approved with the consent of each relevant Ordinary Unitholder, provided always that, in respect of a distribution of assets (including Traded Securities), each Ordinary Unitholder must receive a proportion of the assets being distributed that is the same proportion to which it is entitled to participate in cash distributions at that time.

All cash distributions shall be made in Australian dollars or New Zealand dollars.

**Management Fee:**

The Fund will pay the Manager a management fee at the annual rate of 1.5% of Total Investment held directly or indirectly by the Fund and its Affiliates. The management fee shall accrue daily and be paid monthly in arrears.

**Performance Fee:**

Ordinary Unitholders will bear a performance fee (payable to Sponsor Unitholders and referred to as "Performance Entitlement" in the Trust Deed) of 15% of any outperformance of the pool of assets referable to the Deployment Series, subject to maintaining a net 7% p.a. return on the Deployment Series portion of the Ordinary Units.

This performance fee will be deducted from income received or to be received by the Fund and referable to the Deployment Series. The performance fee will be accrued monthly and payable Quarterly.

Where accrual of the performance fee for a month would reduce the return on the Deployment Series portion of Ordinary Units below 7% p.a., the performance fee will be reduced accordingly to maintain a 7% p.a. return on the Deployment Series portion of Ordinary Units.

**Expenses:**

The Manager will pay out of its management fee its normal operating expenses (such as remuneration of its employees, rent, utilities and office expenses, etc.). The Fund will bear all other expenses, including legal, regulatory, accounting, information technology, compliance, reporting and printing fees, interest, costs, Expenses and fees and other bank or government charges related to borrowing by the Fund, expenses incurred in connection with the obtaining and maintaining of insurance policies by or on behalf of the Fund, investments of the Fund, the Trustee and the Manager, fees and expenses of winding up the Fund, and other similar fees and expenses (including any expenses and fees of any fund administrator, depositary and any other professional service providers to the Fund and including costs associated with proposed transactions that are not ultimately consummated). The Sponsor Unitholders will not share any expenses. To the extent the Fund bears any placement agent fees incurred

in connection with the offering and sale of Ordinary Units, the Fund shall be reimbursed for such placement agent fees by reducing payments of management fee by the Fund to the Manager in the manner contemplated by the Trust Deed (and as described above).

**Offering Expenses:** The Fund will pay (or reimburse the Trustee or the Manager for) the reasonable expenses incurred in connection with the organisation of the Fund and offering and issue of Units (not including any placement agent fees or commissions). Organisational expenses will be amortised over a 12-month period.

**Valuations:** The assets of the Fund will, for auditing purposes, be valued annually by the Manager by applying the valuation guidelines of the Australian Investment Council (the "AIC") (modified as necessary on a case-by-case basis). The AIC adopts the International Private Equity and Venture Capital Valuation (IPEV) Guidelines.

**Reports:** The Manager will use reasonable endeavours to distribute unaudited summary financial information within 60 days of the end of each of the Quarter, and the Trustee will provide audited financial statements prepared in accordance with Australian generally accepted accounting principles annually as soon as practicable after 15 March.

The Trustee will use reasonable endeavours to provide Ordinary Unitholders with Ordinary Unit pricing and Quarterly distribution statements in respect of each Ordinary Unit held, within 10 Business Days after the end of each Quarter.

The Trustee will also cause an annual income tax return of the Fund to be prepared each year and a copy of such tax advice notice to be provided to each Ordinary Unitholder as soon as practicable after 30 June each year and in any event no later than 31 August of each year.

**Accounting Standards:** Where a calculation for operational purposes under the Trust Deed is to be performed by applying Australian generally accepted accounting principles or accounting standards as generally accepted or in force from time to time, the calculation will be performed by applying Australian generally accepted accounting principles or such Australian generally accepted accounting principles or accounting standards as determined by the Trustee.

**Indemnification, etc.:** Each current and former Trustee and Manager and their respective directors, officers, employees, related bodies corporate, agents and associates will have the benefit of the exculpation and indemnification provisions contained in the Trust Deed.

**Withholding:** The Trust Deed authorises the Trustee to withhold and pay taxes (at the maximum applicable statutory rate) if it is required by law to do so in relation to any distributions to Unitholders. Any such withheld amount will be treated as a distribution to that relevant Unitholder at the time the withheld amount is paid by the Trustee. If the Trustee pays such taxes with respect to a Unitholder, but has not withheld the relevant amount from a distribution, the amount will be treated as a loan to such Unitholder, payable on demand, or at the Trustee's option from distributions otherwise payable to such Unitholder. At the Trustee's option, such loan will bear interest at the rate of the Bank Bill Rate, calculated from the date that loan

is made to the date of repayment. Each Unitholder must indemnify the Fund, the Trustee and the Manager (and their respective directors, officers, employees, related bodies corporate, agents and associates) in respect of any liability for taxes payable on any distribution to that Unitholder which those parties incur.

**Amendments:**

Amendments to the Trust Deed may generally be made by the Trustee:

(i) unilaterally, if the amendment would not have an adverse effect on any Ordinary Unitholder; or (ii) if the amendment is approved by an Ordinary Resolution of the Ordinary Unitholders entitled to vote on the resolution (provided certain conditions are met).

**Related Party Transactions and Conflicts:**

Approval by way of Ordinary Resolution of the Ordinary Unitholders must be obtained by the Trustee before it may engage in a transaction with a Manager Affiliate that is not conducted on arm's length terms or terms which are more favourable to the Fund.

Over the medium-term, up to 25% of the assets of the Fund may be invested in PEP Assets, although this may vary from time to time. This may give rise to conflicts of interest between the Fund and the other PEP Funds that invest in those same PEP Assets. Conflicts will be managed in accordance with strict procedures, as described in **Section 5: Fund Strategy**.

The same entity, being Pacific Equity Partners Investors Administration Pty Ltd (ABN 99 161 245 263; AFSL No. 454251) ("PEP Administration") or one or more of its related entities, will act as trustee of each of the Fund and one or more feeder funds which invest in the Fund. When acting in its capacity as trustee of such feeder funds, PEP Administration or its related entity (as the case may be) will act in accordance with its duties as trustee of the relevant feeder fund, which includes the obligation to act in the best interests of the unitholders of the relevant feeder fund as a whole. When acting in its capacity as trustee of the Fund, PEP Administration will act in accordance with its duties as trustee of the Fund, including the obligation to act in the best interests of unitholders of the Fund as a whole.

**Default in Payment of Capital Contributions:**

In the event any Ordinary Unitholder does not pay its capital contribution promptly when due, the Trustee will have the right to pursue any one or more of the following remedies in accordance with, the Trust Deed:

- (a) to collect a defaulted payment, with interest and expenses;
- (b) to borrow the amount of the defaulted payment and to specially allocate the related interest expense to the defaulting Ordinary Unitholder;
- (c) to suspend the distribution and voting rights of the defaulting Ordinary Unitholder;
- (d) to forfeit the defaulting Ordinary Unitholder's Ordinary Units and either cancel or sell those Ordinary Units on terms and conditions determined by the Trustee in its discretion; or
- (e) to enforce such other rights, powers and remedies the Trustee may have at law against the defaulting Ordinary Unitholder.

**Transferability of Units:**

Except in limited circumstances, Units are not assignable or transferable without the prior written consent of the Trustee or the Manager (which may be withheld at the absolute discretion of the Trustee or the Manager).

Transfers of Units which are purportedly effected without compliance with the Trust Deed will not be recognised.

**Early Termination or Removal or Retirement of the Trustee or the Manager:**

The Manager or the Trustee may be removed or must retire, if approved by Special Resolution of the Ordinary Unitholders entitled to vote on the resolution.

The Manager or the Trustee must retire if:

- (a) it ceases to carry on business;
- (b) it suffers an Insolvency Event and, within 90 days of the Insolvency Event first occurring, its removal is approved by a Special Resolution of the Ordinary Unitholders;
- (c) it remains convicted of fraud with respect to the Fund (after all appeals and expiration of time to appeal) and within 90 days after the later of the date on which the final appeal is determined and the date on which the time to appeal has expired, its removal is approved by a Special Resolution of the Ordinary Unitholders; or
- (d) a court of competent jurisdiction has finally determined (after all appeals and the expiration of time to appeal) that it has materially breached the Trust Deed or engaged in gross negligence or wilful misconduct and, within 90 days of the date of final determination (after all appeals and the expiration of time to appeal), its removal is approved by Special Resolution of the Ordinary Unitholders.

The Fund may be terminated by the Trustee if:

- (a) the Manager or the Trustee retires or is required to retire under the terms of the Trust Deed and no person has, within 90 days of the Retirement Trigger Date, been appointed by the Ordinary Unitholders under the terms of the Trust Deed to replace the retiring Manager or the Trustee (as the case may be); or
- (b) it determines in good faith that:
  - (i) changes in any applicable law or regulation would have a material adverse effect on the continuation of the Fund; or
  - (ii) termination is necessary or desirable in order for the Fund not to be in material violation of any material law or regulation.

In addition, the Fund may be terminated if the Ordinary Unitholders unanimously agree, where:

- (a) the Manager or the Trustee retires or is required to retire under the terms of the Trust Deed and no person has, within 90 days of the Retirement Trigger Date, been appointed by the Ordinary Unitholders under the terms of the Trust Deed to replace the retiring Manager or the Trustee (as the case may be); and
- (b) in the case where a replacement Trustee has not been appointed under the terms of the Trust Deed within 90 days of the Retirement Trigger Date, the Ordinary Unitholders have, by Ordinary Resolution, appointed a person to act as a liquidating trustee, the sole purpose of which liquidating trustee will be to give effect to termination of the Fund pursuant to the Trust Deed.

- Voting:** Each Ordinary Unit will carry one vote. Votes will be conducted in writing.
- An Ordinary Unitholder that is a trust or other collective investment vehicle may elect, with the consent of the Manager, to use 'look-through voting' and exercise its voting rights in a manner that reflects the underlying votes of its members or beneficiaries, based on their ownership percentage of such Ordinary Unitholder.
- Sponsor Units will not carry any voting rights other than limited voting rights in respect of amendments to the Trust Deed and variations to rights attaching to Sponsor Units.
- Meetings:** The Trustee may call a meeting of Ordinary Unitholders at any time by giving notice not less than 90 days nor more than 120 days prior to such meeting.
- Confidentiality:** Ordinary Unitholders, including Ordinary Unitholders that are funds-of-funds and Ordinary Unitholders subject to freedom of information or similar laws, shall maintain the confidentiality of all confidential information furnished under the Trust Deed in accordance with the provisions contained in the Trust Deed.
- Risk Factors:** An investment in the Fund involves significant risks and potential conflicts of interest, which are described in more detail in **Section 8: Risk Factors**.
- Australian Counsel:** Allens
- Australian Tax Counsel:** Allens and Clayton Utz
- New Zealand Counsel:** Russell McVeagh
- Auditor/Accounts:** PricewaterhouseCoopers
- Register of Unitholders:** A copy of the register of Unitholders will, once the Fund is established, be available for inspection at Level 31, 126 Phillip Street, Sydney, New South Wales, Australia 2000 during normal business hours.

## 8. Risk Factors

The purchase of Ordinary Units involves a number of significant risks and other important factors relating to investments in unit trusts generally, and relating to the structure and investment objectives of the Fund in particular. In addition to the factors hereunder, prospective investors should also consider the risks described under **Section 9: Legal and Other Considerations** and elsewhere in this Memorandum.

### Risks Related to the Fund's Investment Program

#### Failure to Achieve Investment Objective

There can be no assurance that the Fund will be able to achieve its targeted returns or achieve its investment objectives. Any given investment made by the Fund may prove to be worthless. Ordinary Unitholders should be able to absorb a loss of some or all of the capital invested in the Fund.

#### PEP Track Record

Although funds advised by PEP have an excellent track record, the performance of these funds cannot be relied upon as an indicator of the Fund's results because they have a different investment focus. An investor in the Fund must rely upon the ability of the Trustee and the Manager in identifying, structuring and implementing investments consistent with the Fund's investment objectives and policies.

#### Fund Performance

Investors contemplating an investment in the Fund should note that any returns achieved are reliant upon the performance of the credit investments of the Fund. No assurance is given, expressed or implied, that capital will be returned.

The success of the Fund will depend on the Manager's ability to identify, acquire and realise investments in accordance with the Fund's investment policy. This, in turn, will depend on the ability of the Manager to apply its investment processes in a way that is capable of identifying suitable investments for the Fund to invest in.

There can be no assurance that the Fund will be able to invest on attractive terms or generate any investment returns or indeed avoid investment losses. The ability to invest the assets of the Fund in appropriate credit investments may be constrained by lack of capacity in targeted investments or the market generally and increased competition in the market. In particular, the competition in the credit and non-bank lender market has increased, and there has been growth in interest in, and demand for, investments in senior credit. This may place pressure on the opportunities available to the Manager to invest the Fund's assets. A reduction of the opportunities available to the Manager to invest the Fund's assets may impair the ability of the Fund to invest its assets on attractive terms or generate any investment returns for investors or indeed avoid investment losses.

#### Net Asset Value May Not Reflect Fair Market Value

Although the Manager will monitor the investments on an ongoing basis and will review relevant information received (including periodic collateral and performance data) to determine if any impairment should be reported in the Net Asset Value, the Manager is not in a position to confirm the completeness, genuineness or accuracy of all such information and data. As such, it may take some



time for the Manager to receive sufficient information to propose to the Trustee that it assign impairment to a particular credit investment asset. Further, the amortised cost value of the investments may not be representative of their fair value, given fair value can be influenced by credit and market investment events that are not reflected in the amortised cost value.

Consequently, the value at which investments in the portfolio can be liquidated may differ from any interim valuations arrived at by the Fund. The fair value will not constitute a guarantee of value and may not necessarily reflect the prices at which such assets could be, or could have been, purchased or sold at any given time, which may be subject to significant volatility and uncertainty and depend on various factors beyond the control of the Trustee and the Manager. There can, therefore, be no guarantee that the Fund's investments could ultimately be realised at the Fund's valuation of such investments.

### **Risk of Loans Non-Performance**

Loans made by the Fund may, after funding, become non-performing for a wide variety of reasons, including non-payment of principal or interest, as well as breaches by the borrower in respect of the underlying loan documents. Such non-performing loans may require a substantial amount of workout negotiations and/or restructuring, which may entail, among other things, substantial irrecoverable costs, a substantial reduction in the interest paid, a substantial write-down of the principal of such loan and/or a substantial change in the terms, conditions and covenants with respect to such defaulted loan.

It is possible that the Fund may find it necessary or desirable to enforce an underlying security. The enforcement process can be lengthy and expensive, which could have a material negative effect on the Fund's anticipated return on the investment loan. By way of example, it would not be unusual for any costs of enforcement to be paid out in full before the repayment of interest and principal. This could substantially reduce the Fund's anticipated return on the relevant loan.

The level of defaults in the portfolio and the losses suffered on such defaults may increase in the event of adverse financial or credit market conditions. The liquidity in defaulted loans may also be limited, and to the extent that defaulted loans are sold, it is highly unlikely that the proceeds from such sale will be equal to the amount of unpaid principal and interest thereon, which would adversely affect the value of the portfolio and, consequently, the value of each Ordinary Unitholder's unitholding.

### **Insufficient Underlying Security**

In the event of a loan default, the value of the Fund's investment in a loan may exceed the value of recovery possible under the collateral or security arrangements that support the loan investment. This may be due to a variety of reasons including external factors such as changes in the market for the assets to which the security or collateral relates, general economic conditions or otherwise. This may have a material adverse effect on the value of the Fund's loan investment, in particular should a recovery action be required.

### **Loan Defaults**

There are a variety of factors which could adversely affect the ability of borrowers to fulfil their payment obligations or which may cause other events of default. These include but are not limited to changes in financial and other market conditions, interest rates, government regulations or other policies, the worldwide economic environment, changes in law and taxation, natural disasters, terrorism, social unrest and civil disturbances.

A borrower under a loan in which the Fund has invested may not fulfil its payment or other obligations under the loan in full, or at all, and/or may cause, or fail to rectify, other events of default under the loan. The Fund may, in these circumstances, suffer from reduced income and therefore have a reduced ability to pay out distributions as well as be required to exercise any contractual rights of enforcement that it has against the borrower in order to attempt to recover its investment. As such, there is no guarantee that the Fund will be able to recover all or any of its investment made to a borrower who has defaulted under its loan.

### **Market Conditions**

The Fund's investment strategy relies in part upon local credit market conditions which may include, but are not limited to, conditions impacted by geopolitical and sovereign risks. No assurance can be given that current market conditions will continue to be conducive to credit investments, since this will depend, in part, upon events and factors outside the control of the Manager. More generally, the performance of the Fund may be affected by general economic conditions to the extent that the performance of loan investments held by the Fund is affected. Such conditions might include changes to interest rates, credit spreads, equity risk premium, corporate failure rates, changes in laws or regulations and national and international political circumstances.

The Fund's loans and investments may be subject to fluctuations in interest rates that may not be adequately protected, or protected at all, by the Manager's hedging strategies.

### **Early Repayment**

Loans generally have maturities ranging from 12 months to 84 months. It is possible that some of the loans may be repaid early, and therefore the actual maturity of the loans may be shorter than their stated final maturity calculated solely on the basis of the stated life and repayment schedule.

Such prepayment may result in a loss of income until such time as the capital is reinvested. Prepayments may be prompted by increasing availability of debt from the capital markets and increased price competition among lenders, or as a result of an increase in the value of the secured properties making the subject security properties a more financeable proposition to those lenders who are active at the relevant time. This may lead to the Fund replacing prepaid loans with lower-yielding investments, leading to lower returns on the Fund's loan investments.

### **Imperfect Security**

While the Fund will invest in secured loans, the collateral and security arrangements in relation to such investment loans will be subject to such security or collateral having been correctly created and perfected and any applicable legal or regulatory requirements that may restrict the giving of collateral or security by a borrower under a loan.

If the loans in which the Fund invests do not benefit from the expected collateral or security arrangements, this may affect the value of the investments made by the Fund.

### **Incomplete Due Diligence**

When conducting due diligence and making an assessment regarding a loan investment, the Manager will be required to rely on resources available to it, including internal sources of information as well as information provided by existing and potential borrowers, any equity sponsor(s), lenders and other

independent sources. The due diligence process may at times be required to rely on limited or incomplete information particularly with respect to newly established entities for which only limited information may be available.

In addition, the Manager may select loan investments for the Fund in part on the basis of information and data relating to potential investments filed with various government regulators and information and data that is publicly available or made directly available to the Manager by such issuers or third parties. Although the Manager will seek to evaluate all such information and data and seek independent corroboration when it considers it appropriate and reasonably available, the Manager will not be in a position to confirm the completeness, genuineness or accuracy of all such information and data. The Manager is dependent upon the integrity of the management of the entities filing such information and of such third parties, as well as the financial reporting process in general. In the event of corporate mismanagement, fraud and accounting irregularities on the part of borrowers and third parties, information and data which the Manager relies upon for the purposes of its investment analysis may be materially inaccurate which may result in material losses which will ultimately be borne by Ordinary Unitholders.

Accordingly, due to a number of factors, the Fund cannot guarantee that the due diligence investigation carried out with respect to any investment opportunity will reveal or highlight all relevant facts that may be necessary or helpful in evaluating such investment opportunity. Any failure to identify relevant facts through the due diligence process may cause inappropriate investment decisions to be made, which may have a material adverse effect on the Fund and its returns.

### **Fraud and Misrepresentation**

The value of the loan investments made by the Fund may be affected by fraud, misrepresentation or omission on the part of the borrower to which the loan investment relates, by parties related to the borrower or by other parties to the investment loan (or related collateral and security arrangements). Such fraud, misrepresentation or omission may adversely affect the value of the security underlying the investment loan in question or may adversely affect the Fund's ability to enforce its contractual rights under the loan or for the borrower to repay the loan or interest on it or its other debts.

### **Geographic Concentration Risk**

The Fund will focus its investments primarily in Australia and New Zealand, and therefore will be particularly vulnerable to events affecting companies in this region. Additionally, the economy of a particular country in which the Fund may invest is influenced by economic and market considerations in other countries in the region. Investors' reactions to events in one country can have adverse effects on the securities of companies and the value of property and related assets in other countries in which the Fund may invest. The Fund's performance may be worse than the performance of other funds that invest more broadly geographically.

### **Currency Risk**

Investors may be exposed to currency exchange rate fluctuations and currency conversion costs because the Fund will be denominated in Australian dollars and New Zealand dollars (i.e. all drawdowns and distributions will be made in Australian dollars or New Zealand dollars), whereas the Fund may make investments in Australian dollars, New Zealand dollars and other currencies. Currency exchange rates may fluctuate significantly over short periods of time. They generally are determined by the forces of supply and demand in the foreign markets and the relative merits of investments in different countries, actual or perceived changes in interest rates and other complex factors, as seen

from an international perspective. Currency exchange rates can also be affected unpredictably by intervention by the Australian Government or foreign governments or central banks (or the failure to intervene) or by currency controls or political developments in Australia or abroad. Given the long-term nature of the Fund's investments, it is unlikely that the Trustee will find it economically feasible to hedge currency risks and it has no current intention of attempting to do so.

### **Competitive Market for Investments**

The business of identifying and structuring transactions of the type contemplated by the Fund is competitive. The Fund will be competing for investments with other credit funds and traditional lenders (i.e. major banks) as well as other institutional investors. There can be no assurance that the Fund will be able to locate suitable investment opportunities, acquire them for an appropriate level of consideration, achieve its targeted rate of return, or fully invest its committed capital.

### **Derivatives**

The Fund may invest some of its assets in, or otherwise make use of, derivative instruments such as swaps. Derivatives involve significant transaction costs and are subject to a number of risks, such as interest rate risk, market risk and credit risk. Derivatives may be highly illiquid. Due to the risks associated with derivatives, including without limitation interest rate fluctuation, market instability, credit mispricing or improper valuation, the Fund could lose more than the principal amount invested in any derivative transaction and, thereby, suffer a material adverse effect.

### **Co-Investment Risk**

If the Fund co-invests with other funds or institutional investors and its designees in any transaction, it may own a non-controlling interest in the Investment in question. By virtue of the size of its investment, the Fund may have less influence over the terms of the investment and its disposition than it would in transactions in which it acquires a controlling stake.

The Fund may co-invest with third-parties through partnerships, joint ventures or other entities. Such investments may involve risks not present in investments where a third-party is not involved, including the possibility that a third-party co-venturer or partner may at any time have economic or business interests or goals which are inconsistent with those of the Fund, or may be in a position to take action contrary to the investment objective of the Fund. In addition, the Fund may in certain circumstances be liable for actions of its third-party co-venturer or partner.

### **Project Risks**

The Fund may invest in a number of projects. Such investments expose the Fund to numerous risks, usually without recourse to the general credit of a project sponsor, including without limitation construction, environmental, regulatory, permitting, commissioning, start-up, operating, economic, commercial, political and financial risks. The Fund may also invest in early developmental stage projects, involving risks of failure to obtain or substantial delays in obtaining: (i) regulatory, environmental or other approvals or permits; (ii) financing; and (iii) suitable equipment supply, operating and off take contracts. Further, there is no assurance that these projects will be profitable or generate cash flow sufficient to service their debt or provide a return on or recovery of amounts invested therein.

**Construction Risk**

The Fund's Investments may involve significant construction risk, including the risk of substantial delay or increase in cost due to a number of unforeseen factors: political opposition; regulatory and permitting delays; delays in procuring sites; strikes; disputes; environmental issues; force majeure; or failure by one or more of the investment participants to perform in a timely manner their contractual, financial or other commitments. A material delay or increase in unabsorbed cost could significantly impair the financial viability of an investment project and result in a material adverse effect on the Fund's investment.

**Catastrophic and Force Majeure Events**

Entities to which the Fund lends may be adversely affected by catastrophic and other force majeure events, such as fires, earthquakes, adverse weather conditions, changes in law, eminent domain and similar risks, which may adversely affect such borrower's financial condition and ability to repay the principal or interest amounts owed to the Fund.

**Epidemic/Pandemic Risk**

Certain countries have been susceptible to epidemics or pandemics, most recently with COVID-19. The outbreak of such epidemics or pandemics, together with any resulting restrictions on travel or quarantines imposed, has had and will continue to have a negative impact on the economy and business activity globally, and therefore is expected to adversely affect the performance, financial position and assets of the Fund. Furthermore, the rapid development of epidemics or pandemics could preclude prediction as to their ultimate adverse impact on economic and market conditions, and, as a result, presents material uncertainty and risk with respect to the performance, financial position and assets of the Fund or its operations, and the ability of the Fund to achieve its investment objective.

**Market Disruption, Terrorism and Geopolitical Risk**

The Fund is subject to the risk that war, terrorism and related geopolitical events may lead to increased short-term market volatility and have adverse long-term effects on world economies and markets generally, as well as adverse effects on the value of the Fund's investments, and on the financial condition of borrowers and their ability to repay the principal or interest amounts owed to the Fund. War, terrorism and related geopolitical events have led, and in the future may lead, to increased short-term market volatility and may have adverse long-term effects on world economies and markets generally. Those events as well as other changes in world economic and political conditions also could adversely affect individual entities or related groups of entities, securities markets, interest rates, credit ratings, inflation, investor sentiment and other factors affecting the value of the Fund's Investments. At such times, the Fund's exposure to a number of other risks described elsewhere in this section can increase.

**Liquidity Risk**

The loans in which the Fund will invest generally have maturities ranging from 12 months to 84 months. There are no guarantees that the Fund will be able to realise assets to meet the cash flow needs of the Fund, or to satisfy redemption requests. Where there are insufficient liquid assets in the Fund to satisfy redemption requests, Ordinary Unitholders may be unable redeem their Ordinary Units in the Fund. The Trustee may accept or reject redemption requests in whole or in part, in its absolute discretion. There is no established secondary market for Ordinary Units in the Fund, and the Trustee

and the Manager have a broad discretion to refuse any proposed transfer of Ordinary Units. Therefore, an investment in the Fund should be considered illiquid.

### **Modern Slavery Risk**

While PEP is committed to the global effort against modern slavery and supports initiatives designed to shine a light on those practices (such as the reporting regime established by the Modern Slavery Act), PEP cannot guarantee that the Fund's operations or supply chains (or those of its borrowers) will be entirely free of Modern Slavery risk. Modern Slavery practices are often hidden and difficult to detect. Further, even once they are identified, Modern Slavery risks can be challenging to address and mitigate.

## **Risks Related to the Fund's Structure**

### **No Rights to Participate in Management of the Fund**

Ordinary Unitholders have no right or power to take part in the management of the Fund. Investors will not receive the detailed financial information which is available to the Trustee and the Manager. Accordingly, no person should purchase Ordinary Units unless such person is willing to entrust all aspects of the management of the Fund to the Trustee and the Manager.

### **Reliance on Management**

Decisions with respect to the management of the Fund will be made by the Trustee with the advice of the Manager. The success of the Fund will depend on the ability of the Manager to identify suitable investments. The loss of the services of one or more of the members of the professional staff of the Manager could have an adverse impact on the Fund's ability to realise its investment objective. In addition, a number of the principals of the Trustee are also partners, principals or directors of the trustees or general partners of other funds. Thus, the members of management of the Fund will have demands made on their time for the investment, monitoring, exit strategy and other functions of such other funds.

### **Relationship with PEP**

The Fund is relying on its relationship with PEP to obtain access to certain investment opportunities and to assess certain opportunities. The termination or impairment of the Fund's privileged relationship with PEP could have an adverse impact on the Fund.

### **In-Kind Distributions**

Although the Fund expects to distribute primarily cash to Ordinary Unitholders, the Fund may make distributions in kind. In the event that distributions are made of property other than cash, the amount of any such distribution shall be accounted for as provided in the Trust Deed. Investments distributed in kind may not be readily marketable or saleable and may have to be held by Ordinary Unitholders for an indefinite period of time.

### **Severe Penalties for Failure to Make Payments**

Any Ordinary Unitholder that defaults in making required payments to the Fund is subject to severe penalties, as detailed in the Trust Deed. In addition, such a default could leave the Fund with less than

the desired amount of capital contributions, increasing the risk that the Fund would not be able to achieve its investment objectives or the desired level of diversification.

### **Mandatory Withdrawal**

The Trustee has the authority to redeem an Ordinary Unitholder's Ordinary Units if the Trustee reasonably determines (based on advice of counsel) that the continued participation in the Fund of such Ordinary Unitholder could materially and adversely affect the regulatory status of the Fund, the effective realisation of Trust Property or the taxation treatment of the Fund or other Ordinary Unitholders.

## **Risks Related to Conflicts of Interest**

### **Other Activities of Directors of the Manager**

The directors of the Manager will devote such time as is necessary to conduct the affairs of the Fund in an appropriate manner. However, the directors of the Manager will be engaged in some activities unrelated to the Fund, including, but not limited to, supervising the investments of other funds sponsored by the Manager or its related entities. The performance of the Fund could be adversely affected by the other professional commitments of the directors of the Manager.

### **Conflicting Interests of Ordinary Unitholders**

The Fund is likely to have a diverse range of Ordinary Unitholders that may have conflicting interests stemming from differences in investment preferences, tax status, and regulatory status. The Trustee and the Manager will consider the objectives of the Ordinary Unitholders as a whole when making decisions with respect to the selections, structuring, and sale of the Fund's investments. However, it is inevitable that such decisions may be more beneficial for one Ordinary Unitholder than for another.

### **Conflicts with Other PEP Funds**

In addition to the Fund, PEP provides investment advisory services to other PEP Funds (the "Other PEP Funds"). The Fund will focus on Capital Solutions investment opportunities that are not suitable for any Other PEP Funds as determined by the Trustee in its reasonable discretion.

Conflicts of interest may arise in allocating time, services, or resources among the investment activities of the Fund and the Other PEP Funds. Although the Trustee and the Manager will devote such time as may be necessary to conduct the business affairs of the Fund in an appropriate manner, PEP and its affiliates will continue to devote the resources necessary to manage the investment activities of the Other PEP Funds in accordance with the governing documents of the Other PEP Funds. Therefore, conflicts may arise in the allocation of time, services and resources.

As noted in **Section 5: Fund Strategy**, PEP expects that the Fund will extend loans to PEP Assets. Although any conflicts will be managed in accordance with strict procedures (as described in **Section 5: Fund Strategy**), this may give rise to inherent conflicts of interest between the Fund and the other PEP Funds that invest in those same PEP Assets, which are impossible to avoid or mitigate in their entirety.

### **Performance Fee Structure**

Performance fees will be payable by Ordinary Unitholders in the event of outperformance but Sponsor Unitholders will not be required to bear liability for net losses, if any, suffered by the Fund. This feature may cause the Fund to make investments that have a greater risk / reward profile than would be the case in the absence of such a feature.

### **Management Fees**

The Fund management fees are required to be paid to the Manager even if the Fund experiences net losses in a particular year.

### **Agreements with Certain Investors**

The Trustee, on its own behalf and on behalf of the Fund, may enter into a side letter or similar agreement with an Ordinary Unitholder, which has the effect of establishing, supplementing, or altering the terms of the Trust Deed applicable to such Unitholder in a manner that is more favourable to such Unitholder. Other Ordinary Unitholders will not benefit from the terms of such side letter or similar agreement.

### **Exculpation and Indemnification**

Certain exculpation provisions contained in the Trust Deed may limit the rights of action otherwise available to Unitholders against the Trustee and its affiliates, including the Manager. In addition, the Fund is obligated to indemnify the Trustee and its affiliates in respect of the operations of the Fund, subject to certain limited exceptions including wilful misconduct and gross negligence. Furthermore, the Fund may be required to advance indemnification expenses to the Trustee and its affiliates in advance of a final determination that such parties are entitled to indemnification.

### **Legal Representation**

Allens has acted as Australian legal counsel to the Trustee and the Manager in connection with the offering of interests in the Fund. The Trustee has not retained independent legal counsel, in Australia or elsewhere, to represent the interests of the Ordinary Unitholders. None of the Trust Deed or any of the agreements, contracts and arrangements between the Fund, on the one hand, and the Trustee and the Manager, on the other hand, were the result of arm's-length negotiations.

## **Regulatory, Legal and Other Risks**

### **Absence of Regulatory Oversight**

The Fund will not be registered as a managed investment scheme with ASIC pursuant to the Corporations Act. Accordingly, investors will not benefit from the protections that would have been available to them if the Fund was registered.

### **Legal, Tax and Regulatory**

Legal, tax and regulatory changes could occur during the term of the Fund that may adversely affect the Fund. The regulatory environment for funds is evolving, and changes in the regulation of funds may adversely affect the value of investments held by the Fund and affect the returns, liquidity and financeability rate of investments. New or revised laws or regulations imposed or enforced by ASIC, the ATO, other governmental regulatory authorities, self-regulatory organisations or industry bodies



that supervise the financial markets that could adversely affect the Fund may be adopted in the future. The Fund may also be adversely affected by changes in the enforcement or interpretation of existing statutes and rules by these regulatory authorities or self-regulatory organisations.

The Fund is likely to meet the criteria for a 'registerable corporation' under the *Financial Sector (Collection of Data) Act 2001* ("FSCODA"). As a result, it will be required to register with the APRA. Registerable corporations with more than A\$50 million in assets are required to provide data to APRA, in compliance with the obligations in FSCODA. APRA has jurisdiction to make rules that apply to registerable corporations if it considers that provision of finance materially contributes to risks of instability in the Australian financial system. In the event that APRA determined that such a material risk occurred, the Fund could be required to comply with one of these rules, if relevant to its activities. This may adversely affect its ability to conduct lending activities in Australia.

### **Cyber Security Risk**

With the increased use of technologies such as the internet and the dependence on computer systems to perform necessary business functions, investment vehicles such as the Fund, the Fund's Investments, and their respective service providers may be prone to operational and information security risks resulting from cyber-attacks. In general, cyber-attacks result from deliberate attacks, but unintentional events may have effects similar to those caused by cyber-attacks. Cyber-attacks include, among other behaviours, stealing or corrupting data maintained online or digitally, denial-of-service attacks on websites, the unauthorised release of confidential information and causing operational disruption. Successful cyber-attacks against, or security breakdowns of the Fund, the Trustee, the Manager and/or any of their third party service providers may adversely impact the Fund or the Unitholders. For instance, cyber-attacks may interfere with the processing of Ordinary Unitholder transactions, impact the Fund's ability to value its assets, cause the release of private Ordinary Unitholder information or confidential information of the Fund, impede trading, cause reputational damage, and subject the Fund to regulatory fines, penalties or financial losses, reimbursement or other compensation costs, and/or additional compliance costs. The Fund may also incur substantial costs for cyber security risk management in order to prevent any cyber incidents in the future. The Fund and the Unitholders could be negatively impacted as a result. While the Fund and their respective service providers have established business continuity plans and systems designed to prevent such cyber-attacks, there are inherent limitations in such plans and systems including the possibility that certain risks have not been identified. Similar types of cyber security risks are also present for borrowers to which the Fund may advance loans, which could result in material adverse consequences for such borrower and may cause those loans to lose value or impact the ability of the borrower to repay all or part of the agreed principal or interest.

### **Taxation in Local Jurisdictions**

Tax laws, regulations, tax treaties, as well as judicial and administrative interpretations in countries in which Ordinary Unitholders are resident or in which the Fund invests, may change, possibly with retroactive effect, in such a manner as to adversely impact the Fund's or an Ordinary Unitholder's tax treatment. Such developments could severely reduce the value of the Fund's investments, restrict the Fund's ability to realise income and capital gain on an efficient basis and/or eliminate the Fund's ability to make any investments in certain assets. Certain of these developments may have a disproportionate effect on certain Ordinary Unitholders, depending on their tax status. In addition, investments or operations by the Fund or its affiliates in certain countries could require the Fund or the Ordinary Unitholders to file tax returns, residency certifications or other information with the tax authorities in such countries.

The above risks are not exhaustive and do not purport to be a complete explanation of all the risks and significant considerations involved in investing in the Fund. Additional risks and uncertainties not presently known to the Trustee or the Manager, or that the Trustee and the Manager currently deem immaterial, may also have an adverse effect on the Fund.

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## 9. Legal and Other Considerations

### Certain Australian Tax Considerations

The following is a general outline of certain expected Australian tax implications for Ordinary Unitholders based on the Australian tax law at the date of this Memorandum.

The outline below is based on the following assumptions:

1. the Fund will qualify as an Attribution Managed Investment Trust ("AMIT"); and
2. the Unitholders will be residents of Australia for tax purposes.

However, there can be no assurance that the Fund will qualify as an AMIT as this will depend on the composition of the Unitholders, amongst other factors.

The following does not purport to be a complete analysis of the Australian tax consequences for prospective Ordinary Unitholders. This outline cannot be relied on and each prospective Ordinary Unitholder should obtain its own independent tax and legal advice on any implications that may arise from investing in the Fund.

On the basis that the Fund is expected to qualify as an AMIT, the Fund should be taxed on a "flow-through" basis. Accordingly, the Trustee should not be subject to Australian tax on the net taxable income of the Fund. Rather, each year, each Ordinary Unitholder will be required to include in its assessable income the income attributed to that Ordinary Unitholder by the Trustee in relation to the relevant year. The Unitholder will be treated as though they had derived the attributed amounts in their own right, rather than as a member of a trust.

The specific tax consequences for a Unitholder will depend on the components of the Fund's assessable income which are attributed to that Ordinary Unitholder. Amounts attributed to a Unitholder should retain the character the amounts had in the hands of the Trustee of the Fund.

As an AMIT, the Fund may be eligible to make an election to treat gains derived on the disposal of eligible assets as being on capital account. However, under the relevant rules, the assets to which this election would apply do not include financial arrangements, such as loans, which are 'debt interests' for tax purposes. Accordingly, given the expected assets of the Fund, it is not expected that the capital account election will have any material application. However, in the event that the Trustee makes the capital election and does hold eligible assets (e.g. shares) in respect of which a gain is derived, eligible unitholders in the Fund may apply the CGT discount in respect of any such gains to which they are attributed. The CGT discount is 50% for individuals and certain trusts and 33⅓% for complying superannuation funds. Companies and certain other entities. are not eligible to apply the CGT discount.

If the Fund is in a tax loss position for an income year, the loss cannot be distributed to Unitholders and used by Unitholders to offset their other income. However, tax losses and capital losses of the Fund may be able to be carried forward and deducted against future income and future capital gains of the Fund.

As an AMIT, it is not necessary for the Fund to distribute cash to Unitholders that is equal to taxable income in order to prevent adverse taxation outcomes. Instead, the Fund may choose to accumulate cash. In this case, the Fund will not distribute income to Unitholders but instead, the cost base of a Unitholder's units will be increased to reflect the accumulation.

If an investment by the Fund qualifies as an 'equity interest' under the tax rules, distributions may qualify as non-share dividends. These distributions (and any attached franking credits) that are attributed to Unitholders should be included in the assessable income of the Unitholders as though the Unitholders held the equity interest directly. As such, Unitholders should be entitled to a tax offset equal to the franking credit attributed which should have the effect of reducing the tax payable by Unitholders. Certain Unitholders, including individuals and complying superannuation funds, may be eligible for a refund of any franking credits that cannot be utilised as a credit against their tax liability.

A distribution that is not fully franked which is attributed to an Ordinary Unitholder should be included in the assessable income of the Ordinary Unitholder.

If the Fund is an AMIT, the Trustee will have the ability to request, on an annual basis, a breakdown of investor representation (which can be anonymous) where a trust or custodian holds Units beneficially.

### **OECD Common Reporting Standard**

Australia has signed on to the OECD Multilateral Competent Authority Agreement on Automatic Exchange of Account information. This agreement enables Common Reporting Standard ("CRS") information to be exchanged between jurisdictions' tax authorities where relevant legislation has been adopted. The Capital Solutions Funds may be required to collect certain information about investors in order to provide it to the Australian Taxation Office ("ATO"). The ATO may pass this information onto tax authorities in other jurisdictions who have adopted the CRS.

The requirements are similar to those which exist under FATCA, however, there are a larger number of countries in respect of which the ATO may provide information to the respective tax authorities.

### **Certain New Zealand Tax Considerations**

Based on the Fund's currently-projected investment activities in New Zealand and the Fund's anticipated relationship with PEP, the Fund should not have or be deemed to have a permanent establishment in New Zealand for the purposes of New Zealand tax law.

The Fund is expected to receive interest from New Zealand companies in which it invests. Interest derived by New Zealand non-residents is prima facie subject to non-resident withholding tax ("NRWT") at a statutory rate of 15%. This rate is typically (though not always) reduced to 10% if the recipient of the interest is resident in a jurisdiction with which New Zealand has a double tax agreement ("DTA"). Interest will not be subject to NRWT if the interest is derived from money lent for the purpose of a business the recipient carries on in New Zealand through a fixed establishment in New Zealand, or if the recipient is a registered bank engaged in business in New Zealand through a New Zealand fixed establishment and is not associated with the payer of the interest.

The rate of NRWT may be able to be reduced to 0% at the borrower's election if the borrower pays approved issuer levy ("AIL") instead. AIL will not be available if the Fund is associated with the borrower, which will be the case if the Fund (or an associated PEP Fund) has an equity investment in the borrower and that shareholding exceeds 50%. Further, AIL will not be available if interest is derived by a non-resident jointly with other persons, one of whom is a New Zealand tax resident. If the Fund (or, where there is look-through treatment of the Fund, the ultimate investor) is not associated with the borrower, the AIL regime will apply if the borrower elects to pay AIL or it is contractually agreed that the borrower will do so. AIL is payable at a rate of 2% of the relevant interest payment.

Interest derived by New Zealand residents (or by non-residents where the interest is derived for the purpose of a business the recipient carries on in New Zealand through a fixed establishment in New Zealand), is subject to resident withholding tax (“RWT”) except in certain cases. The rate at which RWT is imposed depends on the tax rate applicable to the person receiving the interest. A payment of interest will not be subject to RWT if the recipient of the interest has “RWT-exempt status” (as defined in New Zealand tax legislation).

The Fund may receive dividends from New Zealand companies in which it invests. Dividends derived by New Zealand non-residents will prima facie be subject to NRWT at 15%.

The foreign investor tax credit (“FITC”) regime provides relief from NRWT where a New Zealand resident company pays a fully imputed dividend to a non-resident shareholder (if the non-resident has less than a 10% direct voting interest in the company and the DTA tax rate for the dividend and the related supplementary dividend is 15% or more). The company paying the dividend can receive a tax credit, which can be passed to the non-resident shareholder as a ‘supplementary dividend’. To the extent that the dividend is fully imputed, the supplementary dividend is equal to the NRWT liability in respect of the dividend. The net effect of the FITC regime is similar to an exemption from withholding tax for fully franked dividends, with the possible additional benefit of a credit for tax paid in the investor’s own jurisdiction. Where a dividend is not fully imputed, NRWT is levied at the rate of 30%, however if the Fund is treated as a resident of Australia (due to at least 80% of the beneficial interest in the Fund being held by Unitholders that are tax resident in Australia or otherwise only to the extent that Unitholders are Australian-resident Unitholders) this will be reduced to a rate of 15%.

Profits made by the Fund (where it is a MIT with at least 80% of the beneficial interests held by Australian-resident Unitholders) on the sale of shares in New Zealand incorporated companies should not be subject to New Zealand tax in the hands of the Fund (unless the shares are in companies that derive 50% or more of their value from assets that wholly or principally consist of real property situated in New Zealand). Profits that the Fund derives from the sale of shares in New Zealand-incorporated companies of which the assets wholly or principally consist of real property situated in New Zealand may be subject to tax in the hands of the Fund at the New Zealand corporate tax rate of 28%.

No assurance can be given that the New Zealand tax authorities will concur with the stated summary of the New Zealand tax position, and changes in the Fund’s projected activities or in the relevant tax laws could affect the conclusions in relation to the New Zealand tax implications.

The above information outlines the general New Zealand taxation implications arising in respect of the Fund. Investors should seek their own advice on any New Zealand taxation implications that may arise from investing in the Fund based on their specific circumstances.

## **Anti-Money Laundering Policy**

The Trustee and the Manager recognise the importance of guarding against the use of the Fund for money laundering and terrorism financing activities.

The Manager will require prospective investors to agree to provide any information and documents reasonably required by the Trustee and/or the Manager in order to comply with any applicable anti-money laundering or counter-terrorism financing laws including, without limitation, any applicable laws imposing “know your customer” or other identification checks or procedures on the Trustee and/or the Manager (“AML/CTF Laws”).

Each investor must, as an Ordinary Unitholder, comply with any AML/CTF Laws applicable to it.

The Manager will require investors to release the Manager, the Trustee and their officers, employees, affiliates and relevant related bodies corporate ("Released Parties") from:

1. any confidentiality, privacy or other legal or contractual obligations that a Released Party would otherwise owe to the investor in connection with its investment in the Fund; and
2. to the extent to which it is able, any other applicable confidentiality and privacy laws,

to the extent that the existence of these obligations or laws would otherwise prevent the Released Party from providing any information or documents to any regulatory authority or other person as may be reasonably necessary in accordance with AML/CTF Laws.

## Privacy Policy

The Manager collects personal information about you to be able to process your application for Ordinary Units, administer the Fund and comply with relevant legal obligations such as AML/CTF Laws. If you do not provide the Manager with relevant personal information, the Manager may be unable to process your application for Units. The Manager may disclose your personal information to related entities or external service providers, which may be located outside Australia.

Privacy laws apply to the handling of personal information and the Manager will collect use and disclose your personal information in accordance with PEP's privacy policy which sets out:

- the kinds of personal information collected about you;
- how your information is used;
- who your information is shared with;
- how your information is kept safe;
- how you can access, update and correct your information;
- how to make a privacy complaint; and
- how to contact the Manager.

For further information, including in relation to how consumers can access and correct their personal information held by the Manager and lodge a complaint about how the Manager has handled their personal information, please refer to the Manager's public-facing Privacy Policy, available for download at the following link: <https://www.pep.com.au/privacy-policy/>.

## 10. Glossary of Defined Terms

"A\$" shall mean the Australian dollar.

"Adviser" shall mean Pacific Equity Partners Capital Solutions Advisory Pty Limited (ABN 21 646 630 113).

"Affiliate" shall have the same meaning as set out in the Trust Deed.

"AIL" shall mean New Zealand approved issuer levy.

"AMIT" shall mean an attribution MIT.

"AML/CTF Laws" shall mean any applicable anti-money laundering or counter-terrorism financing laws including, without limitation, any applicable laws imposing "know your customer" or other identification checks and procedures.

"Application Form" shall mean the application for Ordinary Units executed by each Ordinary Unitholder in connection with such Ordinary Unitholder's commitment for Ordinary Units.

"APRA" shall mean the Australian Prudential Regulation Authority.

"ASIC" shall mean the Australian Securities and Investments Commission and each of its successors and assigns.

"ATO" shall mean the Australian Taxation Office.

"Australasia" shall mean the geographic region comprised of Australia and New Zealand.

"Basel Accords" shall mean the banking regulations set by the Basel Committee on Banking Supervision.

"Bank Bill Rate" shall mean the Australian Bank Bill Swap Reference Rate administered by ASX Benchmarks Pty Limited (or any other person which takes over the administration of that rate).

"Bridge Financing" shall have the meaning given to that term in **Section 5: Fund Strategy** hereof.

"Business Day" shall mean a day (other than Saturday and Sunday) on which banks are open for general banking business in Sydney, Australia.

"Capital Solutions" shall mean the credit strategy and the team that works on the credit strategy as described in **Section 1: Executive Summary** hereof.

"Capital Solutions Funds" shall mean the Fund and any access funds established to invest primarily in the Fund.

"CGT" shall mean capital gains tax.

"Code" shall mean the Internal Revenue Code of 1986.

"Commitment Period" shall mean the period during which the Trustee may draw down an Ordinary Unitholder's Commitment in accordance with the terms of that Ordinary Unitholder's Application Form and the Trust Deed.

"Conflicts Committee" shall mean the conflicts committee as described in **Section 6: Investment Process** hereof.

"Corporations Act" shall mean the *Corporations Act 2001* (Cth).

"COVID-19" shall mean the 2019 novel coronavirus.

"CRS" shall mean the OECD Standard for Automatic Exchange of Financial Account Information – Common Reporting Standard.

"Director" shall mean a director of the Firm.

"Drawdown Date" shall mean the date for payment specified by the Trustee in a Drawdown Notice.

"Drawdown Notice" shall mean a notice issued under the terms of the Trust Deed in respect of Uncalled Commitments (as defined in the Trust Deed).

"FATCA" shall mean Section 1471 through 1474 of the Code including any intergovernmental agreements entered into pursuant thereto, and subject to any current and future guidance thereunder.

"Firm" shall mean PEP or, where appropriate, Pacific Equity Partners Capital Solutions Advisory Pty Limited (ABN 21 646 630 113).

"FITC" shall mean foreign investor tax credit.

"FSCODA" shall mean *Financial Sector (Collection of Data) Act 2001* (Cth).

"Fund" shall mean the Pacific Equity Partners Capital Solutions Fund (Australasia).

"Fund Leverage" shall have the meaning given to that term in **Section 5: Fund Strategy** hereof.

"IC" shall mean the Investment Committee.

"Insolvency Event" shall have the same meaning as set out in the Trust Deed.

"IRR" shall mean internal rate of return.

"Issue Price" shall mean, in relation to an Ordinary Unit, the price at which that Ordinary Unit is issued, calculated in accordance with the Trust Deed.

"Manager" shall mean Pacific Equity Partners Capital Solutions Pty Limited (ABN 36 646 630 239).

"Manager Affiliate" shall have the same meaning as set out in the Trust Deed. "Managing Director" shall mean a managing director of the Firm.

"Memorandum" shall mean this Private Placement Memorandum of the Fund.



"MIT" shall mean an Australian managed investment trust.

"Modern Slavery" shall mean any activity, practice or conduct that would constitute an offence in relation to slavery, servitude, forced labour, deceptive recruiting for labour or services, forced marriage, debt bondage, human trafficking, or other slavery-like exploitation (including the worst forms of child labour) as prohibited or defined under anti-slavery and human trafficking laws, statutes and codes from time to time in force including, but not limited to, the Modern Slavery Act and the *Criminal Code Act 1995* (Cth), sch 1 divisions 270 and 271. For the avoidance of doubt, Modern Slavery includes any conditions or practices similar to those prohibited under those laws, statutes, regulations and codes.

"Modern Slavery Act" shall mean the *Modern Slavery Act 2018* (Cth).

"Net Asset Value" shall have the same meaning as set out in the Trust Deed.

"NRWT" shall mean New Zealand non-resident withholding tax.

"OC" shall mean the Operating Committee within PEP.

"OECD" shall mean the Organisation for Economic Co-operation and Development.

"Ordinary Resolution" shall mean a resolution passed in writing by Ordinary Unitholders who are entitled to vote and who, between them, hold the majority of votes that are able to be cast.

"Ordinary Unit" shall mean a Unit other than a Sponsor Unit.

"Ordinary Unitholder" shall mean a unitholder in the Fund holding Ordinary Units.

"Paid Up Capital" shall have the same meaning as set out in the Trust Deed.

"PEP" shall mean Pacific Equity Partners Pty Limited (ABN 60 082 283 949), together with any successor entity owned by the same persons.

"PEP Assets" shall mean Private Equity and Secure Assets investments made by PEP Funds as described in **Section 5: Fund Strategy** hereof.

"PEP Associate" shall mean an associate of the Firm.

"PEP Equity Funds" shall mean the PEP Private Equity Funds and PEP-advised or managed Secure Asset funds.

"PEP Funds" shall mean funds advised or managed by PEP (and includes the PEP Equity Funds and the Capital Solutions Funds).

"PEP Private Equity Funds" shall mean PEP-advised or managed private equity buyout funds.

"Private Equity" shall mean equity transactions as described in **Section 1: Executive Summary** hereof.

"Quarter" shall mean a period of three months ending on 31 March, 30 June, 30 September and 31 December in each year (or that part of such a period occurring at the commencement or winding up of the Fund) and "Quarterly" has a corresponding meaning.

"Restricted Person" shall mean a U.S. Person or a person from a country or territory prohibited or sanctioned by the United Nations, the Commonwealth of Australia, the Office of Foreign Assets Control, the European Union or any other applicable sanction regime.

"Retirement Trigger Date" shall have the same meaning as set out in the Trust Deed.

"RWT" shall mean New Zealand resident withholding tax.

"Secure Assets" shall mean infrastructure investments as described **Section 1: Executive Summary** hereof.

"Special Resolution" shall mean a resolution passed in writing by Ordinary Unitholders who are entitled to vote and who, between them, hold at least 75% of the votes that are able to be cast.

"Sponsor Unitholders" shall mean holders of Sponsor Units.

"Sponsor Units" shall mean a unit with the rights set out in clause 3.5 of the Trust Deed.

"Total Investment" shall mean the aggregate amount of all investments howsoever comprised, including equity and/or debt.

"Trustee" shall mean Pacific Equity Partners Investors Administration Pty Ltd (ABN 99 161 245 263; AFSL No. 454251) in its capacity as trustee of the Fund.

"Trust Agreements" shall mean the Application Form, this Memorandum and the Trust Deed.

"Trust Deed" shall mean the trust deed dated 19 February 2021, as amended from time to time between the Trustee and Manager constituting the Fund.

"Undrawn Commitment" shall mean, in respect of an Ordinary Unitholder, the amount equal to the Commitment of the Unitholder less the Paid Up Capital of the Ordinary Unitholder as adjusted under the Trust Deed.

"U.S." or "US" shall mean the United States of America.

"Unitholder" shall mean an investor in the Fund by virtue of its holding of Units in the Fund from time to time.

"Units" shall mean the units of beneficial interest in the trust property of the Fund to be issued to Unitholders on the terms of the Trust Deed and includes Ordinary Units and Sponsor Units.

## Appendix A: Offering Legends

THIS MEMORANDUM AND THE INFORMATION CONTAINED HEREIN IS FOR THE EXCLUSIVE USE OF THE RECIPIENT FOR THE SOLE PURPOSE OF EVALUATING THE PRIVATE PLACEMENT DESCRIBED HEREIN, MAY NOT BE REPRODUCED, PROVIDED OR DISCLOSED TO OTHERS, OR USED FOR ANY OTHER PURPOSE WITHOUT WRITTEN AUTHORISATION, AND UPON REQUEST MUST BE RETURNED TO THE TRUSTEE. THIS MEMORANDUM MUST NOT BE PROVIDED TO U.S. PERSONS OR PERSONS FROM COUNTRIES OR TERRITORIES PROHIBITED OR SANCTIONED BY THE UNITED NATIONS, THE COMMONWEALTH OF AUSTRALIA, THE OFFICE OF FOREIGN ASSETS CONTROL, THE EUROPEAN UNION OR ANY OTHER APPLICABLE SANCTION REGIME (COLLECTIVELY, “RESTRICTED PERSONS”). RESTRICTED PERSONS ARE NOT PERMITTED TO INVEST IN THE FUND.

NOTWITHSTANDING THE FOREGOING, EACH PROSPECTIVE INVESTOR MAY DISCLOSE TO ANY AND ALL PERSONS, WITHOUT LIMITATION OF ANY KIND, INFORMATION REGARDING THE TAX TREATMENT, TAX STRUCTURE AND TAX STRATEGIES OF THE FUND OR THE FUND AND THEIR RESPECTIVE TRANSACTIONS AND ALL MATERIALS OF ANY KIND (INCLUDING OPINIONS OR OTHER TAX ANALYSES) THAT ARE PROVIDED TO SUCH PROSPECTIVE INVESTOR RELATING TO SUCH TAX TREATMENT, TAX STRUCTURE AND TAX STRATEGIES. FOR THIS PURPOSE, “TAX STRUCTURE” IS LIMITED TO ANY FACTS RELEVANT TO THE INCOME TAX TREATMENT OF THE FUND OR THE FUND AND DOES NOT INCLUDE ANY INFORMATION RELATING TO THE IDENTITY AND INVESTORS OF THE INVESTORS IN THOSE VEHICLES.

NO PERSON IS AUTHORISED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION WHICH IS NOT INCLUDED OR IS CONTRARY TO INFORMATION CONTAINED IN THIS MEMORANDUM, AND IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORISED. THIS MEMORANDUM DOES NOT CONSTITUTE AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY THE INTERESTS IN ANY JURISDICTION TO ANY PERSON TO WHOM IT IS UNLAWFUL TO MAKE SUCH OFFER OR SOLICITATION IN SUCH JURISDICTION. THE DELIVERY OF THIS MEMORANDUM DOES NOT IMPLY THAT THE INFORMATION HEREIN IS CORRECT AS OF ANY TIME SUBSEQUENT TO THE DATE OF THE INITIAL DISTRIBUTION OF THIS MEMORANDUM.

THE INTERESTS HAVE NOT BEEN REGISTERED WITH OR RECOMMENDED BY ANY GOVERNMENTAL OR SELF-REGULATORY AGENCY. NO GOVERNMENTAL OR OTHER AGENCY HAS PASSED ON THE ACCURACY OR ADEQUACY OF THIS MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THE INTERESTS ARE OFFERED FOR INVESTMENT ONLY TO QUALIFYING RECIPIENTS OF THIS MEMORANDUM.

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE FUND AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. SEE **SECTION 8: RISK FACTORS**. PROSPECTIVE INVESTORS SHOULD NOT CONSTRUE THE CONTENTS OF THIS MEMORANDUM AS LEGAL, TAX, INVESTMENT, OR ACCOUNTING ADVICE. PROSPECTIVE INVESTORS ARE URGED TO CONSULT WITH THEIR OWN ADVISERS WITH RESPECT TO LEGAL, TAX, REGULATORY, FINANCIAL, AND ACCOUNTING CONSEQUENCES OF THEIR INVESTMENT IN THE INTERESTS.

PROSPECTIVE INVESTORS SHOULD PAY PARTICULAR ATTENTION TO THE INFORMATION UNDER **SECTION 8: RISK FACTORS** IN THIS MEMORANDUM. INVESTMENT IN THE INTERESTS IS SUITABLE ONLY FOR SOPHISTICATED INVESTORS. THE INTERESTS ARE NOT FREELY MARKETABLE AND INVOLVE A HIGH DEGREE OF RISK. NO ASSURANCE CAN BE GIVEN THAT THE FUND'S RESPECTIVE INVESTMENT OBJECTIVES WILL BE ACHIEVED.

CERTAIN INVESTMENT PERFORMANCE AND TRACK RECORD INFORMATION OUTLINED THROUGHOUT THIS MEMORANDUM RELATES TO PEP-MANAGED PRIVATE EQUITY BUYOUT AND SECURE ASSETS FUNDS (THE “PEP EQUITY FUNDS”). EACH PEP EQUITY FUND HAS A MATERIALLY DIFFERENT

INVESTMENT STRATEGY AND TARGET RETURN PROFILE FROM THE FUND. ON THAT BASIS, INVESTMENT PERFORMANCE AND TRACK RECORD INFORMATION IN RELATION TO THE PEP EQUITY FUNDS, AS REFERRED TO IN THIS MEMORANDUM, IS NOT REPRESENTATIVE OF, AND SHOULD NOT BE INTERPRETED AS AN INDICATION OF, THE EXPECTED PERFORMANCE OR RETURN PROFILE OF THE FUND. ANY PERFORMANCE INFORMATION CONTAINED HEREIN IS BASED IN PART ON HYPOTHETICAL ASSUMPTIONS AND, FOR CERTAIN ASSETS, PROJECTED PERFORMANCE. SUCH RESULTS ARE PRESENTED FOR ILLUSTRATIVE PURPOSES ONLY AND ARE BASED ON VARIOUS ASSUMPTIONS, NOT ALL OF WHICH ARE DESCRIBED HEREIN. NO REPRESENTATION OR WARRANTY IS MADE BY THE TRUSTEE, THE MANAGER OR ANY OF THEIR AFFILIATES AS TO THE REASONABLENESS OF SUCH ASSUMPTIONS OR AS TO ANY OTHER FINANCIAL INFORMATION CONTAINED IN THE PERFORMANCE INFORMATION (INCLUDING THE ASSUMPTIONS ON WHICH THEY ARE BASED). THESE ASSUMPTIONS HAVE INHERENT LIMITATIONS. THE ACTUAL PERFORMANCE OF ANY INVESTMENT OF THE FUND WILL DIFFER, AND MAY DIFFER SUBSTANTIALLY, FROM THAT SET FORTH IN THE PERFORMANCE INFORMATION, INCLUDING THE POSSIBILITY OF LOSSES TO INVESTORS. NO REPRESENTATION IS MADE THAT SUCH PERFORMANCE INFORMATION IS ACCURATE OR COMPLETE OR DOES NOT CONTAIN ERRORS, OR THAT ALTERNATIVE MODELING TECHNIQUES OR ASSUMPTIONS WOULD NOT BE MORE APPROPRIATE OR PRODUCE SIGNIFICANTLY DIFFERENT RESULTS. THE PERFORMANCE INFORMATION, IS PROVIDED ON THE UNDERSTANDING THAT A SOPHISTICATED INVESTOR WILL UNDERSTAND AND ACCEPT ITS INHERENT LIMITATIONS (AND THE FACT THAT THE INFORMATION RELATES TO THE PEP EQUITY FUNDS, WHICH HAVE A MATERIALLY DIFFERENT INVESTMENT STRATEGY AND TARGET RETURN PROFILE FROM THE FUND) AND WILL NOT RELY ON IT IN MAKING ANY INVESTMENT DECISION WITH RESPECT TO ANY SECURITIES THAT MAY BE ISSUED, AND WILL USE IT ONLY FOR THE PURPOSE OF DISCUSSING WITH THE TRUSTEE ITS PRELIMINARY INTEREST IN INVESTING IN THE FUND. NONE OF THE TRUSTEE, THE TRUSTEE, THE MANAGER OR ANY OF THEIR AFFILIATES ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OR VALIDITY OF THE RESULTS OF THE PERFORMANCE INFORMATION. NOTHING CONTAINED HEREIN SHALL CONSTITUTE ANY REPRESENTATION OR WARRANTY AS TO FUTURE PERFORMANCE. THE PERFORMANCE INFORMATION DOES NOT PURPORT TO CONTAIN ALL OF THE INFORMATION THAT MAY BE REQUIRED TO EVALUATE THE FUND AND EACH RECIPIENT IS ENCOURAGED TO READ THIS MEMORANDUM IN ITS ENTIRETY AND SHOULD CONDUCT ITS OWN INDEPENDENT ANALYSIS OF THE DATA REFERRED TO HEREIN.

THIS MEMORANDUM CONTAINS STATEMENTS THAT ARE NOT PURELY HISTORICAL IN NATURE, BUT ARE "FORWARD-LOOKING STATEMENTS." THESE INCLUDE, AMONG OTHER THINGS, PROJECTIONS, HYPOTHETICAL ANALYSES OF INCOME, YIELD OR RETURN, FUTURE PERFORMANCE TARGETS, SAMPLE OR PRO FORMA PORTFOLIO COMPOSITION, SCENARIO ANALYSIS, SPECIFIC INVESTMENT STRATEGIES AND PROPOSED OR PRO FORMA LEVELS OF DIVERSIFICATION OR SECTOR INVESTMENT. THESE FORWARD-LOOKING STATEMENTS ARE BASED UPON CERTAIN ASSUMPTIONS. ACTUAL EVENTS ARE DIFFICULT TO PREDICT AND ARE BEYOND THE TRUSTEE'S CONTROL. ACTUAL EVENTS MAY DIFFER MATERIALLY FROM THOSE ASSUMED. ALL FORWARD-LOOKING STATEMENTS INCLUDED ARE BASED ON INFORMATION AVAILABLE ON THE DATE HEREOF AND NONE OF THE TRUSTEE, THE MANAGER OR ANY OF THEIR AFFILIATES ASSUMES ANY DUTY TO UPDATE ANY FORWARD-LOOKING STATEMENT. SOME IMPORTANT FACTORS THAT COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM THOSE IN ANY FORWARD-LOOKING STATEMENT INCLUDE THE ACTUAL COMPOSITION OF THE FUND'S INVESTMENT PORTFOLIO, THE PRICE AT WHICH SUCH INVESTMENTS ARE ACTUALLY PURCHASED OR SOLD, AND GENERAL ECONOMIC, MARKET, LEGAL AND FINANCIAL CONDITIONS, AMONG OTHERS. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT ESTIMATED RETURNS OR PROJECTIONS CAN BE REALISED, THAT FORWARD-LOOKING STATEMENTS WILL MATERIALISE OR THAT ACTUAL RETURNS OR RESULTS WILL NOT BE MATERIALLY LOWER THAN THOSE PRESENTED (ESPECIALLY GIVEN THE INVESTMENT PERFORMANCE AND TRACK RECORD INFORMATION RELATES TO THE PEP EQUITY FUNDS, WHICH HAVE A MATERIALLY DIFFERENT INVESTMENT STRATEGY AND TARGET RETURN PROFILE FROM THE FUND). THEREFORE, UNDUE RELIANCE SHOULD NOT BE PLACED ON SUCH FORWARD-LOOKING STATEMENTS.

IN THE EVENT THAT THE DESCRIPTION OR TERMS IN THIS MEMORANDUM ARE INCONSISTENT WITH OR CONTRARY TO THE DESCRIPTION IN OR TERMS OF THE TRUST DEED (A COPY OF EACH OF WHICH HAS BEEN OR WILL BE FURNISHED TO EACH POTENTIAL INVESTOR), THE TRUST DEED SHALL PREVAIL.

INVESTMENT IN THE FUND IS SUITABLE ONLY FOR SOPHISTICATED INVESTORS WHO HAVE THE REQUISITE KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS TO EVALUATE THE MERITS AND UNDERSTAND THE RISKS OF SUCH AN INVESTMENT.

THE FUND WILL NOT BE REGISTERED AS A MANAGED INVESTMENT SCHEME WITH THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION PURSUANT TO THE *CORPORATIONS ACT 2001* (CTH). ACCORDINGLY, INVESTORS WILL NOT BENEFIT FROM THE PROTECTIONS THAT WOULD HAVE BEEN AVAILABLE TO THEM IF THE FUND WERE REGISTERED. THIS MEMORANDUM HAS BEEN PREPARED EXCLUSIVELY FOR PROSPECTIVE INVESTORS IN THE FUND WHO ARE RESIDENT IN AUSTRALIA AND WHO ARE "WHOLESALE CLIENTS" (AS DEFINED IN SECTIONS 761G AND 761GA OF THE *CORPORATIONS ACT 2001* (CTH)) AND THEREFORE ANY OFFER OR ISSUE OF FINANCIAL PRODUCTS MADE UNDER OR IN CONNECTION WITH THIS MEMORANDUM DOES NOT REQUIRE FORMAL DISCLOSURE TO INVESTORS UNDER THE *CORPORATIONS ACT 2001* (CTH).

EACH RECIPIENT IS WHOLLY RESPONSIBLE FOR ENSURING THAT ALL ASPECTS OF THE FUND ARE ACCEPTABLE TO IT. INVESTMENT IN THE FUND MAY INVOLVE SPECIAL RISKS THAT COULD LEAD TO A LOSS OF ALL OR A SUBSTANTIAL PORTION OF INVESTMENT. UNLESS THE RECIPIENT FULLY UNDERSTANDS AND ACCEPTS THE NATURE OF THE FUND AND THE POTENTIAL RISKS INHERENT IN THE FUND, THE RECIPIENT SHOULD NOT INVEST IN THE FUND.

ON MAKING AN APPLICATION TO INVEST IN THE FUND, THE RECIPIENT OR ITS DULY AUTHORISED AGENT MUST ACKNOWLEDGE TO THE TRUSTEE IN WRITING THAT IT HAS RECEIVED AND ACCEPTS THIS INVESTMENT WARNING IN THE FORM OF THE DECLARATION SET OUT IN THE APPLICATION FORM TO BE USED IN CONNECTION WITH AN INVESTMENT IN THE FUND.

THE TRUSTEE IS LICENSED TO CARRY ON A FINANCIAL SERVICES BUSINESS PURSUANT TO THE *CORPORATIONS ACT 2001* (CTH).

THE TRUSTEE HAS TAKEN ALL REASONABLE CARE TO ENSURE THAT THE FACTS STATED HEREIN ARE TRUE AND ACCURATE IN ALL MATERIAL RESPECTS AND THAT THERE ARE NO OTHER MATERIAL FACTS THE OMISSION OF WHICH WOULD MAKE MISLEADING ANY STATEMENT HEREIN, WHETHER OF FACT OR OPINION. THE TRUSTEE ACCEPTS RESPONSIBILITY ACCORDINGLY.

#### **FOR ALL INVESTORS GENERALLY**

IT IS THE RESPONSIBILITY OF ANY PERSONS WISHING TO SUBSCRIBE FOR THESE INTERESTS TO INFORM THEMSELVES OF AND TO OBSERVE ALL APPLICABLE LAWS AND REGULATIONS OF ANY RELEVANT JURISDICTIONS. PROSPECTIVE INVESTORS SHOULD INFORM THEMSELVES AS TO THE LEGAL REQUIREMENTS AND TAX CONSEQUENCES WITHIN THE COUNTRIES OF THEIR CITIZENSHIP, RESIDENCE, DOMICILE AND PLACE OF BUSINESS WITH RESPECT TO THE ACQUISITION, HOLDING OR DISPOSAL OF THESE INTERESTS, AND ANY FOREIGN EXCHANGE RESTRICTIONS THAT MAY BE RELEVANT THERETO. CERTAIN IMPORTANT DISCLOSURE FOR NON-U.S. INVESTORS IS INCLUDED HEREIN, AND NON-U.S. INVESTORS ARE URGED TO REVIEW SUCH DISCLOSURE CAREFULLY.