



## ASX Release

### NEXTDC raises \$60million from oversubscribed notes offering

**BRISBANE, Aust. – June 16, 2014** NEXTDC Limited (ASX:NXT) (“NEXTDC” or “the Company”) is pleased to announce that it has today completed the issue of its senior unsecured notes offering.

Investor demand was strong and as a result of the oversubscription the Company increased the offer size to \$60million as announced on 4 June 2014.

The notes are unsecured obligations of the Company and rank behind the \$20m senior facility provided by National Australia Bank.

A copy of the Information Memorandum and Pricing Supplement follow this announcement. The offer was only open to eligible professional and sophisticated investors in accordance with Part 6D.2 of the Corporations Act 2001.

NEXTDC CEO Craig Scroggie said, "We are delighted with the investor response to NEXTDC's Notes offering, which demonstrates confidence in the Company's growth strategy and provides us with improved flexibility as our expansion ramps up over the coming years."

#### ENDS

For more information:

**Craig Scroggie**

Chief Executive Officer

**Paul Jobbins**

Chief Financial Officer

T: +61 7 3177 4777

E: [investorrelations@nextdc.com](mailto:investorrelations@nextdc.com)



## About NEXTDC

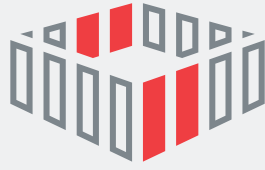
As Australia's leading Data-Centre-as-a-Service (DCaaS) provider, NEXTDC is revolutionising cloud computing in Australia.

An ASX300 company and the only independent data centre operator with a strategic footprint in all major growth markets in Australia, NEXTDC offers a range of highly flexible, resilient and secure colocation services to corporate, government and IT services companies.

NEXTDC's purpose-built facilities have been designed to address the market's growing appetite for energy-efficient carrier-neutral data centres in which organisations can host critical IT infrastructure and selectively source services through their diverse national ecosystem.

NEXTDC is *where the cloud lives*<sup>TM</sup>.

To learn more, visit [www.nextdc.com](http://www.nextdc.com)



**N E X T D C**

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INFORMATION MEMORANDUM

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**NEXTDC Limited**

(ABN 35 143 582 521)

# Issue of Australian Dollar Notes

**Guaranteed by**

**Global Disaster Recovery Pty Ltd**

(ABN 11 158 340 624)

**Lead Manager and Initial Subscriber**

**National Australia Bank Limited**

(ABN 12 004 044 937)

The date of this Information Memorandum is 12 June 2014

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# Important Notice

## Introduction

This Information Memorandum relates to an issue of Australian dollar notes ("**Notes**") by NEXTDC Limited (ABN 35 143 582 521) ("**Issuer**").

The Notes are unconditionally and irrevocably guaranteed by Global Disaster Recovery Pty Ltd (ABN 11 158 340 624) ("**Initial Guarantor**") pursuant to the guarantee ("**Guarantee**") set out in the note trust deed dated 12 June 2014 ("**Note Trust Deed**") between the Issuer, the Initial Guarantor and BNY Trust Company of Australia Limited (ABN 49 050 294 052) ("**Trustee**"). The Issuer may, from time to time, and in accordance with the terms of the Note Trust Deed appoint or procure the appointment of any subsidiary of the Issuer which is not an Initial Guarantor as an additional guarantor (each such guarantor, a "**New Guarantor**" and together with the Initial Guarantor, the "**Guarantors**") or, in accordance with the terms of the Note Trust Deed, obtain a release of the guarantee provided by a Guarantor (and such released entity shall no longer be a Guarantor).

References to "**Information Memorandum**" are to this Information Memorandum and any other document incorporated by reference in the section entitled "*The Issuer and the Guarantors*" below collectively and to any of such documents individually.

Prospective investors should read this Information Memorandum carefully prior to making any decision in relation to purchasing, subscribing for or investing in the Notes.

## Issuer's responsibility

This Information Memorandum has been prepared and issued by the Issuer. The Issuer accepts responsibility for the information contained in this Information Memorandum other than information provided by the Lead Manager and Initial Subscriber, the Trustee and the Agents (each as defined in the section entitled "*Summary*" below) in relation to their respective details in the sections entitled "*Summary*" and "*Directory*" below.

## Place of issuance

Subject to all applicable laws and directives, the Issuer will only offer and issue Notes in Australia.

## Terms and conditions of issue

The Notes will be issued in a single series under the Note Trust Deed. The series may comprise one or more tranches (each a "**Tranche**") having one or more issue dates and on conditions that are otherwise identical (other than, to the extent relevant, in respect of the issue price and the date of the first payment of interest).

A pricing supplement ("**Pricing Supplement**") will be issued for each Tranche of Notes. A Pricing Supplement will contain details of the initial aggregate principal amount, issue price, issue date, maturity date, details of interest payable (if any) together with any other terms and conditions not set out in the section entitled "*Conditions*" below that may be applicable to that series of Notes. The terms and conditions ("**Conditions**") applicable to the series of Notes are included in this Information Memorandum and may be supplemented, amended, modified or replaced by the Pricing Supplement applicable to those Notes.

A Pricing Supplement or another supplement to this Information Memorandum may also supplement, amend, modify or replace any statement or information incorporated by reference in this Information Memorandum or a supplement to this Information Memorandum.

## No independent verification

The only role of the Lead Manager and Initial Subscriber, the Trustee and the Agents in the preparation of this Information Memorandum has been to confirm to the Issuer that their respective details in the section entitled "*Directory*" below are accurate as at the Preparation Date (as defined below).

Apart from the foregoing, none of the Lead Manager and Initial Subscriber, the Trustee and the Agents has independently verified the information contained in this Information Memorandum. Accordingly, no representation, warranty or undertaking, express or implied, is made, and no responsibility is accepted, by any of them, as to the accuracy or completeness of this Information Memorandum or any further information supplied by the Issuer in connection with the Notes.

The Lead Manager and Initial Subscriber, the Trustee and the Agents expressly do not undertake to any holder of a Note to review the financial condition or affairs of the Issuer, the Guarantors or any of their affiliates at any time or to advise any holder of a Note of

any information coming to their attention with respect to the Issuer or a Guarantor and make no representations as to the ability of the Issuer or a Guarantor to comply with their respective obligations under the Notes.

### Intending purchasers to make independent investment decision and obtain tax advice

This document contains only summary information concerning the Issuer, the Guarantors and the Notes and should be read in conjunction with all of the documents which are deemed to be incorporated by reference herein. The information contained in this Information Memorandum is not intended to provide the basis of any credit or other evaluation in respect of the Issuer, any Guarantor, any of their respective affiliates or any Notes and should not be considered or relied on as a recommendation or a statement of opinion (or a representation or report of either of those things) by any of the Issuer, any Guarantor, the Lead Manager and Initial Subscriber, the Trustee or the Agents that any recipient of this Information Memorandum should subscribe for, purchase or otherwise deal in any Notes or any rights in respect of any Notes.

Each investor contemplating subscribing for, purchasing or otherwise dealing in any Notes or any rights in respect of any Notes should:

- make and rely upon (and shall be taken to have made and relied upon) its own independent investigation of the financial condition and affairs of, and its own appraisal of the creditworthiness of, the Issuer, the Guarantors, any of their respective affiliates and the Notes;
- determine for themselves the relevance of the information contained in this Information Memorandum, and must base their investment decision solely upon their independent assessment and such investigations as they consider necessary; and
- consult their own tax advisers concerning the application of any tax (including stamp duty) laws applicable to their particular situation.

No advice is given in respect of the legal or taxation treatment of investors or purchasers in connection with an investment in any Notes or rights in respect of them and each investor should consult their own professional adviser.

This Information Memorandum does not describe the risks of an investment in any Notes. Prospective investors should consult their own professional, financial, legal and tax advisers about risks associated with an investment in any Notes and the suitability of investing in the Notes in light of their particular circumstances.

### No offer

This Information Memorandum does not, and is not intended to, constitute an offer or invitation by or on behalf of the Issuer, any Guarantor, the Lead Manager and Initial Subscriber, the Trustee or the Agents (or, without limitation, their respective shareholders, subsidiaries, affiliates, related bodies corporate, officers, employees, representatives or advisors) to any person to subscribe for, purchase or otherwise deal in any Notes.

### Selling restrictions and no disclosure

EACH INVESTOR SUBSCRIBING FOR, PURCHASING OR OTHERWISE DEALING IN ANY NOTES IS DEEMED TO HAVE REPRESENTED AND WARRANTED THAT IT IS A PERSON TO WHOM IT IS LAWFUL TO MAKE ANY OFFER OF NOTES AND IT IS A PERSON TO WHOM AN OFFER OF NOTES FOR ISSUE OR SALE MAY BE MADE WITHOUT DISCLOSURE UNDER PART 6D.2 OR CHAPTER 7 OF THE CORPORATIONS ACT 2001 (CTH) ("CORPORATIONS ACT").

The distribution and use of this Information Memorandum, including any Pricing Supplement, advertisement or other offering material, and the offer or sale of Notes may be restricted by law in certain jurisdictions and intending purchasers and other investors should inform themselves about, them and observe any, such restrictions. In particular, no action has been taken by any of the Issuer, any Guarantor, the Lead Manager and Initial Subscriber or the Trustee or the Agents (nor, without limitation, their respective shareholders, subsidiaries, affiliates, related bodies corporate, officers, employees, representatives or advisors) which would permit a public offering of any Notes or distribution of this Information Memorandum in any jurisdiction where action for that purpose is required.

Neither this Information Memorandum nor any other disclosure document in relation to the Notes has been lodged with the Australian Securities and Investments Commission ("**ASIC**"). A person may not make or invite an offer of the Notes for issue or sale in Australia (including an offer or invitation which is received by a person in Australia) or distribute or publish this Information Memorandum or any other offering material or advertisement relating to the Notes in Australia unless the minimum aggregate consideration payable by each offeree is at least A\$500,000 (or its equivalent in another currency, in each case disregarding moneys lent by the offeror or its associates) or the offer or invitation otherwise does not require disclosure to investors in accordance with Part 6D.2 or Chapter 7 of the Corporations Act and such action complies with all applicable laws and directives.

A person may not make or invite an offer of the Notes for issue or sale outside Australia (including an offer or invitation which is received by a person outside Australia) or distribute or publish this Information Memorandum or any other offering material or advertisement relating to the Notes outside Australia. In particular, the Notes have not been, and will not be, registered under the

Securities Act 1933 (as amended) of the United States of America (“**U.S. Securities Act**”). The Notes may not be offered, sold, delivered or transferred, at any time, within the United States of America, its territories or possessions or to, or for the account or benefit of, U.S. persons (as defined in Regulation S under the U.S. Securities Act).

This Information Memorandum is not a prospectus or other disclosure document for the purposes of the Corporations Act.

A person may not (directly or indirectly) offer for subscription or purchase or issue an invitation to subscribe for or buy Notes, nor distribute or publish this Information Memorandum or any other offering material or advertisement relating to the Notes except if the offer or invitation complies with all applicable laws and directives.

## No authorisation

No person has been authorised to give any information or make any representations not contained in or consistent with this Information Memorandum in connection with the Issuer, the Guarantors, any of their respective affiliates or the issue or sale of the Notes and, if given or made, such information or representation must not be relied on as having been authorised by the Issuer, the Guarantors, the Lead Manager and Initial Subscriber, the Trustee or the Agents.

## Agency and distribution arrangements

The Issuer has agreed or may agree to pay fees to the Trustee and the Agents for undertaking their respective roles and reimburse them for certain of their expenses properly incurred in connection with the Notes.

The Issuer may also pay a fee to the Lead Manager and Initial Subscriber in respect of the Notes subscribed by it, and may agree to reimburse the Lead Manager and Initial Subscriber for certain expenses properly incurred in connection with the Notes and may indemnify the Lead Manager and Initial Subscriber against certain liabilities in connection with the offer and sale of Notes.

The Issuer, the Guarantors, the Lead Manager and Initial Subscriber, the Trustee and the Agents, and their respective related entities, directors, officers and employees may have pecuniary or other interests in the Notes and may also have interests pursuant to other arrangements and may receive fees, brokerage and commissions and may act as a principal in dealing in any Notes.

## Currency

In this Information Memorandum, references to “\$”, “A\$”, “AUD” or “**Australian dollars**” are to the lawful currency of the Commonwealth of Australia.

## Currency of information

The information contained in this Information Memorandum is prepared as of its Preparation Date. Neither the delivery of this Information Memorandum nor any offer, issue or sale made in connection with this Information Memorandum at any time implies that the information contained in it is correct, that any other information supplied in connection with the Notes is correct or that there has not been any change (adverse or otherwise) in the financial conditions or affairs of the Issuer or any Guarantor at any time subsequent to the Preparation Date. In particular, none of the Issuer, any Guarantor or any of their respective affiliates is under any obligation to any person to update this Information Memorandum at any time after an issue of Notes.

In this Information Memorandum, “**Preparation Date**” means:

- in relation to this Information Memorandum, the date indicated on its face or, if this Information Memorandum has been amended, or supplemented, the date indicated on the face of that amendment or supplement;
- in relation to any annual reports and financial statements incorporated in this Information Memorandum, the date up to, or as at, the date on which such annual reports and financial statements relate; and
- in relation to any other item of information which is to be read in conjunction with this Information Memorandum, the date indicated on its face as being its date of release or effectiveness.

### *Documents incorporated by reference*

This Information Memorandum is to be read in conjunction with all documents which are deemed to be incorporated into it by reference as set out below. This Information Memorandum shall, unless otherwise expressly stated, be read and construed on the basis that such documents are so incorporated and form part of this Information Memorandum. Investors should review, amongst other things, the documents which are deemed to be incorporated in this Information Memorandum by reference when deciding whether to purchase any Notes.

The following documents are incorporated in, and taken to form part of, this Information Memorandum:

- the Note Trust Deed, copies of which may be obtained from the offices of the Issuer or the Trustee (as specified in the section entitled “*Directory*”) or such other person specified in the Pricing Supplement;
- the most recent Annual report of the Issuer lodged with ASX, an electronic copy of which is available free of charge at [www.asx.com.au](http://www.asx.com.au) (ASX:NXT);
- all announcements made by the Issuer to the ASX, electronic copies of which are available free of charge at [www.asx.com.au](http://www.asx.com.au) (ASX:NXT);
- all amendments and supplements to this Information Memorandum prepared by the Issuer from time to time and all documents stated herein or therein to be incorporated in this Information Memorandum;
- all other documents issued by the Issuer and stated to be incorporated by reference in this Information Memorandum by reference; and
- the Pricing Supplement and all documents stated therein to be incorporated in this Information Memorandum.

Any statement contained in this Information Memorandum or in any of the documents incorporated by reference in, and forming part of, this Information Memorandum shall be modified or superseded in this Information Memorandum to the extent that a statement contained in any document subsequently incorporated by reference into this Information Memorandum modifies or supersedes such statement (including whether expressly or by implication).

Except as provided above, no other information, including any document incorporated by reference in any of the documents described above, is incorporated by reference into this Information Memorandum.

Copies of the Note Trust Deed, each Pricing Supplement and documents incorporated by reference in this Information Memorandum may be obtained from the offices of the Issuer, the Trustee or such other person specified in the Pricing Supplement.

Any internet site addresses provided in this Information Memorandum are for reference only and the content of any such internet site is not incorporated by reference into, and does not form part of, this Information Memorandum.

# Summary

The following is a brief summary only and should be read in conjunction with the rest of this Information Memorandum and, in relation to any Notes, the applicable Conditions and any relevant Pricing Supplement. A term used below but not otherwise defined has the meaning given to it in the Conditions. A reference to a "Pricing Supplement" does not limit provisions or features which may be supplemented, amended, modified or replaced by a Pricing Supplement in relation to an issue of Notes.

<b>Issuer:</b>	NEXTDC Limited (ABN 35 143 582 521).
<b>Guarantee and Initial Guarantor:</b>	<p>The Notes are issued with the benefit of the Guarantee and the payment of principal and interest in respect of the Notes will be unconditionally and irrevocably guaranteed on a joint and several basis by the Guarantors as more fully set out in the Note Trust Deed.</p> <p>The Initial Guarantor is Global Disaster Recovery Pty Ltd (ABN 11 158 340 624). As at the date of this Information Memorandum, Global Disaster Recovery Pty Ltd has no assets. Therefore, the credit support provided to a holder of a Note by Global Disaster Recovery Pty Ltd under the Guarantee is limited to any future assets it may hold.</p> <p>As more fully described below, the Issuer may, from time to time, as required under Condition 5.2(d) ("Financial covenants") and in accordance with the terms of the Note Trust Deed appoint or procure the appointment of any Subsidiary of the Issuer which is not an Initial Guarantor as an additional guarantor or obtain a release of a guarantor (each entity from time to time appointed as a guarantor which has not been released, a "<b>Guarantor</b>").</p>
<b>Lead Manager and Initial Subscriber:</b>	National Australia Bank Limited (ABN 12 004 044 937).
<b>Registrar:</b>	BTA Institutional Services Australia Limited (ABN 48 002 916 396) or such other person appointed by the Issuer under an Agency Agreement to perform registry functions and establish and maintain a Register (as defined below) on the Issuer's behalf from time to time (" <b>Registrar</b> ").
<b>Issuing &amp; Paying Agent:</b>	BTA Institutional Services Australia Limited (ABN 48 002 916 396) or any other person appointed by the Issuer under an Agency Agreement to act as issuing or paying agent on the Issuer's behalf from time to time (" <b>Issuing &amp; Paying Agent</b> ").
<b>Calculation Agent:</b>	BTA Institutional Services Australia Limited (ABN 48 002 916 396) or any other person appointed by the Issuer to act as calculation agent on the Issuer's behalf from time to time (" <b>Calculation Agent</b> ").
<b>Agents:</b>	Each of the Registrar, Issuing & Paying Agent, Calculation Agent and any other person appointed by the Issuer to perform other agency functions with respect to any Tranche or series of Notes (each an " <b>Agent</b> " and, together, the " <b>Agents</b> ").
<b>Trustee:</b>	BNY Trust Company of Australia Limited (ABN 49 050 294 052) or such other person appointed under the relevant Note Trust Deed as Trustee from time to time (" <b>Trustee</b> ").
<b>Form of Notes:</b>	<p>Notes will be issued in registered form and will be debt obligations of the Issuer which are constituted by, and owing under, the Note Trust Deed.</p> <p>Notes take the form of entries in a register ("<b>Register</b>") maintained by the Registrar.</p> <p>No certificates in respect of any Notes will be issued unless the Issuer determines that certificates should be available or if certificates are required by any applicable law or directive.</p>
<b>Negative pledge:</b>	Notes will have the benefit of a negative pledge, as described in Condition 5.1 ("Negative pledge").
<b>Financial covenants:</b>	Notes will have the benefit of certain financial covenants as described in Condition 5.2 ("Financial covenants").

<p><b>Status and ranking of Notes:</b></p>	<p>Notes will be direct, senior, unsubordinated and (subject to Condition 5.1 (“Negative pledge”)) unsecured obligations of the Issuer and will at all times rank at least equally with all other present and future direct, senior, unsubordinated and unsecured obligations of the Issuer, except liabilities mandatorily preferred by law.</p> <p>The provider of the Issuer’s senior secured debt facility and any other permitted secured creditors under the Conditions will have the benefit of the security provided by the Issuer to secure its obligations to them. Consequently, claims of any holder of Notes will rank after claims of these secured creditors.</p>
<p><b>Status and ranking of Guarantee:</b></p>	<p>The Notes will be unconditionally and irrevocably guaranteed on a joint and several basis by the Guarantors, subject to the release of such Guarantors and the addition of new entities as Guarantors as set out in the Note Trust Deed. The obligations of each Guarantor under the Guarantee will be direct, senior, unsubordinated and (subject to Condition 5.1 (“Negative pledge”)) unsecured obligations of that Guarantor and will at all times rank at least equally with all other present and future direct, senior, unsubordinated and unsecured obligations of that Guarantor, except liabilities mandatorily preferred by law.</p> <p>In addition, the Issuer:</p> <ul style="list-style-type: none"> <li>a. will ensure that, at all times, the aggregate total assets of the Issuer and the Guarantors (taken as a whole) are at least 90 per cent of the consolidated total assets of the Group taken as a whole; or</li> <li>b. agrees to cause such of its Subsidiaries to become a Guarantor pursuant to the Note Trust Deed to ensure that, at all times, the aggregate total assets of the Issuer and the Guarantors (taken as a whole) are at least 90 per cent of the consolidated total assets of the Group taken as a whole.</li> </ul> <p>The provider of the Issuer’s senior secured debt facility and any other permitted secured creditors under the Conditions will have the benefit of the security provided by the Guarantor to secure its obligations to them. Consequently, claims of any holder of Notes will rank after claims of these secured creditors.</p>
<p><b>Interest:</b></p>	<p>Each Note bears interest on its outstanding principal amount from (and including) its Interest Commencement Date to (but excluding) its Maturity Date (unless redeemed earlier) at the Interest Rate.</p> <p>Interest is payable in arrears on each Interest Payment Date or such other date on which a Note is redeemed. The amount of interest payable on each Note on each scheduled Interest Payment Date is the Fixed Coupon Amount.</p> <p>All such information will be set out in the relevant Pricing Supplement.</p>
<p><b>Advance interest account:</b></p>	<p>As set out in more detail in the Note Trust Deed, the Issuer has undertaken to, on or prior to the Issue Date, pay into an advance interest account, an amount equal to the first two payments of interest that shall become due and payable on the Notes. Such amounts may only be used to pay the amounts that become due and payable on the first two Interest Payment Dates.</p>
<p><b>Denomination:</b></p>	<p>Notes will be issued in the single denomination of A\$1,000.</p>
<p><b>Minimum parcel size on initial issue:</b></p>	<p>A\$100,000, subject to the selling and issue restrictions, the transfer restrictions and the procedures set out in this section.</p>

<b>Clearing System:</b>	<p>Notes may be transacted either within or outside a clearing system.</p> <p>The Issuer intends to apply to Austraclear Ltd (ABN 94 002 060 773) ("<b>Austraclear</b>") for approval for Notes to be traded on the clearing and settlement system operated by Austraclear ("<b>Austraclear System</b>"). Upon approval by Austraclear, the Notes will be traded through Austraclear in accordance with the rules and regulations of the Austraclear System. Such approval by Austraclear is not a recommendation or endorsement by Austraclear of such Notes.</p> <p>Transactions relating to interests in the Notes may also be carried out through the settlement system operated by Euroclear Bank S.A./N.V. ("<b>Euroclear</b>"), the settlement system operated by Clearstream Banking, société anonyme ("<b>Clearstream, Luxembourg</b>") or any other clearing system outside Australia specified in the relevant Pricing Supplement.</p> <p>Interests in the Notes traded in the Austraclear System may be held for the benefit of Euroclear or Clearstream, Luxembourg. In these circumstances, entitlements in respect of holdings of interests in Notes in Euroclear would be held in the Austraclear System by a nominee of Euroclear (currently HSBC Custody Nominees (Australia) Limited) while entitlements in respect of holdings of interests in Notes in Clearstream, Luxembourg would be held in the Austraclear System by a nominee of J.P. Morgan Chase Bank, N.A. as custodian for Clearstream, Luxembourg.</p> <p>The rights of a holder of interests in a Note held through Euroclear or Clearstream, Luxembourg are subject to the respective rules and regulations for accountholders of Euroclear and Clearstream, Luxembourg, the terms and conditions of agreements between Euroclear and Clearstream, Luxembourg and their respective nominee and the rules and regulations of the Austraclear System. In addition, any transfer of interests in a Note, which is held through Euroclear or Clearstream, Luxembourg will, to the extent such transfer will be recorded on the Austraclear System, be subject to the Corporations Act and the requirements for minimum consideration as set out in the Conditions.</p> <p>Neither the Issuer nor any Guarantor will be responsible for the operation of the clearing arrangements which is a matter for the clearing institutions, their nominees, their participants and the investors.</p>
<b>Title:</b>	<p>Entry of the name of the person in the Register in respect of Notes in the registered form constitutes the obtaining or passing of title and is conclusive evidence that the person so entered is the registered holder of that Note subject to correction for fraud or error.</p> <p>Title to Notes which are held in the Austraclear System will be determined in accordance with the rules and regulations of the Austraclear System.</p> <p>Notes which are held in the Austraclear System will be registered in the name of Austraclear.</p>
<b>Use of proceeds:</b>	<p>The Issuer will use the proceeds from the issue of the Notes for general corporate purposes, including capital expenditure associated with fitting out additional capacity within existing data centres.</p>
<b>Payments:</b>	<p>Payments to persons who hold Notes through the Austraclear System will be made in accordance with the rules and regulations of the Austraclear System.</p>
<b>Payment Date:</b>	<p>A Payment Date for a Note is the Maturity Date, an Interest Payment Date or any other relevant date on which a payment in respect of that Note is due, adjusted in accordance with the applicable Business Day Convention.</p>
<b>Record Date:</b>	<p>The Record Date is the close of business (in the place where the Register is maintained) on the eighth day before the Payment Date.</p>

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**Maturity and redemption:** Subject to compliance with all relevant laws, regulations and directives, each Note will be redeemed on its Maturity Date at its outstanding principal amount, unless the Note has been previously redeemed or purchased and cancelled.

Notes are also redeemable prior to their scheduled maturity:

- at the option of the Issuer on certain Optional Redemption Dates and following certain tax events; and/or
  - at the option of a holder of a Note following the occurrence of a Change of Control,
- each as more fully set out in the Conditions and the relevant Pricing Supplement.

Notes entered in the Austraclear System will be redeemed through the Austraclear System in a manner that is consistent with the rules and regulations of the Austraclear System.

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**Selling and issue restrictions:**

The Notes may not be offered or sold outside Australia.

The Notes may only be offered (directly or indirectly) for issue, or applications invited for the issue of Notes, if:

- a. the aggregate consideration payable by each offeree is at least A\$500,000 (or its equivalent in an alternative currency and, in each case, disregarding moneys lent by the offeror or its associates or the offerees or its associates) or if the offer or invitation (including any resulting issue) otherwise does not require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act;
- b. the offer or invitation (including any resulting issue) does not constitute an offer to a “retail client” as defined for the purposes of section 761G of the Corporations Act;
- c. such action does not require any document to be lodged in the Australian Securities and Investment Commission; and
- d. the offer or invitation (including any resulting issue) complies with all other applicable laws and directives in the jurisdiction in which the offer, invitation or issue takes place.

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**Transfer restrictions and procedures:**

Notes may only be transferred in whole and in accordance with the Conditions. Transfers of Notes held in the Austraclear System will be made in accordance with the rules and regulations of the Austraclear System.

Unless otherwise specified in the relevant Pricing Supplement, the Notes may only be transferred if the offer or invitation for the sale or purchase of Notes:

- a. is for an aggregate consideration payable by each transferee of at least A\$500,000 (or its equivalent in an alternative currency and, in each case, disregarding moneys lent by the transferor or its associates to the transferee or its associates) or if the offer or invitation for the transfer otherwise does not require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act; and
- b. if the offer or invitation for the transfer complies with all other applicable laws and directives in the jurisdiction in which the transfer takes place.

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**Investors to obtain independent advice with respect to investment and other risks:**

Investing in the Notes entails a number of risks. Certain risks associated with NEXTDC’s business are outlined in the section entitled “The Issuer and the Guarantors - Investment risks”. However, this Information Memorandum does not describe all the risks associated with NEXTDC’s business and the risks associated with an investment in any Notes or the market generally. As such, prospective investors or purchasers should consult their own professional, financial, legal and tax advisers about risks associated with an investment in any Notes and the suitability of investing in the Notes in light of their particular circumstances.

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**Taxes, withholdings, deductions and stamp duty:**

All payments in respect of the Notes must be made without any withholding or deduction in respect of taxes, unless such withholding or deduction is required by law.

In the event that any such withholding or deduction is made, the Issuer will, save in certain limited circumstances, be required to pay additional amounts to cover the amounts so withheld or deducted.

Holders of Notes who do not provide their Tax File Number or Australian Business Number (if applicable) or claim an exemption may have tax withheld from payments at the highest marginal rate plus Medicare levy. No additional amounts will be payable by the Issuer in respect of any such withholding.

A brief overview of the Australian taxation treatment of payment of interest on Notes is set out in the section entitled "*Australian Taxation*" below.

***Investors should obtain their own taxation and other applicable advice regarding the taxation and other fiscal status of investing in any Notes.***

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**Listing:**

It is not intended that the Notes be listed or quoted on any stock or securities exchange.

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**Rating:**

Neither the Issuer nor the Notes have been, nor is it intended that they will be, rated by any credit ratings agency.

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**Governing law:**

The Notes and all related documentation will be governed by the laws of New South Wales, Australia.

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# The Issuer and the Guarantors

*The information in this section is a brief summary only of the Issuer and the Guarantors and their respective businesses and does not purport to be, nor is it, complete.*

*This document contains only summary information concerning the Issuer, the Guarantors and the Notes and should be read in conjunction with the documents which are deemed to be incorporated by reference herein. The information contained in this Information Memorandum is not intended to provide the basis of any credit or other evaluation in respect of the Issuer, the Guarantors or any Notes and should not be considered or relied on as a recommendation or a statement of opinion (or a representation or report of either of those things) by any of the Issuer, the Guarantors, any of their respective affiliates, the Lead Manager and Initial Subscriber, the Trustee or the Agents that any recipient of this Information Memorandum should subscribe for, purchase or otherwise deal in any Notes or any rights in respect of any Notes.*

*Investing in the Notes entails a number of risks. Certain risks associated with the Issuer's business are outlined in this section. However, this Information Memorandum does not describe all the risks associated with the Issuer's business or the risks associated with an investment in any Notes or the market generally. Prospective investors or purchasers should consult their own professional, financial, legal and tax advisers about risks associated with an investment in any Notes and the suitability of investing in the Notes in light of their particular circumstances.*

## Description of NEXTDC Limited

NEXTDC Limited ("**Issuer**" or "**NEXTDC**") designs, develops and operates data centres in Australia. NEXTDC is an ASX300 company and is the only independent data centre operator with locations in Sydney, Melbourne, Brisbane, Perth and Canberra. The company was founded in 2010 and listed on the ASX later that year. As at 30 May 2014, NEXTDC had a market capitalisation of approximately A\$380 million.

NEXTDC offers a range of secure data centre co-location services to corporate, government, telecommunications and IT service companies. NEXTDC's data centres have been designed to address market demand for secure, energy-efficient, independent data centres in which organisations can host or co-locate their critical IT infrastructure. Further details in relation to the co-location services are described in the subsection entitled 'Business model features' below.

The company aims to address the growth in cloud computing by partnering with providers of cloud computing solutions. Cloud computing is internet-based computing, where shared resources, software, and information are provided through the internet rather than residing on the computer itself.

### The features of NEXTDC's business include:

- **Carrier and IT service provider neutral:** by not providing telecommunications or IT services, NEXTDC does not compete with its customers;
- **National footprint:** offering customers five data centres under one Master Services Agreement;
- **High quality facilities:** high quality data centre environments with forms of Uptime Institute Tier III accreditation achieved for three of its five facilities;
- **Data-Centre-as-a-Service:** data centre infrastructure provided through a service model whereby customers have control over access to their equipment housed in the data centres;
- **Channel Partners:** operates a channel preferred sales model focused on partnering with providers of cloud computing solutions (further details on the sales model are outlined below); and
- **Ecosystem:** clusters of high quality and complementary customers form an ecosystem benefiting from being co-located within the same data centre.

### What we are

Carrier and vendor neutral data centre provider.

An independent data centre network.

Customer focused, providing simple solutions with a single MSA.

Owner and operator of valuable data centre equipment.

Innovator of next generation data centre facilities with energy-efficient design.

Provider of physical security to house clients' mission critical infrastructure.

UTITier 3 certified operator of world class DCs. ISO9001 accredited for quality management.

### What we are not

Managed computing service provider.

The owner of data centre property assets.

A telco operator.

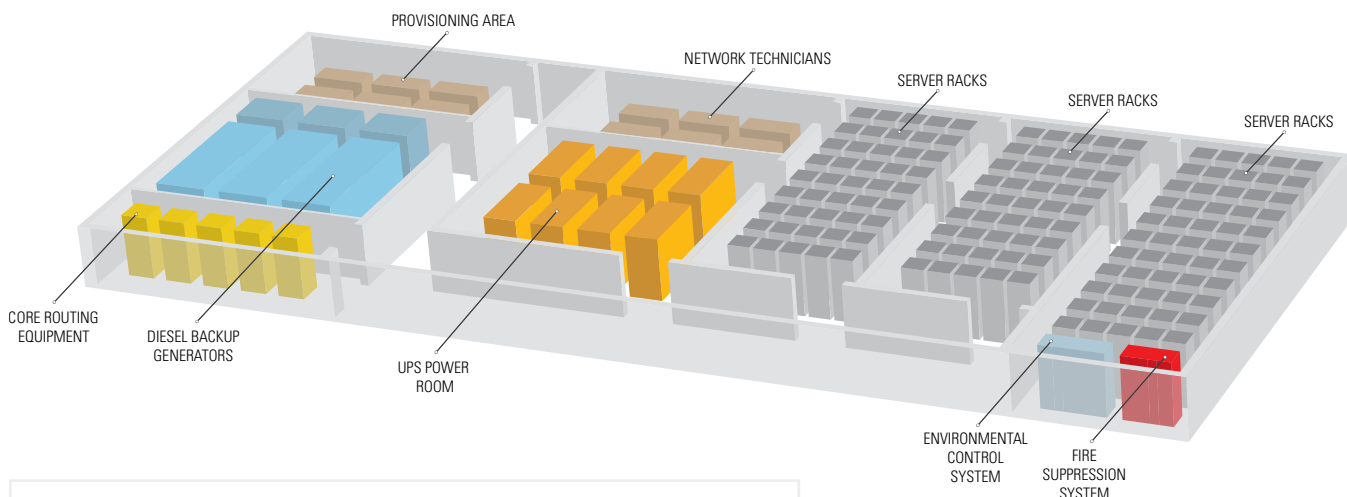
A hardware or software equipment provider.

Cloud service provider – we offer a place where companies can house their 'cloud'.

An IaaS, PaaS or SaaS provider.

A system integrator.

## What is a data centre?



A data centre is used to house networking, data storage and communications technology infrastructure. They are designed to provide large amounts of power, including redundant or back-up power, network connections and cooling systems in a secure environment. Neutral data centres provide the core infrastructure but are neutral to the telecommunications carrier or systems integrator (hardware, software and managed services).

## Drivers of Industry Demand

The demand for outsourced data centre services in Australia is likely to be driven by:

- the growth in internet traffic and corresponding growth in volumes of data requiring processing and storage;
- the proliferation of smart phones and tablets and their associated data usage needs;
- the emergence of cloud-based computing and corresponding demand for network-based applications and interconnectivity;
- demand for low latency (time delay) networking and proximity hosting; and
- data residency laws and other legislative pressure.

## Business Model Features

NEXTDC offers its customers a range of co-location services from whitespace to standard racks and blocks. Add-on services include project management, remote hands, high availability office space, and high margin cross connects.

Whitespace customers are provided with customised cages and pay for data centre services in the form of a fee for space occupied and are charged a consumption based bundled power rate. Customers occupying racks and blocks are charged a data centre services fee based on the power allocated to their racks.

NEXTDC cross connect services provide a cable connection to link customers' equipment to each other within the data centre, enabling flexibility and cost savings with a choice of multiple service providers. Cross connects comprise low cost, high margin recurring revenue, comprising 4% of recurring revenue in December 2013.

NEXTDC's key performance metrics have grown as set out in the table below:

	21 Feb 2014	31 Dec 2013	30 June 2013	30 June 2012
Revenue pipeline (annualised, unweighted)	\$137m	\$127m	\$119m	\$33m
Customers	225	202	130	59
Orders	518	455	240	75
Cross connects	1,112	1,006	513	81
Annualised contracted recurring revenue*	\$36.6m	\$35.1m	\$30.7m	\$8.9m
Contracted customer utilisation	10.94MW	10.68MW	9.75MW	2.34MW
% of installed capacity **	76%	75%	75%	18%

\* Annualised contracted recurring revenue excludes revenue from cross connects and power recharges for whitespace customers and includes customers with deferred start dates.

\*\* NEXTDC completed the second data hall in Sydney and fifth data hall in Melbourne at the beginning of April, increasing installed capacity by 32% to 19.65MW.

## Go-to-Market Strategy

NEXTDC's channel sales model focuses its sales strategy on partnering with providers of infrastructure, platform and packaged services (channel partners). This model allows NEXTDC to work with channel partners to either sell data centre capacity to them, with them or through them to end user customers. The benefit of this strategy is an increase in NEXTDC's breadth and depth of selling capacity without necessarily adding to its operating cost base. Recently, NEXTDC expanded its channel partner program with the addition of Telstra as a channel partner.

Elements of Go-to-Market strategy:

**Sell To:** Partner buys racks, blocks or whitespace for hosting their cloud computing infrastructure.

**Sell Through:** Partner productises NEXTDC data centre services and sells racks or blocks to end-customers as part of their cloud computing solution.

**Sell With:** Partner works with NEXTDC to grow their cloud footprint by providing customers with their unique value offering hosted at NEXTDC data centres.

## Partners

Below is a selection of NEXTDC's customers and ecosystem partners:



## Customers

NEXTDC's customers represent a wide range of industries including IT, telecommunications, industrial, professional services, mining and finance. Customers typically sign a single national Master Services Agreement with standard service level agreements. Under the agreements data centre services are typically provided for an initial period of between 3 and 5 years.

The table below outlines some of NEXTDC's customer agreements.

RECENT TRANSACTIONS			
Customer	Term	Size	Details
<b>NTT Com ICT Solutions</b> (formerly Harbour MSP)	7 years + 1 x 5 year option	Dedicated data hall in M1 of 1,000m <sup>2</sup>	Subsidiary of NTT Communications
<b>Pacnet</b>	4 years + 1 x 3 year option	Approximately 100 racks in M1	Global telecoms service provider
<b>Australia Post</b>	5 years + 1 x 5 year option	Approximately 70 racks in M1	Government owned corporation
<b>Optus</b>	Multiple	Various end customer agreements	National agreement for Optus to provide enterprise cloud, data centre and IP network services via NEXTDC
<b>Leading Corporation</b>	5 years + 1 x 5 year option	Minimum commitment of \$60 million excluding power	Global company
<b>Telstra Corporation</b>	Multiple	Various end customer agreements	National agreement enabling Telstra customers to combine its cloud infrastructure and Next IP <sup>®</sup> network with NEXTDC

## Operating Leverage

The cost base of NEXTDC's data centres has a relatively high fixed component such that there is operating leverage within the facilities as utilisation levels and associated revenues increase. The addition of further capacity within existing data centres does not significantly increase fixed operating costs. Variable costs include NEXTDC's cost of electricity.

## Funding

NEXTDC has historically funded the initial acquisition, development, construction and fit-out of its data centres from equity.

In 2013, NEXTDC listed the Asia Pacific Data Centre Group (ASX: AJD) ("**APDC**"), which owns the land and buildings for three of the five data centres (M1, S1 and P1), but does not own the building infrastructure and fit-out, which is owned by NEXTDC. Listing APDC enabled NEXTDC to recycle capital to support the on-going development and fit-out activities across its data centres. NEXTDC sold its interest in APDC in July 2013. NEXTDC and APDC have an agreement in place until December 2015 where APDC has the first right to develop or own any future data centre sites for NEXTDC operated data centres.

NEXTDC has a A\$20 million senior secured debt facility in place. As at the date of the Information Memorandum, the facility is undrawn and is subject to meeting certain customary conditions precedent to drawing. The facility requires a general security charge over the NEXTDC Group's assets and is subject to a number of financial covenants including gearing, leverage and interest cover ratios.

## PRO FORMA BALANCE SHEET

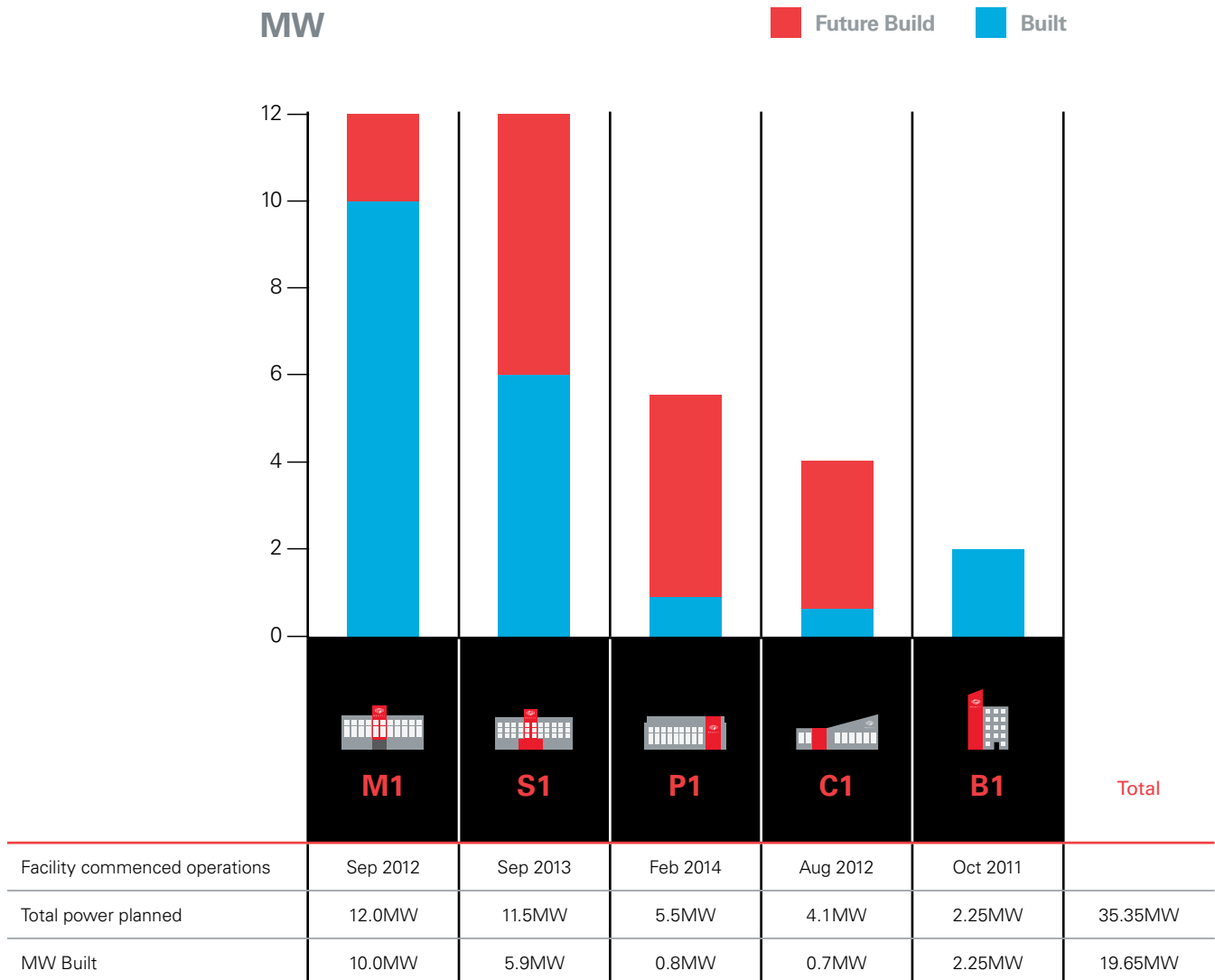
As at 31 December 2013

	31 Dec 2013 A\$'000	Note Issue A\$'000	Pro forma balance sheet A\$'000
<b>ASSETS</b>			
CURRENT ASSETS			
Cash and cash equivalents	53,977	55,200	109,177
Cash held on trust for noteholders	-	4,800	4,800
Trade and other receivables	6,726	-	6,726
Other current assets	5,944	-	5,944
<b>TOTAL CURRENT ASSETS</b>	<b>66,647</b>	<b>60,000</b>	<b>126,647</b>
NON-CURRENT ASSETS			
Property, plant and equipment	197,668	-	197,668
Other assets	2,225	-	2,225
Intangible assets	232	-	232
Deferred tax assets	2,075	-	2,075
<b>TOTAL NON-CURRENT ASSETS</b>	<b>202,200</b>	<b>-</b>	<b>202,200</b>
<b>TOTAL ASSETS</b>	<b>268,847</b>	<b>60,000</b>	<b>328,847</b>
<b>LIABILITIES</b>			
CURRENT LIABILITIES			
Trade and other payables	22,413	-	22,413
Other current liabilities	92	-	92
Finance lease liability	238	-	238
<b>TOTAL CURRENT LIABILITIES</b>	<b>22,743</b>	<b>-</b>	<b>22,743</b>
NON-CURRENT LIABILITIES			
Other liabilities	133	-	133
Note payable	-	60,000	60,000
Provisions	389	-	389
Finance lease liability	6,989	-	6,989
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>7,511</b>	<b>60,000</b>	<b>67,511</b>
<b>TOTAL LIABILITIES</b>	<b>30,254</b>	<b>60,000</b>	<b>90,254</b>
<b>NET ASSETS</b>	<b>238,593</b>	<b>-</b>	<b>238,593</b>
<b>EQUITY</b>			
Contributed equity	258,854	-	258,854
Reserves	1,525	-	1,525
Accumulated losses	(21,786)	-	(21,786)
<b>TOTAL EQUITY</b>	<b>238,593</b>	<b>-</b>	<b>238,593</b>

Pro forma adjustments assume A\$60 million is raised by the issue and are shown before costs of the issue. The first 2 coupon payments are to be held in escrow for the holders of Notes in an advance interest account. The pro forma balance sheet has not been audited and has not considered the accounting impact of the early redemption options.

## Review of Facilities

NEXTDC will have capacity of 35.35MW of technical space when all data centres are fully fitted out. The company completed the second data hall in Sydney and fifth data hall in Melbourne at the beginning of April 2014, increasing installed capacity by 32% from 14.85MW to 19.65MW. Capital expenditure for additional capacity is tightly aligned to customer demand.



The key features of each data centre is set out below.



## B1 Brisbane

### Features:

- B1 was NEXTDC's first data centre and is located in the Brisbane CBD
- B1 land and building was acquired by NEXTDC in 2010 and sold under a sale and leaseback arrangement in 2011, with NEXTDC retaining ownership of the plant and equipment required to operate the data centre
- B1 is a 2,900m<sup>2</sup> facility designed to achieve a total IT load of 2.25MW
- Commenced operations in October 2011
- Reached EBITDA break-even (before corporate overheads) after 9 months of operation
- ISO9001:2008 Quality Management System certified
- As at 21 February 2014, achieved contracted customer utilisation of 60% of total IT load
- B1 land and building is the subject of a long term lease with an initial term of 20 years and options for up to a further 20 years



## M1 Melbourne

### Features:

- M1 is NEXTDC's largest data centre, located in Port Melbourne
- NEXTDC constructed the building before selling the land and building to APDC in 2012. The company retains ownership of plant and equipment required to operate the data centre
- M1 is a 17,500m<sup>2</sup> facility designed to achieve a total IT load of 12MW when fully fitted out
- M1 boasts a 400kW solar array designed to generate 550MW hours of electricity annually, offsetting approximately 670 tonnes of carbon emissions per year
- Commenced operations in September 2012
- Uptime Institute (UTI) Tier III accreditation (design certification) and ISO9001:2008 Quality Management System certified
- Reached EBITDA break-even (before corporate overheads) after 11 months of operation
- As at 21 February 2014, achieved contracted customer utilisation of 50% of total IT load
- M1 land and building is the subject of a long term lease with an initial term of 15 years and options for up to a further 25 years



## S1 Sydney

### Features:

- S1 is NEXTDC's second largest data centre and is located in the Northern Sydney technology hub at Macquarie Park
- S1 is a 17,650m<sup>2</sup> facility designed to achieve a total IT load of 11.5MW when fully fitted out
- S1 commenced operations in September 2013
- As at 21 February 2014, achieved contracted customer utilisation of 30% of total IT load
- Uptime Institute (UTI) Tier III accreditation (design and construct certification)
- NEXTDC acquired the land and commenced constructing the facility before its sale to APDC in December 2012. The construction of the base building on behalf of APDC was completed in May 2013. NEXTDC retains ownership of plant and equipment required to operate the data centre
- S1 land and building is the subject of a long term lease with an initial term of 15 years and options for up to a further 25 years



## C1 Canberra

### Features:

- C1 is a data centre located in Bruce, ACT
- C1 is designed to meet a range of physical security specifications
- C1 is a 6,000m<sup>2</sup> facility designed to achieve a total IT load of 4.1MW when fully fitted out
- ISO9001:2008 Quality Management System certified
- NEXTDC leases C1 under a 15 year lease



## P1 Perth

### Features:

- P1 is NEXTDC's latest data centre to go live (in February 2014) and is located in Malaga, Perth
- P1 is an 9,600m<sup>2</sup> facility designed to achieve a total IT load of 5.5MW when fully fitted out
- Uptime Institute (UTI) Tier III accreditation (design and construct certification) and ISO9001:2008 Quality Management System certified
- NEXTDC acquired the land for P1 and sold it to APDC in December 2012. NEXTDC completed the construction of the building on behalf of APDC in November 2013. NEXTDC retains ownership of the plant and equipment required to operate a data centre
- P1 land and building is the subject of a long term lease with an initial term of 15 years and options for up to a further 25 years

### Asset Base Overview

NEXTDC owns the plant and equipment required to operate the data centres, including:

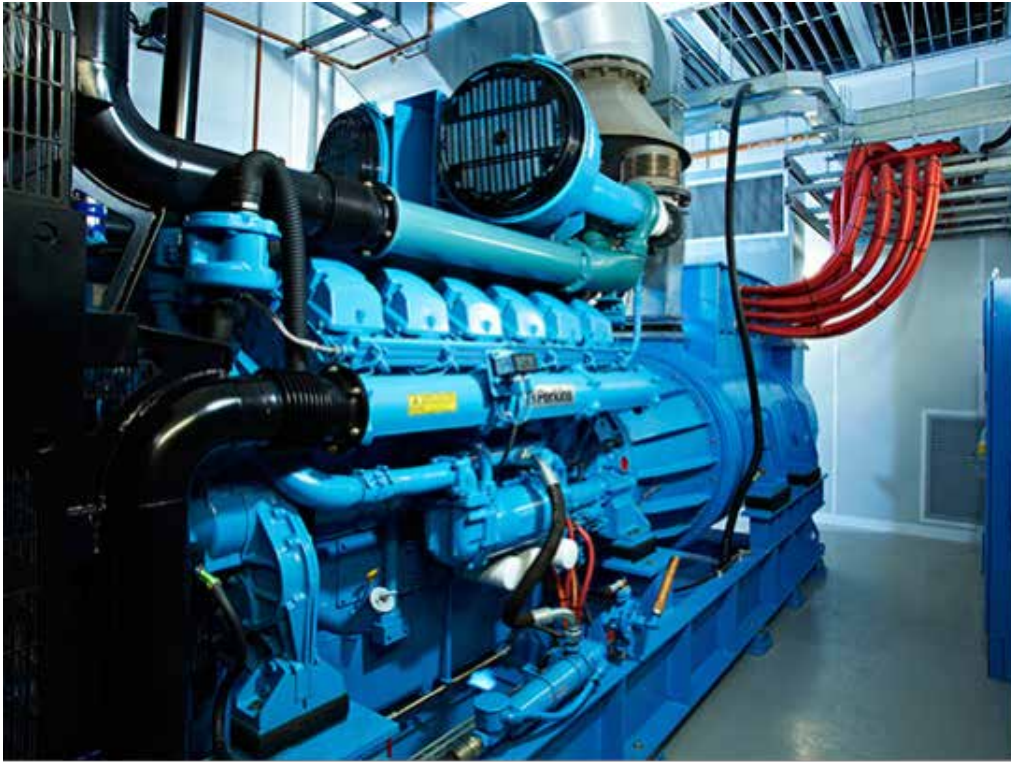
- Raised flooring;
- Customer cages / suites, racks and containerisation;
- Data cabling infrastructure;
- Static uninterrupted power supply (plus batteries);
- MW scale generators;
- Diesel storage & pumping systems;
- Diesel Rotary UPS (DRUPS);
- Transformers, switchboards, High Voltage and Low Voltage cabling;
- CRAC (Computer Room Air Conditioner) units, chillers, pumps and air handling units;
- Fire suppression systems and associated consumable gas storage;
- Building management system; and
- Security and information display systems.

The majority of the investment in the assets occurs upfront. The assets require low on-going maintenance capital expenditure and have long useful lives of up to 20 years. The following table summarises the carrying value of plant and equipment held as at 31 December 2013.

#### SUMMARY OF PLANT AND EQUIPMENT HELD AS AT 31 DECEMBER 2013

	Book value* (\$Am)	Assets included
<b>Electrical</b>	84.9	Diesel rotary UPS, switchboards, fibre, cabling and other electrical
<b>Mechanical</b>	41.8	Chillers, CRAC units and other mechanical
<b>Building works</b>	47.6	Fire, security, BMS, hydraulic, raised flooring and other fit-out works
<b>Other</b>	23.4	Racks, cages, solar, finance lease asset (B1) and other
<b>TOTAL</b>	197.7	

\*Includes work in progress.



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Perkins V12 diesel engine – part of a Piller DRUPS unit



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Diesel Rotary UPS corridor (M1)



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Containerised Piller DRUPS units (P1)



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High Voltage switchboard



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Inert gas fire suppression system



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Air-cooled UNIFLAIR chillers (B1)

## Investment Risks

By investing in the Notes, the holders of the Notes will be lending money to NEXTDC and may be exposed to a number of risks which can be broadly classified as risks associated with the Notes, the market generally and NEXTDC's business. This section describes certain risks associated with NEXTDC's business. Prospective investors or purchasers should consult their own financial, legal and tax advisers about other risks associated with NEXTDC's business, the Notes or the market generally.

Given NEXTDC's stage of development, the material business risks that are likely to have an effect on its financial prospects and therefore its ability to pay interest and principal on the Notes include, but are not limited to:

- a. **Customer demand** – NEXTDC's growth strategy incorporates commitment of substantial operational and financial resources to expand existing data centre facilities, and to develop and operate new facilities. Development or expansion of data centres is sometimes undertaken without significant pre-selling commitments from customers, and as such, there is a risk that sufficient demand for constructed data centre space may not exist. A lack of customer demand, or oversupply of data centre space in the market, could have negative implications on NEXTDC's ability to achieve desired rates of return on investment, and have a material adverse effect on its growth prospects and/or financial position.
- b. **Funding** – NEXTDC's business is capital intensive in nature, and its continued growth relies on the acquisition and development of new and existing data centres. NEXTDC requires sufficient capital to fund this expenditure. Failure to obtain capital on favourable terms may hinder NEXTDC's ability to expand and pursue growth opportunities, which may reduce its competitiveness and have an adverse effect on its financial performance, financial position and growth prospects.

In addition, NEXTDC's financial prospects are also subject to a number of other risks including but not limited to:

- NEXTDC's reliance on key personnel;
- infrastructure and technology failure (such as human error, power loss, physical or electronic security breaches, fire, earthquake, hurricane, flood and other natural disasters, water damage etc);
- competition, including a potential adverse impact on pricing; and
- access to renewed retail electricity supply agreements on reasonable terms and exposure to regulatory changes adversely impacting pricing and supply of electricity.

NEXTDC has to date not generated profits and its path to profitability is uncertain. Given NEXTDC's stage of development and historical financial performance, it has undertaken to pre-fund the first two coupon payments with respect to the Notes by paying an amount equal to the first two coupon payments into an advance interest account (see 'Advance interest account' in the section entitled "*Summary*" above for more details).

## Initial Guarantor - Global Disaster Recovery Pty Ltd

The Notes will be unconditionally and irrevocably guaranteed by Global Disaster Recovery Pty Ltd. The Issuer has undertaken that:

- a. it will ensure that, at all times, the aggregate total assets of the Issuer and the Guarantors (taken as a whole) are at least 90 per cent of the consolidated total assets of the Group taken as a whole; or
- b. agrees to cause such of its Subsidiaries to become a Guarantor pursuant to the Note Trust Deed to ensure that, at all times, the aggregate total assets of the Issuer and the Guarantors (taken as a whole) are at least 90 per cent of the consolidated total assets of the Group taken as a whole.

As at the date of this Information Memorandum, the Issuer's assets comprise 100 per cent of the consolidated total assets of the Group taken as a whole and Global Disaster Recovery Pty Ltd has no assets. Therefore, in practice, the credit support provided to a holder of a Note by Global Disaster Recovery Pty Ltd under the Guarantee is limited to any future assets it may hold. The Issuer has undertaken to ensure that if any of its subsidiaries acquires assets in the future, the holders of Notes will at all times have recourse to at least 90 per cent of the consolidated total assets of the Group taken as a whole.

# Conditions

The following are the Conditions which, as supplemented, amended, modified or replaced in relation to any Tranche of Notes by the relevant Pricing Supplement, will apply to that Tranche of Notes. References to a "Pricing Supplement" in these Conditions do not limit the provisions which may be supplemented, amended, modified or replaced by the Pricing Supplement.

The Notes are constituted by the Note Trust Deed. Each Noteholder, and any person claiming through or under any Noteholder, is entitled to the benefit of, is bound by and is deemed to have notice of, all of the provisions of the Note Trust Deed, these Conditions and the relevant Pricing Supplement. Each such person is also deemed to have notice of the Information Memorandum. Copies of each such document are available for inspection at the Specified Office of the Issuer and the Trustee.

## 1. Interpretation

### 1.1 Terms defined in Pricing Supplement

Terms which are specified in the Pricing Supplement as having a defined meaning have the same meaning when used in these Conditions.

### 1.2 Definitions

In these Conditions, the following meanings apply unless the contrary intention appears:

**Accounting Standards** means, for a person, all accounting standards or principles that it is required to comply with by an Australian law;

**Agency Agreement** means:

- a. the agreement entitled Agency and Registry Services Agreement between the Issuer, the Guarantors, the Registrar, the Issuing & Paying Agent and the Calculation Agent dated 12 June 2014;
- b. any other agreement between the Issuer and a Registrar in relation to the establishment and maintenance of a Register (and/or the performance of any payment or other duties) for any issue of Notes; and/or
- c. any other agency agreement entered into between the Issuer and an agent in connection with any issue of Notes;

**Agent** means each of the Registrar, the Issuing and Paying Agent, the Calculation Agent and any other agent appointed under an Agency Agreement, or any of them as the context requires;

**Austraclear** means Austraclear Ltd (ABN 94 002 060 773);

**Austraclear Regulations** means the regulations known as "Austraclear Regulations" together with any instructions or directions established by Austraclear to govern the use of the Austraclear System and binding on the participants in that system;

**Austraclear System** means the clearing and settlement system operated by Austraclear in Australia for holding securities and electronic recording and settling of transactions in those securities between participants of that system;

**Business Day** means a day (not being a Saturday, Sunday or public holiday in the relevant place) on which banks are open for general banking business in Sydney and, if a Note held in the Austraclear System is to be issued or payment made in respect of a Note held in the Austraclear System on that day, a day on which the Austraclear System is operating;

**Business Day Convention** means a convention for adjusting any date if it would otherwise fall on a day that is not a Business Day and, where specified, **Following Business Day Convention** means that the date is postponed to the first following date that is a Business Day;

**Calculation Agent** means BTA Institutional Services Australia Limited (ABN 48 002 916 396);

**Capital Reduction** has the meaning given in Condition 5.2(b) ("Financial covenants");

**Conditions** means, in relation to the Notes, these terms and conditions as amended, supplemented, modified or replaced by the Pricing Supplement applicable to such Note and references to a particular numbered Condition shall be construed accordingly;

**Corporations Act** means the Corporations Act 2001 of Australia;

**Day Count Fraction** means one divided by 2 multiplied by the actual number of days in the relevant period divided by the actual number of days in the half year ending on the next Interest Payment Date;

**Denomination** means A\$1,000, being the notional face value of a Note;

**Distribution** has the meaning given in Condition 5.2(b) ("Financial covenants");

**EBIT** means, for any Relevant Period, the NPAT of the Group for that period, calculated in accordance with applicable Accounting Standards, after:

- a. adding back the aggregate of:
  - i. tax on net income of the Group for that period; and
  - ii. Interest Expense for that period; and
- b. adding or subtracting (as the case may be) the net amount of:
  - i. extraordinary, significant or non-recurring gains or losses; and
  - ii. gains or losses from the sale of assets to the extent that such items are included in revenue or expense from ordinary activities including fair value adjustments on property and derivatives;

**EBITDA** means, for any Relevant Period, EBIT of the Group for that Relevant Period after adding back any amount attributable to the amortisation of goodwill or depreciation of tangible assets, as calculated in accordance with applicable Accounting Standards;

**Event of Default** means the happening of any event set out in Condition 12 ("Events of Default");

**Existing Security Interests** means;

- a. any Security Interest granted by the Issuer or a Guarantor and existing as at the Issue Date under or in connection with the loan agreement dated 19 August 2013;
- b. any Security Interest granted under or in connection with the facility agreement dated on or about the Issue Date between, among others, National Australia Bank Limited, the Issuer and the Guarantor; and
- c. any other Security Interest on the PPS Register registered against the Issuer or any Guarantor as at the Issue Date.

**FATCA** means sections 1471 to 1474 of the United States Internal Revenue Code of 1986, as amended (or any consolidation, amendment, re-enactment or replacement of those provisions and including any regulations or official interpretations issued, agreements (including, without limitation, intergovernmental agreements) entered into or non-US laws enacted, with respect thereto).

**Fifth Optional Redemption Date** means each date so specified in the Pricing Supplement being not earlier than 4.5 years after the Issue Date;

**Finance Debt** means any present or future, actual or contingent liability in connection with:

- a. moneys borrowed or raised;
- b. debit balance on any account with a financial institution;
- c. acceptance, endorsement or discounting arrangement;
- d. amount raised in connection with any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- e. derivative transaction (and, when calculating the liability in connection with any derivative transaction, only the marked to market value is taken into account unless the derivative transaction has been terminated or closed-out, in which case the liability is the termination amount or close out amount for the derivative transaction) excluding derivative transactions in connection with an employee share scheme for the benefit of the employees of the Issuer;

- f. redeemable share or other redeemable security where the holder has the right, or the right in certain circumstances, to require redemption before the Maturity Date;
- g. receivables sold or discounted except to the extent that they are sold or discounted on a non-recourse basis;
- h. hire purchase, finance lease, capital lease or any other lease which has the same economic effect as a finance lease or capital lease;
- i. agreement to defer payment of the consideration for an asset or service where payment is deferred for more than 90 days after the date the asset or service is supplied;
- j. agreement to deliver assets or services paid for in advance by a financier or otherwise relating to a financing transaction;
- k. counter-indemnity obligation in respect of a guarantee issued by a financier;
- l. other transaction (including any forward sale or purchase agreement) which has the commercial effect of obtaining financial accommodation; or
- m. any guarantee of any of the above.

In this definition, “guarantee” includes:

- i. any guarantee, indemnity, bond, letter of credit, legally binding comfort letter or similar assurance against loss;
- ii. any direct or indirect, actual or contingent obligation to purchase or assume any person’s liabilities, to make an investment in or provide financial accommodation to any person, or to purchase any person’s assets, in each case, where that obligation is assumed to assist that person to meet its liabilities; or
- iii. any other direct or indirect, actual or contingent obligation under which a person is, or may be, responsible for another person’s solvency, financial condition or liabilities.

For the purposes of these Conditions, any possible increase in Financial Debt resulting from changes to accounting definitions will be disregarded;

**First Optional Redemption Date** means each date so specified in the Pricing Supplement being not earlier than 2.5 years after the Issue Date;

**Fixed Coupon Amount** means the amount specified in, or determined in accordance with, the Pricing Supplement;

**Fourth Optional Redemption Date** means each date so specified in the Pricing Supplement being not earlier than 4 years after the Issue Date;

**Group** means the Issuer and each of its Subsidiaries from time to time;

**Guarantee** means the guarantee of the Notes set out in the Note Trust Deed;

**Guarantors** means the Initial Guarantor and each other entity that has provided a Guarantee of the Notes (and has not been released from such Guarantee) under the Note Trust Deed from time to time;

**Information Memorandum** means the information memorandum, disclosure document or other offering document referred to in a Pricing Supplement in each case prepared by, or on behalf of, and approved in writing by, the Issuer in connection with the issue of Notes and all documents incorporated by reference in it;

a person is **Insolvent** if:

- a. it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- b. it has a controller appointed, is in liquidation, in provisional liquidation, under administration or wound up or has had a receiver appointed to any part of its property (each as defined in the Corporations Act);
- c. it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by a Special Resolution of Noteholders);
- d. an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), or (c) above;

- e. it is taken (under section 459(F)(1) of the Corporations Act) to have failed to comply with a statutory demand;
- f. it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which the Trustee or the Noteholders reasonably deduces it is so subject);
- g. it is otherwise unable to pay its debts when they fall due; or
- h. something having a substantially similar effect to paragraphs (a) to (g) above happens in connection with that person under the law of any jurisdiction;

**Initial Guarantor** means Global Disaster Recovery Pty Ltd (ABN 11 158 340 624);

**Interest Commencement Date** means, for a Note, the Issue Date of the Note or any other date so specified in, or determined in accordance with, the Pricing Supplement;

**Interest Expense** means, for any period, the aggregate amount of all:

- a. gross interest;
- b. payments and expenses, and other amounts in the nature of interest (including finance lease charges) and capitalised interest (including any dividend on any redeemable share);
- c. amounts having a similar purpose or effect to interest (including any dividend on any redeemable share); and
- d. all other fees (including any commitment, line, issuance, acceptance or discount fees and coupon payments on the Notes) and other costs,

paid or payable by the Group in the period in connection with any Finance Debt of the Group;

**Interest Payment Date** means each date so specified in the Pricing Supplement;

**Interest Period** means each period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next Interest Payment Date. However:

- a. the first Interest Period commences on (and includes) the Interest Commencement Date; and
- b. the final Interest Period ends on (but excludes) the Maturity Date or, if redeemed earlier, an Optional Redemption Date;

**Interest Rate** means the rate specified in the Pricing Supplement;

**Issue Date** means the date on which a Note is, or is to be issued, as specified in, or determined in accordance with, the Pricing Supplement;

**Issuing & Paying Agent** means BTA Institutional Services Australia Limited (ABN 48 002 916 396);

**Issuer** means NEXTDC Limited (ABN 35 143 582 521);

**Maturity Date** means the date so specified in the Pricing Supplement, being less than 10 years after the Issue Date;

**Meeting Provisions** means the provisions relating to meetings of Noteholders set out in the Note Trust Deed;

**Note** means a medium term debt obligation specified in a Pricing Supplement and issued or to be issued by the Issuer which is constituted by, and owing under the Note Trust Deed, the details of which are recorded in, and evidenced by, entry in the Register;

**Note Trust Deed** means the document entitled "Note Trust Deed" dated 12 June 2014 and executed by, amongst others, the Issuer, the Guarantors and the Trustee;

**Noteholder** means, in respect of a Note, the person whose name is entered in the Register as the holder of that Note;

**NPAT** for any financial period, (including any half year and/or full year), the net profit after tax for the period of the Group, as shown in the consolidated financial statements of the Group for the financial period;

**Offshore Associate** means an "associate" (within the meaning of section 128F(9) of the Income Tax Assessment Act 1936 of Australia) of the Issuer that is either:

- a. a non-resident of Australia that, if it acquires the Notes or an interest in the Notes, would not acquire the Notes or an interest in the Notes in carrying on a business at or through a permanent establishment of the associate in Australia; or
- b. a resident of Australia that, if it acquires the Notes or an interest in the Notes, would acquire the Notes or an interest in the Notes in carrying on a business in a country outside Australia at or through a permanent establishment of the associate in that country;

**Optional Redemption Date** means each First Optional Redemption Date, Second Optional Redemption Date, Third Optional Redemption Date, Fourth Optional Redemption Date, Fifth Optional Redemption Date, Sixth Optional Redemption Date or Seventh Optional Redemption Date;

**Payment Date** means, as applicable, the Maturity Date, an Interest Payment Date or other relevant date on which a payment in respect of a Note is due;

**Permitted Security Interest** means:

- a. the Existing Security Interests;
- b. the Security Interests granted:
  - i. in connection with any new financing or lending to the Issuer, a Guarantor or any other member of the Group on or after the Issue Date;
  - ii. without limiting sub-paragraph (i) above, in connection with the refinancing of available amounts secured by Existing Security Interests; and
  - iii. as a result of the incurrence of new secured Finance Debt,

provided that, at the time the new financing or lending or the refinancing occurs (as the case may be), on a pro-forma basis, the ratio of the aggregate principal amount of all Secured Debt to Total Tangible Assets is not more than 0.30:1;

- c. a Security Interest arising by operation of law and in the ordinary course of trading so long as the Finance Debted secured by that Security Interest is paid when due or contested in good faith and appropriately provisioned;
- d. any netting and set-off arrangements arising in the ordinary course of the Group's banking arrangements;
- e. any Security Interest approved by the Noteholders pursuant to the Meeting Provisions;
- f. any Security Interest provided for by one of the following transactions if the transaction does not secure payment or performance of an obligation:
  - i. a transfer of an account or chattel paper;
  - ii. a commercial consignment; or
  - iii. a PPS Lease (as defined in the PPSA); and
- g. any other Security Interest in respect of Financial Debt securing up to a maximum aggregate amount at any time that does not exceed A\$3,000,000 for the Group taken as a whole;

**PPSA** means the Personal Properties Securities Act 2009 of Australia;

**PPS Register** means the register established and maintained under the PPSA;

**Pricing Supplement** means, in respect of a Tranche, the pricing supplement prepared and issued specifying the relevant issue details of such Notes and which has been duly completed and signed by the Issuer;

**Record Date** means the close of business in the place where the Register is maintained on the eighth day before the Payment Date;

**Register** means the register of holders of Notes established and maintained by or on behalf of the Issuer under an Agency Agreement;

**Registrar** means BTA Institutional Services Australia Limited (ABN 48 002 916 396);

**Related Body Corporate** has the meaning it has in the Corporations Act;

**Relevant Financial Statements** means the most recent audited consolidated financial statements of the Group for a financial year adjusted to give pro-forma effect to the changes in the Group's actual financial position including the incurrence of drawn Finance Debt and the application of the proceeds thereof (in all cases in accordance with applicable Accounting Standards);

**Relevant Period** means, as at any date of determination, the period of twelve months most recently ended prior to the date of determination;

**Second Optional Redemption Date** means each date so specified in the Pricing Supplement, being not earlier than 3 years after the Issue Date;

**Secured Debt** means all Finance Debt of the Group secured by a Security Interest. but excludes:

- a. any bank guarantee given in the ordinary course of trading;
- b. any interest rate hedging arrangements and foreign exchange dealings incurred in the ordinary course of business; and
- c. any Permitted Security Interest under paragraphs (c), (d), (f) and (g) of that definition.

**Security Interest** includes any mortgage, pledge, lien or charge or any security or preferential interest or arrangement of any kind (including under sections 12(1) and (2) and (3) of the PPSA) or any other right of, or arrangement with, any creditor to have its claims satisfied in priority to other creditors with, or from the proceeds of, any asset. It includes retention of title other than in the ordinary course of day-to-day trading and a deposit of money by way of security but it excludes a charge or lien arising in favour of a government agency by operation of statute unless there is default in payment of moneys secured by that charge or lien;

**Special Resolution** has the meaning given in the Note Trust Deed;

**Specified Office** means, for a person, that person's office specified in the Information Memorandum or Pricing Supplement or any other address notified to Noteholders from time to time;

**Subsidiary** of an entity means another entity which is a subsidiary of the first within the meaning of Part 1.2 Division 6 of the Corporations Act;

**Tax Authority** means any government, state, municipal, local, federal or other fiscal, revenue, customs or excise authority, body or official, having power to tax to which the Issuer becomes subject in respect of payments made by it of principal or interest in respect of the Notes;

**Taxes** means taxes, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any Tax Authority together with any related interest, penalties, fines and expenses in connection with them except if imposed on, or calculated having regard to, the net income of a Noteholder;

**Test Date** means each date on which:

- a. any Security Interest has been granted by the Issuer or a Guarantor in accordance with Condition 5.1 ("Negative pledge");
- b. new Finance Debt after the Issue Date has been incurred by the Issuer or a Guarantor in accordance with Condition 5.2(a) ("Financial covenants");
- c. any Distribution or Capital Reduction has been made by the Issuer or any Guarantor in accordance with Condition 5.2(b) ("Financial covenants");
- d. there is any disposal of a material part of the assets of the Issuer, a Guarantor or any other member of the Group in accordance with Condition 5.2(c) ("Financial covenants"); or

**Third Optional Redemption Date** means each date so specified in the Pricing Supplement, being not earlier than 3.5 years after the Issue Date;

**Total Finance Debt** means, as of any date of determination, the aggregate principal amount of drawn Finance Debt outstanding of the Group as of such date (other than Finance Debt incurred under any lease or hire purchase contract in existence as at the date of this document, including as amended, varied or refinanced);

**Total Leverage Ratio** means, as at any date of determination, the ratio of Total Finance Debt as at such date to EBITDA for the Relevant Period;

**Total Tangible Assets** means the aggregate amount of all assets of the Group as shown in the Relevant Financial Statements of the Group, but adjusted if necessary (without any double counting) so as to exclude any intangible assets (including, but not limited to, goodwill and trademarks, as calculated in accordance with the Relevant Financial Statements of the Group);

**Tranche** means an issue of Notes specified as such in the Pricing Supplement issued on the same Issue Date and on the same terms; and

**Trustee** means BNY Trust Company of Australia Limited (ABN 49 050 294 052) in its capacity as trustee of the NEXTDC Note Trust constituted by the Note Trust Deed or such other person appointed under the Note Trust Deed as trustee of the NEXTDC Note Trust.

### 1.3 References to certain general terms

Unless the contrary intention appears, a reference to:

- a. a group of persons is a reference to any two or more of them jointly and to each of them individually;
- b. an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- c. a document (including these Conditions) includes any amendment, variation or replacement of it;
- d. anything (including any amount) is a reference to the whole and each part of it;
- e. a “**law**” includes common law, principles of equity, any decree and any statute or other law made by a parliament (and a statute or other law made by parliament includes any regulation or other instrument under it, and any consolidation, amendment, re-enactment or replacement of it);
- f. a “**directive**” includes a treaty, official directive, request, regulation, guideline or policy (whether or not in any case having the force of law) with which responsible participants in the relevant market generally comply;
- g. “**Australian dollars**” or “**A\$**” is a reference to the lawful currency of Australia;
- h. a time of day is a reference to Sydney time;
- i. a “**person**” includes an individual, a firm, a body corporate, an unincorporated association and an authority;
- j. a particular person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns; and
- k. the words “**including**”, “**for example**” or “**such as**” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

### 1.4 Number

The singular includes the plural and vice versa.

### 1.5 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of these Conditions.

### 1.6 Calculation of period of time

If a notice must be given within a certain period of days or a certain number of days’ notice must be given or any other matter must take place within a certain number of days, the day on which the notice is given or action taken, and the day on which the meeting is to be held or other action taken, are not to be counted in calculating that period and references to a “day” are to a calendar day.

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## 2. Introduction

### 2.1 Pricing Supplement

- a. The Issuer will issue the Notes on the terms set out in these Conditions as supplemented, amended, modified or replaced by the Pricing Supplement applicable to those Notes. If there is any inconsistency between these Conditions and such Pricing Supplement, the Pricing Supplement prevails.
- b. The Notes are issued in a single series. The series may comprise one or more Tranches having one or more Issue Dates and on conditions otherwise identical (other than in respect of the issue price and the date of the first payment of interest). A Tranche is the subject of a Pricing Supplement which supplements, amends, modifies or replaces these Conditions.
- c. Copies of the Pricing Supplement and Conditions applicable to any Tranche of Notes are available for inspection or on request by a Noteholder or prospective Noteholder during normal business hours at the Specified Office of the Issuer, the Trustee or the Registrar or are otherwise available on reasonable request from the Issuer or the Registrar.

### 2.2 Currency and denomination

The Notes are issued in Australian dollars in a single denomination of A\$1,000.

### 2.3 Issue restrictions and tenor

The Notes may only be offered (directly or indirectly) for issue, or applications invited for the issue of Notes, if:

- a. the aggregate consideration payable by each offeree is at least A\$500,000 (or its equivalent in an alternative currency and, in each case, disregarding moneys lent by the offeror or its associates to the offeree or its associates) or if the offer or invitation (including any resulting issue) otherwise does not require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act;
- b. the offer or invitation (including any resulting issue) does not constitute an offer to a “retail client” as defined for the purposes of section 761G of the Corporations Act;
- c. such action does not require any document to be lodged with the Australian Securities and Investments Commission; and
- d. the offer or invitation (including any resulting issue) complies with all other applicable laws and directives in the jurisdiction in which the offer, invitation or issue takes place.

### 2.4 Clearing systems

Notes may, but need not, be held in the Austraclear System, in which case the rights of a person holding an interest in the Notes lodged in the Austraclear System are subject to the rules and regulations of the Austraclear System. Neither the Issuer nor any Guarantor is responsible for anything the Austraclear System does or omits to do.

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## 3. Form

### 3.1 Constitution under the Note Trust Deed

- a. The Notes are debt obligations of the Issuer constituted by, and owing under, the Note Trust Deed.
- b. Noteholders are entitled to the benefit of, are bound by, and are deemed to have notice of all the provisions of the Note Trust Deed.

### 3.2 Form

The Notes are issued in registered form by entry in the Register.

### 3.3 No certificates

No certificates will be issued to Noteholders unless the Issuer determines that certificates should be available or if certificates are required by any applicable law or directive.

### **3.4 Effect of entries in Register**

Each entry in the Register in respect of a Note constitutes:

- a. an unconditional and irrevocable undertaking by the Issuer to the Trustee and the Noteholder to:
  - i. pay principal, any interest and any other amount in accordance with these Conditions and the Note Trust Deed; and
  - ii. comply with all other Conditions of the Note and the Note Trust Deed; and
- b. an entitlement to the other benefits given to the Noteholder in respect of the Note under these Conditions and the Note Trust Deed.

### **3.5 Register conclusive as to ownership**

Entries in the Register in relation to a Note constitute conclusive evidence that the person so entered is the absolute owner of the Note subject to correction for fraud or error.

### **3.6 Non-recognition of interests**

Except as ordered by a court of competent jurisdiction or required by law or directive, the Issuer, the Trustee and the Registrar must treat the person whose name is entered in the Register as the Noteholder of a Note as the absolute owner of that Note. This Condition applies whether or not a Note is overdue and despite any notice of ownership, trust or interest in the Note.

### **3.7 Joint Noteholders**

Where two or more persons are entered in the Register as the joint holder of a Note then they are taken to hold the Note as joint tenants with rights of survivorship, but the Registrar is not bound to register more than four persons as joint holders of a Note.

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## **4. Status and Guarantee**

### **4.1 Status of Notes**

The Notes are direct, senior, unsubordinated and (subject to Condition 5.1 ("Negative pledge")) unsecured obligations of the Issuer.

### **4.2 Ranking of Notes**

The Notes rank equally among themselves and at least equally with all other present and future direct, senior, unsubordinated and (subject to Condition 5.1 ("Negative pledge")) unsecured obligations of the Issuer, except for liabilities mandatorily preferred by law.

### **4.3 Guarantee**

The Notes are issued with the benefit of the Guarantee. Pursuant to the Guarantee, each Guarantor unconditionally and irrevocably guarantees to the Noteholders, among other things, the due and punctual performance by the Issuer of its obligations under the Notes. The obligations of a Guarantor under the Guarantee rank at least equally with all other direct, senior, unsubordinated and (subject to Condition 5.1 ("Negative pledge")) unsecured obligations of that Guarantor, except for liabilities mandatorily preferred by law.

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## 5. Negative pledge and financial and other covenants

### 5.1 Negative pledge

- a. Subject to paragraph (b) below, the Issuer will not (and will ensure that any Guarantor will not) create or permit to subsist any Security Interest upon the whole or any part of its (or the Guarantor's) present or future assets or revenues other than a Permitted Security Interest.
- b. The Issuer or a Guarantor may create or permit to subsist a Security Interest (which is not a Permitted Security Interest) or a Security Interest may also be created or permitted to exist if, at the same time, either the same Security Interest as is granted by the Issuer or a Guarantor or such other security:
  - i. securing the Issuer's or Guarantor's obligations to the Noteholders, equally and rateably in all respects so as to rank *pari passu* with the applicable Security Interest; or
  - ii. as shall be approved by the Noteholders pursuant to the Meeting Provisions,is also granted in favour of the Noteholders in a manner that is satisfactory to the Trustee.

### 5.2 Financial covenants

- a. The Issuer will not (and will ensure that any Guarantor will not) incur or permit to subsist any new Finance Debt after the Issue Date, unless, after giving pro-forma effect to the incurrence of such Finance Debt and the application of the proceeds thereof, the ratio of Finance Debt to Total Tangible Assets is not more than 0.5:1t.
- b. The Issuer will not (and will ensure that any Guarantor will not) declare or pay any dividend or make any other payment or distribution having the same effect ("**Distribution**"), or reduce, return, purchase, repay, cancel or redeem any of its share capital or buy back any of its shares ("**Capital Reduction**") under Chapter 2J of the Corporations Act (or an equivalent provision under any legislation in another jurisdiction applicable to that Guarantor) except:
  - i. where the recipient of the proceeds of such Distribution or Capital Reduction is the Issuer or a Guarantor; or
  - ii. where the source of the funds to effect such Distribution or Capital Reduction has not been raised by way of Secured Debt (or a transaction or series of transactions having substantially the same effect);
  - iii. in the case of a Distribution only, where the source of the funds to effect such Distribution is:
    - A. only paid out of NPAT of the Group, up to a maximum aggregate amount equal to 100 per cent of NPAT of the Group for the previous 12 months; and
    - B. only payable when the Total Leverage Ratio is less than 1.5:1,

provided that, in any case, such Distribution is no greater than an amount lawfully permitted under applicable law.

So long as an Event of Default is subsisting, the Issuer will not declare or pay a dividend or make any distribution on any issued share in the Issuer, or pay any interest or other amounts in respect of any debt security issued which ranks behind (or equally with) the Notes in priority for payment of interest.

- c. The Issuer will ensure that it will not (and will ensure that any member of the Group will not) (whether in a single transaction or a series of related transactions) sell, transfer, lease, or otherwise dispose of, or create or allow to exist an interest in all or a material part of its assets or the assets of a member of the Group, other than:
  - i. as permitted under Condition 5.1 ("Negative pledge");
  - ii. disposals, partings with possession and interests created (including sub-leases):
    - A. on arm's length commercial terms;
    - B. where the asset are waste, obsolete and are not required for the efficient operation of its business;
    - C. in exchange for other assets comparable or superior as to type, value and quality; or

- D. from the Issuer or a Guarantor to any member of the Group;
- iii. where an amount equal to the net proceeds of the disposal is used within 180 days after such disposal to:
  - A. purchase or acquire a business or purchase, acquire, develop, redevelop or construct productive assets for use by the Issuer or a member of the Group in its business; and/or
  - B. prepay or repay any secured or unsecured Finance Debt of the Issuer or a member of the Group;
- iv. as approved by the Noteholders pursuant to the Meeting Provisions; and
- v. any disposal of assets note described in paragraphs (i) to (iv) provided that:
  - A. each disposal is for cash consideration on arm's length terms and at fair market value; and
  - B. the aggregate fair market value of the assets disposed of by any member of the Group during any 12 month period does not exceed A\$2,000,000.
- d. The Issuer:
  - i. will ensure that, at all times, the aggregate total assets of the Issuer and the Guarantors (taken as a whole) are at least 90 per cent of the consolidated total assets of the Group taken as a whole; or
  - ii. agrees to cause such of its Subsidiaries to become a Guarantor pursuant to the Note Trust Deed to ensure that, at all times, the aggregate total assets of the Issuer and the Guarantors (taken as a whole) are at least 90 per cent of the consolidated total assets of the Group taken as a whole,

provided that each Initial Guarantor is a Guarantor at all times, and subject to, in the case of a Subsidiary which has become a member of the Group, the completion of any financial assistance whitewash procedures required under Part 2J.3 of the Corporations Act (or equivalent laws in any other applicable jurisdictions) within 45 days of the shareholders general meeting of the Issuer held after the relevant Subsidiary (which is required to become a Guarantor) becomes a member of the Group.

### 5.3 Other covenants

- a. The Issuer will (and will ensure that each Guarantor will) do everything necessary to maintain its corporate existence.
- b. The Issuer will comply (and will ensure that each Guarantor complies) with all laws (including any laws relating to the environment) binding on it where a failure to comply would have a material adverse effect on the ability of the Issuer or a Guarantor (as the case may be) to comply with its obligations under the Notes or the Guarantee.
- c. The Issuer will provide the following to the Trustee not later than 30 days after each applicable Test Date a certificate signed by either two directors or a director and the company secretary/chief financial officer of the Issuer which certifies whether, in the opinion of the directors and/or the company secretary/chief financial officer of the Issuer (as appropriate) and after having made all reasonable enquiries, the Issuer has complied with each of the covenants set out in Conditions 5.1 ("Negative pledge"), 5.2 ("Financial covenants"), 5.3(a) and 5.3(b) ("Other covenants") above immediately following the relevant granting of a Security Interest, the incurring of new Finance Debt, the making of a Distribution or Capital Reduction, the disposal of assets or material acquisition of a business on that Test Date (as the case may be). In the event the Issuer is not in compliance with any such covenant, such certificate will give reasonable detail of such non-compliance (including any relevant figures and calculations) and the steps being taken to remedy the same.
- d. At the request of the Trustee (acting either on its own discretion or upon receipt of a written request of a Noteholder) the Issuer will provide (at its own cost), any document or other information that the Trustee may reasonably request that is necessary or desirable to allow the Trustee or a Noteholder to determine whether or not the Issuer is in compliance with each of the covenants set out in Conditions 5.2 ("Financial covenants"), 5.3(a) and 5.3(b) ("Other covenants") above.

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## 6. Title and transfer of Notes

### 6.1 Title

Title to Notes passes when details of the transfer are entered in the Register.

### 6.2 Transfer

Notes may only be transferred in accordance with these Conditions and the Note Trust Deed.

### 6.3 Transfers in whole

Notes may only be transferred in whole and not in part.

### 6.4 Estates

A person becoming entitled to a Note as a consequence of the death or bankruptcy of a Noteholder or of a vesting order or a person administering the estate of a Noteholder may, upon producing such evidence as to that entitlement or status as the Registrar considers sufficient, transfer the Note or, if so entitled, become registered as the holder of the Note.

### 6.5 Unincorporated associations

A transfer of a Note to an unincorporated association is not permitted.

### 6.6 Transfer of unidentified Notes

Where the transferor executes a transfer of less than all Notes registered in its name, and the specific Notes to be transferred are not identified, the Registrar may register the transfer in respect of such of the Notes registered in the name of the transferor as the Registrar thinks fit, provided the aggregate principal amount of all the Notes registered as having been transferred equals the aggregate principal amount of all the Notes expressed to be transferred in the transfer.

### 6.7 Compliance with law

Notes may only be transferred if the offer or invitation for the transfer, sale or purchase of the Notes:

- a. is for an aggregate consideration payable by each transferee of at least A\$500,000 (or its equivalent in an alternative currency and, in each case, disregarding moneys lent by the transferor or its associates to the transferee or its associates) or if the offer or invitation for the transfer otherwise does not require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act; and
- b. complies with all other applicable laws and directives in the jurisdiction in which the transfer takes place.

### 6.8 Restrictions on transfer

- a. Transfers of Notes which are not lodged in the Austraclear System cannot be made between a Record Date and the relevant following Payment Date if a redemption of such Note is to occur during, or at the end of, that period in accordance with these Conditions.
- b. Transfers of Notes will not be registered later than the close of business in the place where the Register is maintained on the eighth day prior to the Maturity Date of the Notes.

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## 7. Interest

### 7.1 Interest

Each Note bears interest on its outstanding principal amount from (and including) its Interest Commencement Date to (but excluding) its Maturity Date or, if redeemed earlier, the Optional Redemption Date, at the Interest Rate. Interest is payable in arrears on each Interest Payment Date or such other date on which a Note is redeemed.

## 7.2 Fixed Coupon Amount

The amount of interest payable on each Note on each scheduled Interest Payment Date in respect of the preceding Interest Period is the Fixed Coupon Amount unless interest is due on a date that is otherwise than a scheduled Interest Payment Date, in which case Condition 7.3 (“Calculation of interest payable”) shall apply to calculate the amount of interest payable for that period.

## 7.3 Calculation of interest payable

The amount of interest payable in respect of a Note for any period which does not end on a scheduled Interest Payment Date shall be calculated by the Calculation Agent by multiplying the Interest Rate, the outstanding principal amount of the Note and the Day Count Fraction.

## 7.4 Notification of Interest Rate, interest payable and other items

- a. The Calculation Agent must notify the Issuer, the Registrar, the Noteholders, the Trustee and each other Agent of the amount of interest calculated or determined by it under Condition 7.3 (“Calculation of interest payable”).
- b. The Calculation Agent must give notice under this Condition as soon as practicable after making its determination.
- c. The Calculation Agent may amend its determination of any amount, item or date (or make appropriate alternative arrangements by way of adjustment) as a result of the extension or reduction of the Interest Period or calculation period without prior notice but must promptly notify the Issuer, the Registrar, the Noteholders, the Trustee and each other Agent of any such amendment.

## 7.5 Determination final

The determination by the Calculation Agent of all amounts, rates and dates falling to be determined by it under these Conditions is, in the absence of fraud or manifest error, final and binding on the Issuer, the Guarantors, the Registrar, each Noteholder, the Trustee and each other Agent.

## 7.6 Rounding

For the purposes of any calculations required under these Conditions (unless otherwise specified in the Pricing Supplement):

- a. all percentages resulting from the calculations must be rounded to the nearest one hundredthousandth of a percentage point (with 0.000005 per cent being rounded up to 0.00001 per cent);
- b. all figures must be rounded to five decimal places (with halves being rounded up); and
- c. all amounts that are due and payable must be rounded (with halves being rounded up) to one cent.

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# 8. Redemption

## 8.1 Redemption on maturity

The Issuer agrees to redeem each Note on its Maturity Date by payment of 105 per cent of the outstanding principal amount of each Note unless:

- a. the Note has been previously redeemed; or
- b. the Note has been purchased and cancelled.

## 8.2 Early redemption at the option of Noteholders (Noteholder put)

Upon the occurrence of a Change of Control, each Noteholder will have the right to require the Issuer to redeem all (but not some) of such Notes at a redemption price equal to 101 per cent of the outstanding principal amount of each Note being redeemed (together with any accrued interest, if any, to the date of redemption) (the “**Change of Control Redemption Price**”). Within 30 days after a Change of Control, the Issuer shall deliver a notice to the Registrar and the Trustee requesting that the Trustee promptly notifies Noteholders stating:

- a. that a Change of Control has occurred and that such Noteholder has the right to require the Issuer to redeem such Notes at the Change of Control Redemption Price;
- b. the redemption date (which shall be no earlier than 30 days nor later than 50 days from the date of such notice is delivered) ("**Change of Control Redemption Date**");
- c. or otherwise setting out a form of the exercise notice to be provided by the Noteholders (the "**Change of Control Event Exercise Notice**"), together with instructions on how to submit that notice;
- d. that the last day of which the Noteholder may provide the Change of Control Exercise Notice to the Issuer is the day falling 10 days prior to the Change of Control Redemption Date ("**Change of Control Exercise Date**"); and
- e. the procedures determined by the Issuer, consistent with terms and conditions of the Notes, that a Noteholder must follow in order to have its Notes redeemed.

To exercise its right under this Condition 8.2, a Noteholder must deliver a duly completed and signed Change of Control Event Exercise Notice to the Issuer (or as otherwise directed) prior to the end of the Change of Control Exercise Date.

If at the end of the Change of Control Redemption Period, Noteholders representing 90 per cent or more of the then aggregate principal amount of all Notes then outstanding, have provided a Change of Control Event Exercise Notice to the Issuer, the Issuer may, but shall not be obliged to, redeem all remaining notes outstanding on the relevant redemption date at the Change of Control Redemption Price, by giving at least 10 days' prior notice to the Noteholders within 30 days after the end of the Change of Control Redemption Date.

In this Condition, "**Change of Control**" means, on any date, an event where a party which held 50 per cent or less of the issued shares of the Issuer as at the Issue Date are issued subsequently holds more than 50 per cent of the issued shares of the Issuer on that date.

### 8.3 Early redemption at the option of the Issuer (Issuer call)

The Issuer may redeem all or some of the Notes before their Maturity Date as follows:

- a. on a First Optional Redemption Date by payment of 102.50 per cent of the outstanding principal amount of each Note being redeemed;
- b. on a Second Optional Redemption Date by payment of 103 per cent of the outstanding principal amount of each Note being redeemed;
- c. on a Third Optional Redemption Date by payment of 103.50 per cent of the outstanding principal amount of each Note being redeemed;
- d. on a Fourth Optional Redemption Date by payment of 104 per cent of the outstanding principal amount of each Note being redeemed; and
- e. on a Fifth Optional Redemption Date by payment of 104.50 per cent of the outstanding principal amount of each Note being redeemed,

in each case, together with any accrued interest, if any, to the date of redemption.

However, the Issuer may only do so if:

- i. the amount of Notes to be redeemed is a whole multiple of their Denomination; and
- ii. the Issuer has given at least 30 days' (and not more than 60 days') notice to the Registrar, the Trustee, the Noteholders and each other Agent.

### 8.4 Early redemption for tax reasons

The Issuer may redeem all (but not some) of the Notes at any time before their Maturity Date at a redemption price equal to the outstanding principal amount of each Note (together with any accrued interest, if any, to the date of redemption) if, as a consequence of an amendment to or a change in, or announced amendment to or prospective change in:

- a. the law or a binding judicial decision, directive, ruling or determination; or

- b. an administrative decision (with which the Issuer is required to comply, or habitually complies) interpreting, applying or clarifying those laws or judicial decisions, directives, rulings or determinations,

occurring after the Issue Date of the first Tranche of a series of Notes, the Issuer is required, or is likely to be required, to pay an additional amount in respect of a Note of that series under Condition 10.2 (“Withholding tax”).

However, the Issuer may only do so if the Issuer obtains (and provides copies to the Registrar to be made available to each Noteholder upon request):

- i. a certificate signed by two directors of the Issuer or one director of each Guarantor, as the case may be, on behalf of the Issuer or each Guarantor, as the case may be, stating that such amendment or change has occurred (irrespective of whether such amendment or change is then effective) describing the facts leading thereto and stating that such requirement cannot be avoided by the Issuer or each Guarantor, as the case may be, taking reasonable measures available to it; and
- ii. an opinion of independent legal advisers of recognised standing to the effect that such amendment or change has occurred (irrespective of whether such amendment or change is then effective); and

has given not less than 15 days (nor more than 90 days) (or any other period specified in the Pricing Supplement) notice to the Registrar, the Noteholders, each other Agent and any stock exchange or other relevant authority on which the Notes are listed.

## **8.5 Partial redemptions**

If only some of the Notes are to be redeemed under Condition 8.3 (“Early redemption at the option of the Issuer (Issuer call)”), the Notes to be redeemed will be specified in the notice and selected:

- a. in a fair and reasonable manner; and
- b. in compliance with any applicable law, directive or requirement of any stock exchange or other relevant authority on which the Notes are listed.

## **8.6 Effect of notice of redemption**

Any notice of redemption given under this Condition 8 (“Redemption”) is irrevocable.

## **8.7 Late payment**

If an amount payable is not paid under this Condition 8 (“Redemption”) when due, then interest continues to accrue on the unpaid amount (both before and after any demand or judgment) at the default rate specified in the Pricing Supplement (or, if no default rate is specified, the last applicable Interest Rate) until the date on which payment is made to the Noteholder.

## **8.8 Purchase**

The Issuer and any of its Related Bodies Corporate may at any time purchase Notes in the open market or otherwise and at any price. Notes purchased under this Condition 8.8 may be held, resold or cancelled at the discretion of the purchaser and (if the Notes are to be cancelled, the Issuer), subject to compliance with any applicable law or directive.

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# 9. Payments

## **9.1 Payments to Noteholders**

- a. Payments of principal will be made to each person registered in the Register at 10.00 am on the applicable Payment Date as the holder of a Note;
- b. Payment of interest shall be made to each person registered in the Register at close of business on the applicable Record Date as the holder of a Note.

## 9.2 Payments to accounts

Payments in respect of a Note will be made:

- a. if the Note is held in the Austraclear System, by crediting on the Payment Date, the amount due to:
  - i. the account of Austraclear (as the Noteholder) previously notified to the Issuer and the Registrar; or
  - ii. if requested by Austraclear, the accounts of the persons in Australia in whose Security Record (as defined in the Austraclear Regulations) a Note is recorded as previously notified by Austraclear to the Issuer and the Registrar in accordance with the Austraclear Regulations; and
- b. if the Notes are not held in the Austraclear System, by crediting on the Payment Date, the amount then due under each Note to an account in Australia previously notified by the Noteholder to the Issuer and the Registrar.

## 9.3 Payments by cheque

If a Noteholder has not notified the Registrar of an account to which payments to it must be made by close of business on the Record Date or it has notified the Registrar that it wishes to be paid by cheque, payments in respect of the Note will be made by cheque sent by prepaid post on the Payment Date, at the risk of the registered Noteholder, to the Noteholder (or if two or more persons are entered in the Register as joint Noteholders, to the first named joint Noteholder of the Note) at its address appearing in the Register at close of business on the Record Date. Cheques sent to the nominated address of a Noteholder will be taken to have been received by the Noteholder on the Payment Date and no further amount will be payable by the Issuer in respect of the Notes as a result of the Noteholder not receiving payment on the due date.

## 9.4 Payments subject to law

All payments are subject to applicable law but without prejudice to the provisions of Condition 10 ("Taxation").

## 9.5 Payments on Business Days

If a payment:

- a. is due on a Note on a day which is not a Business Day then the due date for payment will be adjusted in accordance with the applicable Business Day Convention; or
- b. is to be made to an account on a Business Day on which banks are not open for general banking business in the place in which the account is located, then the due date for payment will be the first following day on which banks are open for general banking business in that place,

and in either case, a Noteholder is not entitled to any additional payment in respect of that delay.

## 9.6 Unsuccessful attempts to pay

Subject to applicable law, where the Issuer:

- a. decides that an amount is to be paid to a Noteholder by a method of direct credit and the Noteholder has not given a direction as to where amounts are to be paid by that method;
- b. attempts to pay an amount to a Noteholder by direct credit, electronic transfer of funds, cheque or any other means and the transfer is unsuccessful;
- c. has made reasonable efforts to locate a Noteholder but is unable to do so; or
- d. has issued a cheque which has not been presented within six months of its date, then the Issuer may cancel such cheque and if the Issuer has so cancelled,

then, in each case and subject to Condition 11 ("Time limit for claims"), the amount is to be held by the Issuer for the Noteholder in a non-interest bearing deposit with a bank selected by the Issuer until the Noteholder or any legal personal representative of the Noteholder claims the amount or the amount is paid by the Issuer according to the legislation relating to unclaimed moneys.

## 9.7 Payment to joint Noteholders

A payment to any one of joint Noteholders will discharge the Issuer's liability in respect of the payment.

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## 10. Taxation

### 10.1 No set-off, counterclaim or deductions

All payments in respect of the Notes must be made in full without set-off or counterclaim, and without any withholding or deduction in respect of Taxes, unless such withholding or deduction is required by law.

### 10.2 Withholding tax

If a law requires the Issuer to withhold or deduct an amount in respect of Taxes from a payment in respect of a Note such that the Noteholder would not actually receive on the due date the full amount provided for under the Notes, then:

- a. the Issuer agrees to deduct the amount for the Taxes; and
- b. the amount payable by the Issuer is increased so that, after making the withholding or deduction and further withholdings or deductions applicable to any additional amounts payable under this Condition, the Noteholder is entitled to receive (at the time the payment is due) the amount it would have received if no withholdings or deductions had been required to be made.

### 10.3 Gross-up exceptions

No additional amounts are payable under Condition 10.2 ("Withholding tax") in respect of any Note:

- a. to, or to a third party on behalf of, a Noteholder, if that person has not supplied an appropriate Australian tax file number, Australian Business Number or details of an applicable exemption from these requirements;
- b. to, or to a third party on behalf of, a Noteholder who is liable to such taxes, duties, assessments or governmental charges in respect of such Note by reason of having some connection with Australia other than the mere holding of the Note;
- c. to, or to a third party on behalf of, a Noteholder who is liable to the Taxes in respect of a Note by reason of the Noteholder being an Offshore Associate of the Issuer not acting in the capacity of a clearing house, paying agent, custodian, funds manager or responsible entity of a registered scheme within the meaning of the Corporations Act;
- d. in respect of any estate, inheritance, gift, sales, transfer, personal property, or any similar tax, assessment or governmental charge;
- e. in circumstances where such a withholding or deduction would not be required if the Noteholder, or any person acting on the Noteholder's behalf, had satisfied any statutory requirements or obtained and/or presented any form or certificate or had made a declaration of non-residence or similar claim for exemption to any Tax Authority upon the presentation or making of which the Noteholder would have been able to avoid or partially avoid (as the case may be) such withholding or deduction;
- f. where such withholding or deduction is required to be made pursuant to a notice or direction issued by the Commissioner of Taxation under section 255 of the *Income Tax Assessment Act 1936* or section 260-5 of the *Taxation Administration Act 1953* of the Commonwealth of Australia or any similar law;
- g. where such withholding or deduction is made for, or on account of, FATCA (as withheld or deducted by the Issuer, an Agent or any other party);
- h. in such other circumstances as may be specified in the Pricing Supplement; or
- i. in respect of any combination of any or all of paragraphs (a) to (h) above.

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## 11. Time limit for claims

A claim against the Issuer for a payment under a Note is void unless made within 10 years (in the case of principal) or 5 years (in the case of interest and other amounts) from the date on which payment first became due.

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## 12. Events of Default

### 12.1 Events of Default

Each of the following is an Event of Default in respect of the Notes:

- a. **(non-payment of principal)** the Issuer fails to pay any principal in respect of the Notes when due, unless that default is caused by a technical or administrative error by a bank or financial institution in the transmission of funds and is remedied within 2 Business Days of its occurrence;
- b. **(non-payment of interest)** the Issuer fails to pay any interest in respect of the Notes of the relevant series when due and the failure to pay continues for a period of 2 Business Days;
- c. **(other non-compliance)** the Issuer:
  - i. fails to comply with any of its obligations in connection with a Note (other than in relation to the payment of money referred to in paragraphs (a) and (b) above); and
  - ii. if the non-compliance is capable of remedy, it is not remedied within 10 Business Days after notice of such default shall have been given to the Issuer by the Trustee or any Noteholder;
- d. **(cross default)** any Finance Debt of the Issuer, a Guarantor or any of its other Subsidiaries for amounts totalling more than A\$3,000,000 (or its equivalent in any other currency):
  - i. is not satisfied on the later of their due date or the end of any applicable grace period; or
  - ii. has become (or becomes capable of being declared) due and payable before its scheduled maturity by reasons of a default, event of default or potential event of default (howsoever described). For the purposes of this sub-paragraph (ii), and except in relation to an amount becoming capable of being declared due and payable as a consequence of a breach of a payment obligation or a breach of a material obligation (howsoever described), an amount will only be deemed to have become capable of being declared due and payable on the date that falls 10 days after the expiration of any applicable grace period in relation to the event giving rise to the amount becoming capable of being declared due and payable;
- e. **(insolvency)** except for the purpose of a solvent reconstruction, amalgamation, merger or consolidation, an order is made or an effective resolution passed for the liquidation, dissolution or winding-up of the Issuer or any Guarantor, an administrator, liquidator, receiver, manager, receiver and manager or other controller (as defined in the Corporations Act) is appointed to the Issuer or any Guarantor and the order, resolution or appointment is not set aside, cancelled, withdrawn or rescinded within 7 days of the order, resolution or appointment (as the case may be) being made or any of their property or the Issuer or any Guarantor becomes insolvent, is unable to pay its debts as they fall due, stops, suspends or threatens to stop or suspend payment of its debts generally;
- f. **(no arrangement with creditors)** the Issuer or any Guarantor makes a general assignment for the benefit of creditors, or any proceeding shall be instituted by or against the Issuer or a Guarantor (which, in the case of a proceeding instituted against the Issuer or a Guarantor, is not set aside or withdrawn within 7 days after the date that the application was made for such proceeding to be instituted) seeking to adjudicate it insolvent, or seeking liquidation, winding up, reorganisation, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganisation or relief of debtors, seeking the entry of any order for relief or the appointment of a receiver, trustee, administrator or other similar official over the Issuer or Guarantor, its activities or any substantial part of its property;
- g. **(obligations unenforceable)** any Note or the Guarantee is or becomes (or is claimed to be by the Issuer, a Guarantor or anyone on their behalf) wholly or any part of a material provision of it void, voidable or unenforceable or any Note or the Guarantee ceases to wholly or in relation to any part of a material provision of it have full force and effect or the whole or any part of a material provision of it is declared by any court of competent jurisdiction to be void or unenforceable;
- h. **(no litigation)** a judgement or award in an amount exceeding A\$3,000,000 (or its equivalent in any other currency) is obtained against the Issuer or a Guarantor or any of their assets and is not set aside or satisfied within 30 days unless the Issuer or the Guarantor is diligently and in good faith pursuing an appeal;

- i. **(cessation of business)** the Issuer or any Guarantor ceases to carry on business generally and no other body corporate assumes the business of that person; and
- j. **(enforcement against assets)** any expropriation, attachment, sequestration, distress or execution affects any asset or assets of the Issuer or a Guarantor worth (in aggregate) more than A\$3,000,000.

## 12.2 Consequences of an Event of Default

If an Event of Default occurs and continues unremedied in relation to the Notes, then a Noteholder or the Trustee (if requested in writing by a Noteholder) may declare by notice to the Issuer (with a copy to the Registrar and the Trustee (if notice is given by a Noteholder)) that each Note held by it is (or, if the Trustee has given the declaration, all Notes are) to be redeemed by the Issuer paying to the Noteholder the applicable redemption amount for the Note (together with any accrued interest) in which case those amounts become immediately due and payable.

## 12.3 Notification

If an Event of Default occurs, the Issuer must promptly (and in any event within 2 days) after becoming aware of it notify the Trustee, the Registrar and the Noteholders of the occurrence of the Event of Default (specifying details of it).

## 12.4 Enforcement

- a. Subject to Condition 12.4(c), at any time after the occurrence of an Event of Default, the Trustee may, either at its discretion or pursuant to a direction of Noteholders in accordance with paragraph (c)(i) below and, in either case, without further notice, institute such proceedings and/or take such other action as it may think fit against or in relation to the Issuer to enforce the Issuer's obligations under the Notes. The Issuer shall, as a result of the bringing of any such proceedings, be obliged to pay any sums representing or measured by reference to principal or interest on the Notes sooner than the same would otherwise have been payable by it.
- b. Without prejudice to Condition 12.4(a) but subject to Condition 12.4(c), if the Issuer breaches any of its obligations under the Note Trust Deed, the Trustee may, either at its discretion or pursuant to a direction of Noteholders in accordance with paragraph (c)(i) below and, in either case, without further notice, bring such proceedings as it may think fit to enforce such obligations.
- c. Unless the Trustee, acting reasonably, forms the view that immediate steps must be taken to protect the Noteholders' interests or to enforce the Issuer's obligations under the Notes, it must not take any of the actions referred to in paragraphs (a) or (b) above to enforce the obligations of the Issuer in respect of the Notes or take any other enforcement action pursuant to or in connection with the Note Trust Deed or the Notes unless:
  - i. it shall have been so requested in writing by Noteholders who hold in aggregate 25 per cent or more of the outstanding principal amount of all Notes then outstanding; and
  - ii. it shall have been indemnified to its satisfaction in accordance with the terms of the Note Trust Deed.

If, prior to acting on a direction received pursuant to paragraph (a), the Trustee receives further directions to take any action pursuant to this paragraph (c)(i) that are, in its reasonable opinion, materially inconsistent or conflicting in any material respect with the initial directions, the Trustee must call a meeting of Noteholders in accordance with the terms of these Conditions, the Note Trust Deed and the Meeting Provisions in order to resolve the inconsistency or conflict and shall act in accordance with any resolutions passed at that meeting or in accordance with any direction by Noteholders who hold in aggregate 50 per cent or more of the outstanding principal amount of all Notes then outstanding.

- d. No Noteholder is entitled to proceed directly against the Issuer to enforce any right or remedy under or in respect of any Note or the Note Trust Deed unless expressly entitled to do so under these Conditions, the Note Trust Deed or the Trustee, having become bound to proceed, fails to do so within five days from the date that the Trustee is notified by a Noteholder of the failure, and such failure is continuing.

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## 13. Agents

### 13.1 Role of Agents

In acting under an Agency Agreement, each Agent acts solely as agent of the Issuer and does not assume any obligations towards or relationship of agency or trust with any Noteholder.

### 13.2 Appointment and replacement of Agents

Each initial Agent for a series of Notes is specified in the Pricing Supplement. Subject to Condition 13.4 ("Required Agents"), the Issuer reserves the right at any time to vary or terminate the appointment of any Agent and to appoint a successor.

### 13.3 Change of Agent

The Issuer (or the Agent on its behalf) must notify the Trustee and the Noteholders if there is any change in the identity of any Agent or any Agent's Specified Office.

### 13.4 Required Agents

The Issuer must at all times maintain a Registrar, Issuing & Paying Agent and Calculation Agent.

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## 14. Meetings of Noteholders

The Meeting Provisions contain provisions for convening meetings of the Noteholders of any series to consider any matter affecting their interests, including any variation of these Conditions. Any resolution duly passed by the Noteholders pursuant to the Meeting Provisions shall be binding on all Noteholders (whether or not they were present at the meeting at which such resolution was passed).

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## 15. Variation

### 15.1 Variation with consent

Unless Condition 15.2 ("Variation without consent") applies, any Note may be varied by the Noteholders of the series in accordance with the Meeting Provisions.

### 15.2 Variation without consent

Any Condition may be amended by the Issuer with the consent of the Trustee (not to be unreasonably withheld or delayed) but without the consent of the Noteholders if the amendment:

- a. is of a formal, minor or technical nature;
- b. is made to correct a manifest error; or
- c. is made to cure any ambiguity or correct or supplement any defective or inconsistent provision,

provided that, in all cases, in the reasonable opinion of the Issuer and the Trustee, such amendment is not materially prejudicial to the interests of the Noteholders.

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## 16. Further issues of Notes

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same conditions as the Notes of the series in all respects (or in all respects except for the first payment of interest, if any, on them) so as to form a single series with any existing Notes.

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## 17. Notices

### 17.1 Notices to Noteholders

All notices and other communications to Noteholders must be in writing and must be sent by prepaid post (airmail, if appropriate) to or left at the address of the Noteholder (as shown in the Register at close of on the day which is 3 Business Days before the date of the notice or communication) and may also be given by an advertisement published in *The Australian Financial Review* or *The Australian*.

### 17.2 Notices to the Issuer, the Trustee and the Agents

All notices and other communications to the Issuer, the Trustee or an Agent must be in writing and may sent by prepaid post (airmail, if appropriate) to or left at the Specified Office of the Issuer, the Trustee or the Agent.

### 17.3 Receipt - publication in newspaper

If published in a newspaper, a notice or other communication is taken to be received on the first date that publication has been made in all the required newspapers.

### 17.4 Deemed receipt - postal

If sent by post, notices or other communications are taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

### 17.5 Deemed receipt - general

Despite Condition 17.4 ("Deemed receipt - postal"), if notices or other communications are received after 5.00 pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00 am on the next Business Day.

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## 18. Governing law

### 18.1 Governing law

These Conditions are governed by the law in force in New South Wales, Australia.

### 18.2 Jurisdiction

The Issuer irrevocably and unconditionally submits and each Noteholder is taken to have submitted, to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. The Issuer waives any right it has to object to any actions or proceedings ("**Proceedings**") being brought in those courts including, without limitation, by claiming that the Proceedings have been brought in an inconvenient forum or that those courts do not have jurisdiction.

### 18.3 Serving documents

Without preventing any other method of service, any document in any Proceedings (including, without limitation any writ of summons or other originating process or any third or other party notice) may be served on the Issuer by being delivered or left at the Specified Office of the Issuer or otherwise at the Issuer's registered office or principal place of business.

# Form of Pricing Supplement

The Pricing Supplement to be issued in respect of the Notes will be substantially in the form set out below.

Series No: 1

Tranche No: 1



**N E X T D C**

**NEXTDC Limited** (ABN 35 143 582 521)

("Issuer")

Issue of

**A\$60,000,000 8.00% Notes due 16 June 2019**

("Notes")

irrevocably and unconditionally guaranteed by

**Global Disaster Recovery Pty Ltd**

(ABN 62 11 158 340 624)

("Initial Guarantor")

The date of this Pricing Supplement is 12 June 2014.

This Pricing Supplement (as referred to in the Information Memorandum dated 12 June 2014 ("Information Memorandum")) relates to the Tranche of Notes referred to above. It is supplementary to, and should be read in conjunction with (i) the terms and conditions of the Notes ("Conditions") contained in the Information Memorandum and (ii) the Note Trust Deed dated 12 June 2014 and made by the Issuer, the Initial Guarantor and the Trustee.

Unless otherwise indicated, terms defined in the Conditions have the same meaning when used in this Pricing Supplement.

This Pricing Supplement does not constitute, and may not be used for the purposes of, an offer or solicitation by anyone outside Australia or where such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation. No action is being taken to permit an offering of the Notes or the distribution of this Pricing Supplement for issue to persons to whom disclosure would be required under Part 6D.2 or Chapter 7 of the Corporations Act 2001 of Australia.

The particulars to be specified in relation to the Tranche of Notes referred to above are as follows:

1	Issuer	: NEXTDC Limited (ABN 35 143 582 521)
2	Initial Guarantor	: Global Disaster Recovery Pty Ltd (ABN 11 158 340 624)
3	Type of Note	: Fixed Rate Medium Term Notes
4	Lead Manager and Initial Subscriber	: National Australia Bank Limited (ABN 12 004 044 937)
5	Place of offering	: Inside Australia only
6	Registrar	: BTA Institutional Services Australia Limited (ABN 48 002 916 396)
7	Issuing & Paying Agent	: BTA Institutional Services Australia Limited (ABN 48 002 916 396)
8	Calculation Agent	: BTA Institutional Services Australia Limited (ABN 48 002 916 396)
9	Trustee	: BNY Trust Company of Australia Limited (ABN 49 050 294 052)
10	Aggregate principal amount of Tranche	: A\$60,000,000
11	Issue Date	: 16 June 2014

12	Issue Price	:	100%
13	Denomination	:	A\$1,000
14	Minimum initial parcel size on initial issue	:	A\$100,000
15	Maturity Date	:	16 June 2019
16	Record Date	:	As per the Conditions
17	Interest	:	The Notes are fixed rate notes
18	Fixed Coupon Amount	:	A\$40.00 per A\$1,000 denomination, payable semi-annually in arrear
19	Interest Rate	:	8.00% per annum
20	Interest Commencement Date	:	Issue Date
21	Interest Payment Dates	:	16 June and 16 December of each year, commencing on 16 December 2014 up to, and including, the Maturity Date or, if redeemed earlier, an Optional Redemption Date
22	Noteholder put	:	Yes, the Notes may be redeemable before their Maturity Date at the option of the Noteholders on a Change of Control as set out in Condition 8.2 ("Early redemption at the option of Noteholders (Noteholder put)")
23	Issuer call	:	Yes, the Notes may be redeemable before their Maturity Date at the option of the Issuer as set out in Condition 8.3 ("Early redemption at the option of the Issuer (Issuer call)") and:  First Optional Redemption Date means 16 December 2016;  Second Optional Redemption Date means 16 June 2017;  Third Optional Redemption Date means 16 December 2017;  Fourth Optional Redemption Date means 16 June 2018; and  Fifth Optional Redemption Date means 16 December 2018.
24	Clearing system	:	Austraclear System.  Interests in the Notes may also be traded through Euroclear and Clearstream, Luxembourg as set out on page 9 of the Information Memorandum.
25	ISIN	:	AU3CB0221745
26	Common Code	:	107533800
26	Austraclear I.D.	:	NEDC01
27	Australian interest withholding tax:	:	It is the Issuer's intention that the Notes will be issued in a manner which will comply with the public offer test under section 128F of the Income Tax Assessment Act 1936 of Australia.
28	Listing	:	Not applicable

The Issuer accepts responsibility for the information contained in this Pricing Supplement.

Date: 12 June 2014

CONFIRMED

For and on behalf of

**NEXTDC Limited**

# Selling and Distribution Restrictions

Under the Subscription Agreement dated 12 June 2014 between the Issuer, the Initial Guarantor and the Lead Manager and Initial Subscriber ("Subscription Agreement") and subject to the Conditions contained in the Information Memorandum, the Notes will be offered by the Issuer through the Initial Subscriber. The Issuer will have the sole right to accept any offers to purchase Notes and may reject any such offer in whole or (subject to the terms of such offer) in part.

None of the Issuer, the Initial Guarantor or the Lead Manager and Initial Subscriber Arranger has represented that any Notes may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or in accordance with any available exemption, or assumes any responsibility for facilitating that sale.

Persons into whose hands this Information Memorandum comes are required by the Issuer, the Initial Guarantor, the Lead Manager and Initial Subscriber to comply with all applicable laws, regulations and directives in each country or jurisdiction in which they purchase, offer, sell, resell, reoffer or deliver Notes or have in their possession or distribute or publish the Information Memorandum or other offering material and to obtain any authorisation, consent, approval or permission required by them for the purchase, offer, sale, reoffer, resale or delivery by them of any Notes under any applicable law, regulation or directive in force in any jurisdiction to which they are subject or in which they make such purchases, offers, sales, reoffers, resales or deliveries, in all cases at their own expense, and neither the Issuer nor the Lead Manager and Initial Subscriber has responsibility for such matters. In accordance with the above, any Notes purchased by any person which it wishes to offer for sale or resale may not be offered in any jurisdiction in circumstances which would result in the Issuer being obliged to register any further prospectus or corresponding document relating to the Notes in such jurisdiction.

The following selling restrictions apply to Notes.

## Australia

The Lead Manager and Initial Subscriber has acknowledged that:

- a. no "prospectus" or other "disclosure document" (each as defined in the Corporations Act) in relation to the Notes has been or will be lodged with ASIC or any other government agency or authority; and
- b. no action has been taken, or will be taken, by it in any jurisdiction which would permit a public offering of the Notes, or possession or distribution of the Information Memorandum or any other offering material in relation to Notes, in any jurisdiction where action for that in connection with the primary distribution of the Notes.

The Initial Subscriber has represented and agreed that it:

- i. it has not made or invited, and will not make or invite, an offer of the Notes for issue or sale in Australia (including an offer or invitation which is received by a person in Australia); and
- ii. it has not distributed or published, and will not distribute or publish, any Information Memorandum or other offering material or advertisement relating to any Notes in Australia,

unless:

- A. the offer or invitation falls within the exemption for offers to sophisticated investors set out in section 708(8) of the Corporations Act or the offer or invitation otherwise does not require disclosure to investors under Part 6D.2 or Chapter 7 of the Corporations Act;
- B. such action does not require any document to be lodged with ASIC or ASX Limited;
- C. the offer or invitation is not made to a person who is a "retail client" within the meaning of 761 of the Corporations Act; and
- D. the offer or invitation and all conduct in connection with it complies with all applicable laws and directives.

# Australian Taxation

The following is a summary of the material Australian tax consequences under the Income Tax Assessment Acts of 1936 and 1997 of the Commonwealth of Australia of the purchase, ownership and disposition of the Notes to holders who purchase securities on original issuance at the stated offering price and hold the Notes as capital assets.

This summary represents the basis of Australian law as in effect on the date of this Information Memorandum, which is subject to change, possibly with retrospective effect and should be treated with appropriate caution.

The following summary is general in nature and is not, and is not intended to, constitute a complete analysis of all potential tax consequences relating to the ownership of Notes and does not deal with the position of all classes of holders (including, dealers in securities, custodians or other third parties who hold Notes on behalf of any holders, and holders that are subject to the Taxation of Financial Arrangements ("TOFA") rules).

None of the Issuer, the Guarantors, the Initial Subscriber, the Registrar or the Agents (nor their respective shareholders, subsidiaries, related bodies corporate, officers, employees, representatives or advisers) accepts any responsibility or makes any representation as to the tax consequences of investing in the Notes.

In particular, an Australian resident in receipt of interest through a permanent establishment outside Australia or a non-Australian resident (other than a non-Australian resident in receipt of interest through a permanent establishment in Australia) who holds Notes may be subject to restrictions on transfer of Notes and other constraints, risks or liabilities.

Such persons into whose possession this Information Memorandum comes are required to inform themselves about, and observe, all such restrictions.

All prospective investors should consult their own professional tax advisers concerning the consequences, in their particular circumstances under Australian tax laws and the laws of any other taxing jurisdiction, of their ownership of, or any dealing in, the Notes.

All prospective holders should also be aware that the particular terms of issue of such Notes may affect the tax treatment of such Notes.

## Australian Tax on Payments under the Notes

### *Nature of the Notes*

It is expected that each Note issued by the Issuer should constitute a debenture, and a "debt interest" for Australian tax purposes. Accordingly, the interest payments under each Note should be classified as interest for Australian tax purposes.

### Resident holders

This part of the summary applies to holders of Notes that are residents of Australia for tax purposes that do not hold their Notes in carrying on a business at or through a permanent establishment outside of Australia, and non-residents of Australia for tax purposes that acquire their Notes in carrying on a business at or through a permanent establishment in Australia ("**Resident Holders**").

Under Australian laws as presently in effect:

- a. *income tax* – Resident Holders will be assessable for Australian income tax purposes on income either received or accrued due to them in respect of the Notes. Whether income will be recognised on a cash receipts or accruals basis will depend upon the tax status of the particular Resident Holder and the terms and conditions of the Notes;
- b. *gains on disposal of Notes* - Resident Holders will be required to include any gain or loss on disposal or redemption of the Notes in their taxable income. This may include any maturity or redemption premium;
- c. *interest withholding tax* - payments of interest in respect of the Notes to Resident Holders will not be subject to Australian interest withholding tax; and
- d. *deemed interest* - there are specific rules that can apply to treat a portion of the purchase price of Notes as interest for interest withholding tax purposes when certain Notes originally issued at a discount or with a maturity premium or which do not pay interest at least annually are sold to a Resident Holder, or where the sale occurs in connection with a "washing arrangement" as defined in section 128A(1AB) of the Income Tax Assessment Act 1936 of Australia (**Australian Tax Act**). These rules do not apply in circumstances where the deemed interest would have been exempt under section 128F of the Australian Tax Act if the Notes had been held to maturity by a non-resident.

## Non-resident holders

This part of the summary applies to non-residents of Australia for tax purposes that do not acquire their Notes in carrying on a business at or through a permanent establishment in Australia, and residents of Australia for tax purposes that acquire their Notes in carrying on a business at or through a permanent establishment outside of Australia (“**Non-resident Holders**”).

### *Payment of Interest*

Under existing Australian tax law, Non-resident Holders are not subject to Australian income tax on payments of interest or amounts in the nature of interest where the exemption for interest withholding tax discussed below applies.

If the exemption is not available and another exemption is not available (e.g. under a tax treaty - see below), interest withholding tax will be levied at a rate of 10% on the gross amount of interest, or amounts in the nature of interest, paid on each Note (in that regard, please refer to our comments below in relation to the payment of additional amounts).

### *Exemption from Australian Withholding Tax*

Broadly, pursuant to section 128F of the Australian Tax Act, an exemption from Australian interest withholding tax is available in respect of interest paid to a Non-resident Holder for tax purposes under any Notes, if the following conditions are met:

- a. the Issuer is a company and a resident of Australia when it issues the relevant Notes and when interest (as defined in section 128A(1AB)) is paid;
- b. the relevant Notes are issued in a manner which satisfies the public offer test. There are five principal methods of satisfying the public offer test. These are:
  - i. offers of the relevant Notes to 10 or more persons, each of whom is carrying on a business of providing finance, or investing or dealing in securities, in the course of operating in financial markets and was not known, or suspected by the Issuer, to be an associate of each other;
  - ii. offers of the relevant Notes to 100 or more potential investors whom it was reasonable for the Issuer to have regarded as either having acquired debentures or debt interests in the past, or being likely to be interested in acquiring debentures or debt interests;
  - iii. offers of the relevant Notes as a result of being accepted for listing on a stock exchange, where the Issuer had previously entered into an agreement with a dealer, manager or underwriter in relation to the placement of debentures or debt interests, requiring the Issuer to seek such listing;
  - iv. offers of the relevant Notes as a result of negotiations being initiated publicly in electronic form, or in another form, that was used by financial markets for dealing in debentures or debt interests; and
  - v. offers of the relevant Notes to a dealer, manager or underwriter, who, under an agreement, offered to sell such Notes within 30 days by one of the preceding methods.
- c. the Issuer does not know, or have reasonable grounds to suspect, at the time of issue, that the Notes or interests in the relevant Notes were being, or would later be, acquired, directly or indirectly, by an Offshore Associate of the Issuer (other than in the capacity of a dealer, manager or underwriter in relation to the placement of the relevant Notes, or a clearing house, custodian, funds manager or responsible entity of a registered scheme); and
- d. at the time of the payment of interest, the Issuer does not know, or have reasonable grounds to suspect, that the payee is an Offshore Associate of the Issuer (other than an Offshore Associate who receives the payment in the capacity of a clearing house, paying agent, custodian, funds manager or responsible entity of a registered scheme).

For these purposes, an “Offshore Associate” means an associate (as defined in section 128F(9) of the Australian Tax Act) of the Issuer, where the associate is either:

- vi. a non-resident of Australia that does not acquire Notes or an interest in Notes in carrying on a business in Australia at or through a permanent establishment of the associate in Australia; or
- vii. a resident of Australia that acquires Notes or an interest in Notes in carrying on a business in a country outside Australia at or through a permanent establishment of the associate in that country.

Under section 128F(9), “associate” is defined broadly to include (i) any entities that “sufficiently influence,” or hold the majority voting interests in, the Issuer (i.e. controlling or parent companies of the Issuer); (ii) entities that are “sufficiently influenced by,” or whose majority voting interests are held by, the Issuer (or any controlling or parent companies of the Issuer); and (iii) any trusts under which the Issuer or any of these aforementioned entities may benefit.

The Issuer proposes to issue the Notes in a manner which will satisfy the requirements of section 128F of the Australian Tax Act.

The Issuer has been advised that assuming the requirements of section 128F of the Australian Tax Act are satisfied with respect to an issue of Notes, payment of principal and interest to a Non-resident Holder will not be subject to the Australian income taxes.

#### *Holders in Specified Countries*

The Australian government has signed a number of new or amended double tax conventions (**New Treaties**) with certain countries including the United States of America, the United Kingdom, Norway, Finland, the Republic of France, Japan, the Republic of South Africa, New Zealand and Chile (**Specified Countries**). The New Treaties may apply to interest derived by a resident of a Specified Country in relation to a Note issued by the Issuer.

The New Treaties with the United States of America, the United Kingdom, Norway, Finland, the Republic of France, Japan, the Republic of South Africa and New Zealand effectively prevent withholding tax applying to interest derived by:

- a. the government of the relevant Specified Country and certain governmental authorities and agencies in the Specified Country; and
- b. certain unrelated banks, and financial institutions which substantially derive their profits by carrying on a business of raising and providing finance, which are resident in the Specified Country,

by reducing the interest withholding tax rate to zero.

Under the New Treaty with Chile, interest withholding tax applying to interest derived by certain unrelated banks, and financial institutions which substantially derive their profits by carrying on a business of raising and providing finance is reduced to the rate of 5%.

Under the New Treaties, back-to-back loans and economically equivalent arrangements will not obtain the benefit of the reduction in interest withholding tax and the anti-avoidance provisions in the Australian Tax Act can apply. Additionally, under the New Treaty with the United States of America, interest determined by reference to the profits of the Issuer or one of its associated enterprises may not obtain the benefit of the reduction in interest withholding tax.

Further, under the New Treaty with Japan, interest derived by the Japan Bank for International Cooperation or the Nippon Export and Investment Insurance will have a nil rate of withholding tax.

#### *Payment of additional amounts*

Despite the fact that any Notes are intended to be issued in a manner which will satisfy the requirements of section 128F of the Income Tax Assessment Act 1936 and payments of interest in respect of those Notes are not expected to be subject to interest withholding tax, if the Issuer is at any time required to withhold interest withholding tax from payments of interest on any of those Notes, the amount payable by the Issuer will be increased so that, after making the withholding or deduction and further withholdings or deductions applicable to any additional amounts so payable, the relevant holder is entitled to receive (at the time the payment is due) the amount it would have received if no withholdings or deductions had been required to be made (subject to the conditions and exceptions contained in Condition 10.3 (“Gross-up exceptions”).

#### *Quotation of Australian Business Numbers or Tax File Numbers*

If a holder of a Note issued by the Issuer is an Australian resident or a non-resident that holds a Note at or through a permanent establishment in Australia, withholding for tax of 46.5% must be deducted (with an increase to 47% for the 2014-15 year of income and later years of income and presently proposed to be increased to 49% to replace the 2% temporary Budget Repair Levy for the 2014-1, 2015-16 and 2016-17 income years), unless the holder of that Note supplies the Issuer of that Note with its Australian Business Number (if applicable) or Tax File Number or proof of an appropriate exemption from quoting such numbers. An Australian resident that holds a Note may also be subject to Australian income tax in respect of interest derived from the relevant Notes.

#### *Withholding Tax on Payments under the Guarantee*

The Australian Taxation Office has published a Taxation Determination stating that payments by a Guarantor in respect of debentures (such as the Notes issued by the Issuer) are entitled to the benefit of the exemption contained in section 128F of the Australian Tax Act if payments of interest in respect of those debentures by the Issuer are exempt from interest withholding tax.

As set out in more detail in the Guarantees, if a Guarantor is at any time prohibited by law from making payments under the Guarantees free of deductions or withholdings, then such additional amounts shall be paid to the holder as may be necessary in

order that the actual amount received after all applicable deductions and withholdings shall equal the amount that would have been received if such deductions or withholdings were not made.

## Other Australian Taxes

### *Australian Taxation of Profit on Sale*

Under existing Australian law, Non-resident Holders will not be subject to Australian income tax on profits derived from the sale or disposal of those Notes where:

- a. the profits do not have an Australian source where the Non-resident Holder is a resident of a country with which Australia has concluded a double tax treaty and is eligible for benefits under that treaty; or
- b. where the Non-resident Holder is a resident of a country with which Australia has concluded a double tax treaty and is eligible for benefits under that treaty, those Notes have not been held, and the sale and disposal of those Notes does not occur, as part of a business carried on, at or through a permanent establishment in Australia.

The source of any profit on the disposal of Notes will depend on the factual circumstances of the actual disposal. Where Notes are acquired and disposed of pursuant to contractual arrangements entered into and concluded outside Australia, and the originator and the purchaser are non-residents of Australia and do not have a business carried on, at or through a permanent establishment in Australia, the profit would not be expected to have an Australian source.

Where Notes are held, and the sale and disposal occurs, as part of a business carried on by the Non-resident Holder at or through a permanent establishment in Australia, the profits derived from the sale or disposal may be deemed to have an Australian source. Such deeming will depend upon the country in which the non-resident Holder is located and any applicable double tax treaty between Australia and that country.

### *Goods and Services Tax ("GST")*

Neither the issue nor the receipt of the Notes will give rise to a liability for GST in Australia on the basis that the supply of the Notes will either be a financial supply that is input taxed or in the case Notes issued to a non-resident offshore subscriber, GST-free. Furthermore, neither the payment of principal or interest by the Issuer, nor the redemption or disposal of the Notes, should give rise to a liability for GST in Australia.

Where the acquisition or transfer of the Notes results in the holder making an input taxed financial supply, the holder may be restricted in claiming input tax credits for any GST they have incurred on costs related to the acquisition or transfer of Notes. Holders should seek their own advice in this regard.

Neither the grant of the Guarantees nor the payment of any amount under the Guarantees would give rise to any liability for GST in Australia.

### *Death duties*

No Notes will be subject to death, estate or succession duties imposed by Australia, or by any political subdivision or authority therein having power to tax, if held at the time of death.

### *Stamp duty*

No ad valorem, stamp duty, issue, registration or similar taxes are payable in Australia on the issue of any Notes or redemption of any Notes or the transfer of any Notes provided that the Notes are not held on a register located in South Australia.

# Directory

## Issuer

### NEXTDC Limited

(ABN 35 143 582 521)

Level 4  
88 Creek Street  
Brisbane QLD 4000

**Telephone:** + 61 7 3177 4777

**Facsimile:** + 61 7 3177 4789

**Attention:** Chief Financial Officer

## Lead Manager and Initial Subscriber

### National Australia Bank Limited

(ABN 12 004 044 937 and AFSL No. 230686)

Level 25  
255 George Street  
Sydney NSW 2000

**Telephone:** + 61 2 9237 9518

**Facsimile:** + 61 1300 6520 354

**Attention:** Head of Hybrid & Structured Capital Origination

## Registrar, Issuing & Paying Agent and Calculation Agent

### BTA Institutional Services Australia Limited

(ABN 48 002 916 396)

Level 2  
35 Clarence Street  
Sydney NSW 2000

**Telephone:** +61 2 9551 5000

**Facsimile:** +61 2 9551 5009

**Attention:** Global Client Services

## Trustee

### BNY Trust Company of Australia Limited

(ABN 49 050 294 052)

Level 2  
35 Clarence Street  
Sydney NSW 2000

**Telephone:** + 61 2 9551 5000

**Facsimile:** + 61 2 9551 5009

**Attention:** Global Client Services

# Next Generation Data Centres

## NEXTDC LIMITED

Level 4 88 Creek Street  
Brisbane QLD 4000

PH: +61 7 3177 4777  
FX: +61 7 3177 4789  
EM: [info@nextdc.com](mailto:info@nextdc.com)  
WB: [www.nextdc.com](http://www.nextdc.com)

ABN 35 143 582 521



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