



Level 23, 525 Collins Street, Melbourne VIC 3000

SINO EXCEL ENERGY LIMITED ASX ANNOUNCEMENT

21 August 2014

ASX CODE : SLE

CONVERTIBLE BOND DEED AND ESCROW DEED

Sino Excel Energy Limited (ASX: SLE) refers to its announcements on 2nd and 30 August 2013 regarding the Placement Agreement and Heads of Agreement to acquire Precious Area Investment Limited and Silver Mind Investment Limited.

Sino Excel Energy Limited has on 21 August 2014, Precious Area Investment Limited and Silver Mind Investment Limited (**Bondholders**), Sino-Excel Energy Limited (**Sino-Excel**) and SINOX Energy Limited (**SINOX**) entered into a Convertible bond deed (**Convertible Bond Deed**).

Overview

Under the Convertible Bond Deed, the Bondholders have agreed to subscribe for, and Sino-Excel has agreed to issue, convertible unsecured bonds (**Bonds**) to the Bondholders in their Respective Proportions (being 50% each) of an amount of AUD\$10,000,000. The Bonds are tranching, with a first tranche of \$2,000,000 and a second tranche of \$8,000,000.

The Bonds proceeds of up to AUD10 million are to be used by Sino-Excel to acquire a vineyard in Australia and a multi-national group in the People's Republic of China known as Aohua Rong Chuang (**Aohua**) (www.aohuaunion.cn). A potential vineyard in Australia has been shortlisted for acquisition. Aohua is ultimately owned by the owners of the Bondholders.

Aohua is a multi-national group of companies with core businesses in wine trading, food and beverage and training for winery industries. Aohua's management team has almost 20 years experience. In 2013, the group ventured into overseas expansion in the winery sector and has partnerships with major Asia listed companies and a major exclusive partner in PRC known as Bohai International Wine Exchange (<http://www.iwex.cn>) and Beijing Ba Da Ling International Wine Exchange. They are currently one of the major suppliers of Australian wines for the PRC domestic market. They have worldwide sales network in over 100 cities in 10 countries with over 150 showrooms and retail outlets and a number of which are owned properties. They have wine sourcing and operations offices in Australia, Cape Town and London. There are more than ten regional sales agents all over PRC, with valuable supermarkets and shopping mall distribution channels.

Aohua's vision is to integrate the upstream and downstream of the red wine industry, including the acquisition of vineyards in Australia. With the acquisition, they plan to produce their own brand of wine for the PRC domestic market. Aohua will also continue to import red wine and expands its purchased volume from Australia to contribute towards a growth in revenue and profitability.

Board changes

The current Board of Directors will step down upon receipt of the first tranche of the Bond of AUD 2,000,000 and the following persons will be appointed to the Board:

Ms Meng Jia Ping

Mr Li Geng

Mr Leo Peng Wei Le

Mr Michael Bin Guo

Mr Jiang Si Yao

The Company will make a further announcement when the first tranche of funds is received from the Bondholders including to confirm the above changes to the Board.

Terms of the Bonds

The Bonds are unsecured, direct and general obligations of Sino-Excel, which will be of equal ranking with other unsecured creditors of Sino-Excel but will rank in priority to shareholders of Sino-Excel. The rights of each Bondholder will rank behind the rights of any secured creditors of Sino-Excel. No interest accrues or is otherwise payable in relation to the Bonds. A Bondholder is not entitled to receive any dividends (in cash or otherwise), return of capital or distribution or benefit to which the holder of shares, including ordinary shares, would be entitled to participate before it has converted the Bonds to ordinary shares of Sino-Excel in accordance with the terms of the Convertible Bond Deed. The Bondholders have agreed that the Bonds will not be issued under a prospectus or other disclosure document and has warranted and represented that their application and subscription for the Bonds and payment of the subscription amounts does not and will not require disclosure under Chapter 6 of the *Corporations Act 2001* (Cth) (**Corporations Act**) or any analogous or similar securities laws or regulations in Australia or any other country or territory. The Convertible Bond Deed prescribes the relevant terms on which the Bonds are to be converted and/or redeemed. The Convertible Bond Deed also includes provisions relating to the appointment and resignation of directors, negative covenants, and representations and warranties usual for a document of its nature. A high level summary of the material Convertible Bond Deed terms are set out below:

(a) Subscription

The Bondholders will subscribe for the Bonds in two tranches.

Tranche 1

- (i) The first tranche will be for the sum of \$2,000,000 (**Tranche 1 Subscription Price**).
- (ii) The Bondholders must complete, or have completed, the transfer of the Tranche 1 Subscription Price to the relevant escrow agent, being, as at the date of the Convertible Bond Deed, Kind & Wood Mallesons (**Escrow Agent**) no later than 15 business days after the date of the Convertible Bond Deed. The Tranche 1 Subscription Price must be held in an escrow account established by the Escrow Agent (**Escrow Account**) and dispersed in accordance with the terms of the Convertible Bond Deed. Further information regarding the escrow arrangements are set out below.

- (iii) The Tranche 1 Subscription Price may be dispersed for the following purposes:
- (A) the acquisition by Sino-Excel, of one or more producing vineyards in Australia;
 - (B) payment of any professional, advisory or legal costs or expenses incurred by Sino-Excel in relation to agreed transactions;
 - (C) for ordinary working capital of Sino-Excel;
 - (D) and otherwise as expressly provided for under the Convertible Bond Deed, being the Tranche 1 Permitted Purposes.

Tranche 2

- (i) The second tranche will be for the sum of \$8,000,000 (**Tranche 2 Subscription Price**), with the Tranche 2 Subscription Price being payable by the Bondholders to Sino-Excel (and the corresponding Bonds issued by Sino-Excel to the Bondholders) within 6 months after Tranche 1 Completion (unless extended). The Bondholders may request a single extension of the Tranche 2 Subscription Date to a date which is immediately before the date which is 11 months after Tranche 1 Completion.
- (ii) The Tranche 2 Subscription Price is to be held by Sino-Excel in an account nominated by Sino-Excel in accordance with the terms of the Convertible Bond Deed.
- (iii) Sino-Excel must not use the Tranche 2 Subscription Price other than for a relevant purpose provided for in the Convertible Bond Deed, and must disperse the Tranche 2 Subscription Price in accordance with the terms of the Convertible Bond Deed.
- (iv) The Tranche 2 Subscription Price may be dispersed for the following purposes:
 - (A) the acquisition by Sino-Excel, of one or more producing vineyards in Australia;
 - (B) the acquisition by Sino-Excel of Beijing Aohua Rong Chuang Holdings Limited (北京澳华融创控股有限公司, a company incorporated in the People's Republic of China);
 - (C) for ordinary working capital of Sino-Excel; and
 - (D) otherwise as expressly provided for under the Convertible Bond Deed.

Subject to the terms of the Convertible Bond Deed, all Bonds must be either redeemed and/or converted by the Bondholders on the date that is 12 months from the date of the Convertible Bond Deed (**End Date**).

Bondholders may not assign or transfer legal or beneficial ownership of the Bonds at any stage other than to a related body corporate. The Bondholders also agree that they have not and will not create or grant any security interest over any or all rights or interest they may have in relation to the Bonds. In the event that the Bonds are converted, Sino-Excel must cancel the Bonds and cannot reissue or resell the Bonds.

(b) Escrow arrangements

The parties have also agreed that, on or before the date of the Convertible Bond Deed, they will execute an escrow deed (**Escrow Deed**).

The Tranche 1 Subscription Price will be held by the Escrow Agent in the Escrow Account.

The Bondholders and Sino-Excel acknowledge that they severally appoint the Escrow Agent to hold for it in escrow the Escrow Funds (being the balance of the funds in the Escrow Account from time to time), from time to time, under the terms of the Escrow Deed or any escrow agreement replacing the Escrow Deed (**Replacement Escrow Deed**).

The parties agree:

- (i) that the escrow account signatories (being **Escrow Account Nominees**) will be appointed in accordance with the Escrow Deed (or any Replacement Escrow Deed) and that at all relevant times, at least one Escrow Account Nominee appointed in respect of Sino-Excel and one Escrow Account Nominee appointed in respect of the Bondholders will act as joint signatories of the Escrow Account;
- (ii) that the Escrow Agent shall only act in accordance with written directions signed by:
 - (A) one Escrow Account Nominee appointed in respect of Sino-Excel (or a replacement Escrow Account Nominee appointed in accordance with the terms of the Convertible Bond Deed and the Escrow Deed or a Replacement Escrow Agreement); and
 - (B) one Escrow Account Nominee appointed in respect of the Bondholders;
- (iii) that any interest earned on the Escrow Funds while in the Escrow Account will accrue to the benefit of Sino-Excel; and
- (iv) to do all things necessary to ensure that :
 - (A) the Escrow Account Nominees provide a direction to the Escrow Agent to release such amount(s) of Escrow Funds (up to and including any limit prescribed in the Convertible Bond Deed) to ensure that the Escrow Funds are released, upon receipt of a bona fide written resolution duly executed by each member of the Board and specifying the necessary information;
 - (B) the Escrow holds the Escrow Funds and must not release or return any Escrow Funds other than in accordance with the Escrow Deed, Replacement Escrow Deed or the Convertible Bond Deed or as otherwise required by law;
 - (C) Escrow Funds which Sino-Excel request to be released from the Escrow Account will only be used for the Tranche 1 Permitted Purposes; and
 - (D) \$1,000,000 of the Escrow Funds must not be released from the Escrow Account prior to the completion of the Restructure (as described below).

(c) **Appointment of directors on Tranche 1 completion**

- (i) On completion of the subscription of the Tranche 1 Bonds (**Tranche 1 Completion**), Sino-Excel must ensure that the board of directors of Sino-Excel (**Board**) appoints no less than 3 individuals nominated by the Bondholders to the Board as directors of Sino-Excel (together, the **Bondholder Nominees**).
- (ii) Sino-Excel has warranted that it has received the signed resignations of each of the current members of the Board, with each resignation to take effect on and from the date of issue of the Bonds, subject only to the completion of the appointment of the Bondholder Nominees.
- (iii) The Bondholders may, at any time and in its absolute discretion, remove any of its Bondholder Nominees and appoint a replacement Bondholder Nominee.

The Bondholder Nominees may remove the existing Chief Financial Officer of Sino-Excel and appoint a new Chief Financial Officer to Sino-Excel on appointment to the Board.

(d) Restructure and payment of certain amounts

In consideration for mutual covenants given in accordance with the Convertible Bond Deed, Sino-Excel undertakes, and Bondholders agree to do all things necessary to procure that Sino-Excel:

- (i) undertakes and completes the Restructure (further details of which are set out below) on or before the End Date; and
- (ii) whether or not completion of Restructure has occurred, immediately pays upon receipt, or directs the full and complete payment, of any payment, return, distribution or reimbursement from the Australian Taxation Office or Norwood Immunology Pty Ltd which is owing, declared, payable or accruing to Sino-Excel or one or more of its Subsidiaries (**Sino Group Companies**) on or after Tranche 1 Completion and before completion of the Restructure, to one or more entities nominated by a person nominated (**Original Board Nominee**) by the members of the Board in office immediately prior to the date of the Convertible Bond Deed (**Original Board**) and approved by the Bondholders to act as the Original Board Nominee.

Restructure

The Restructure is an agreed transaction under which Sino-Excel will transfer to a third party or third parties nominated by the Original Board Nominee, provided that implementing a transfer to such third party or third parties must not constitute a breach of directors' duties by the Bondholder Nominees (including any fiduciary duties in their capacity as a director of Sino-Excel), for the purchase price of \$1, all of the shares on issue in one or more of the subsidiaries of Sino-Excel (as at the date of the Convertible Bond Deed), to be determined by the Original Board Nominee in their absolute discretion (including in relation to the manner and structure of the acquisition), including, Sino-Excel Energy Pte. Ltd and SINOX, and in relation to which the relevant parties will agree that:

- (i) any liabilities incurred by any Sino Group Companies, in respect of any act, omission or circumstance arising on or before 1 January 2014 (Pre-Completion Liabilities) will be the responsibility of SINOX, and SINOX indemnifies Sino-Excel in respect of any Pre-Completion Liabilities incurred or suffered by Sino-Excel;
- (ii) any liabilities incurred by one or more Sino Group Companies, in respect of any act, omission or circumstance arising after 1 January 2014 but before the date of appointment of the Bondholder Nominees, up to an amount of \$7,000 (inclusive) per month in respect of any operational costs and expenses incurred in the ordinary course of business (which excludes, and accordingly does not limit Sino-Excel's responsibility for, any professional or advisory costs or expenses incurred by one or more Sino Group Companies in relation to the issue or provision, by the ASX, of all necessary consents or approvals, including approval for re-instatement of Sino-Excel's ordinary shares to official quotation on ASX (**ASX Listing Approval**) and/or the transaction or transactions provided for under the Convertible Bond Deed) (Post-Completion Liabilities), will be the responsibility of Sino-Excel on and after completion of the Restructure, and Sino-Excel indemnifies SINOX in respect of any Post-Completion Liabilities incurred or suffered by any Sino Group Companies (other than those Liabilities incurred or suffered by Sino-Excel, which remain the responsibility of Sino-Excel). Any Post-Completion Liabilities exceeding the \$7,000 monthly limit will be the responsibility of SINOX and SINOX indemnifies Sino-Excel in respect of any such excess Post-Completion Liabilities incurred or suffered by Sino-Excel;

- (iii) any liabilities incurred by one or more Sino Group Companies, in respect of any act, omission or circumstance arising on or after the date of appointment of the Bondholder Nominees but before completion of the Restructure (Post-Appointment Liabilities) will be the responsibility of Sino-Excel on and after completion of the Restructure, and Sino-Excel indemnifies SINOX in respect of any Post-Appointment Liabilities incurred or suffered by any Sino Group Companies (other than those liabilities incurred or suffered by Sino-Excel, which remain the responsibility of Sino-Excel);
- (iv) any income, rights, or interests (prospective, contingent or otherwise) which are held, paid, owing, declared, payable, arising or accrued to or for the benefit of one or more Sino Group Companies before the date of appointment of the Bondholder Nominees will be the asset of SINOX, and the Sino Group Companies (including Sino-Excel) must do all things necessary to transfer any such income, rights, or interests to SINOX for nil consideration;
- (v) any income, rights, or interests (prospective, contingent or otherwise) which arise in relation to the sale, assignment, or disposal (irrespective of when the sale, assignment or disposal occurs) of Sino-Excel's rights or interest (prospective, contingent or otherwise) in one or more of its subsidiaries, related body corporate of Sino-Excel or any equity or other investments held by Sino-Excel immediately before the date of appointment of the Bondholder Nominees will be the asset of SINOX, and the Sino Group Companies must do all things necessary to transfer any such income, rights, or interests to SINOX for nil consideration; and
- (vi) otherwise on terms acceptable to the Original Board Nominee, acting reasonably, provided that a Restructure implemented on such terms must not constitute a breach of directors' duties by the Bondholder Nominees (including any fiduciary duties in their capacity as a director of Sino-Excel).

(e) Conversion of the Bonds into fully paid ordinary shares in Sino-Excel

On the earliest occurring Conversion Event (**Conversion Date**), and subject to the receipt of all necessary approvals to ensure that conversion does not breach any applicable laws, regulations or ASX Listing Rules, including Chapter 7 of the ASX Listing Rules, section 606(1) of the Corporations Act and the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (**FATA**) (**Necessary Approvals**), the Bonds must be converted into fully paid ordinary shares in Sino-Excel (**Conversion Shares**).

On conversion of the Bonds, the Bondholders are entitled to apply and be issued the Conversion Shares, the quantity of which is dependent on a conversion price determine in accordance with the intention of the parties that the total number of Conversion Shares to be issued to the Bondholders is such number of fully paid ordinary shares in Sino-Excel that will result in the Bondholders (in aggregate) holding 68% of the fully diluted share capital of Sino-Excel immediately after the completion of the Restructure.

Subject to the receipt of all Necessary Approvals, within 10 business days after the Conversion Date, Sino-Excel must:

- (i) issue and allot to the relevant Bondholders the Conversion Shares in full and complete satisfaction of the face value otherwise owing to those Bondholders on the relevant Bonds;
- (ii) enter the name of the relevant Bondholder in the register of shareholders of Sino-Excel in respect of the Conversion Shares;
- (iii) apply to ASX for quotation of the Conversion Shares as soon as reasonably practicable, but in any case within the time limit prescribed by the ASX Listing Rules; and
- (iv) issue or procure the issue to the Bondholder of a share statement for the Conversion Shares.

In the event that the conversion of the Bonds or the issue of the Conversion Shares would result in Sino-Excel:

- (i) being in breach of Chapter 7 of the ASX Listing Rules or, to the extent applicable, such other relevant ASX Listing Rules;
- (ii) being in breach of section 606(1) of the Corporations Act;
- (iii) being in breach of, or otherwise contrary to, the FATA or under the Australian Government's foreign investment; or
- (iv) any other applicable laws or regulations,

Sino-Excel must:

- (v) issue and allot the maximum number of Conversion Shares that could be issued to the Bondholder without having obtained the Necessary Approvals;
- (vi) convene a meeting of shareholders of Sino-Excel to pass resolution(s) to approve the issue of the Conversion Shares;
- (vii) provide such assistance as is necessary to enable the Bondholder to make a filing with the Treasurer under the FATA or under the Australian Government's foreign investment policy to facilitate the issue of shares to the relevant Bondholder; and/or
- (viii) exercise reasonable endeavours to obtain, or assist the Bondholder in obtaining, any Necessary Approvals.

Sino-Excel must ensure that each ordinary share issued upon conversion will rank equally in all respects with all other fully paid ordinary shares of Sino-Excel as at the relevant Conversion Date.

Sino-Excel must not undertake any capital raisings that would dilute the existing percentage holding of the shareholders of Sino-Excel (as at the date of the Convertible Bond Deed) in Sino-Excel prior to the Conversion Date (except with the prior written consent of the Bondholders and the Original Board Nominee).

(f) Redemption of the Bonds

- (i) Redemption at will

Other than for a Redemption after the End Date (see below), Sino-Excel must not redeem any of the Bonds without the prior:

- (A) written approval of the Bondholders; and
- (B) approval of the shareholders of Sino-Excel, in general meeting, excluding any votes which may be cast by the Bondholders or one or more of their associates, related body corporate, assigns, transferees (whether direct, immediate, or any indirect or subsequent transferees) or any person for or on behalf of any of the aforementioned persons and parties (including as their proxy or attorney).

(ii) Redemption after the End Date

If on or before the End Date (and subject to Sino-Excel and the Bondholders having acted in good faith and doing all things reasonably necessary and expedient to obtain and facilitate the relevant consent or approval):

- (A) the ordinary shares in Sino-Excel have not been re-instated to official quotation on ASX;
- (B) the Bondholders have not materially breached, and are not, in material breach of any term of the Convertible Bond Deed;
- (C) Sino-Excel has not materially breached, between the date of the Convertible Bond Deed and the Redemption Request Date, and is not in material breach of, any term of Convertible Bond Deed; and
- (D) the Bondholders and Sino-Excel (between the date of the Convertible Bond Deed and the Redemption Request Date) have acted in good faith and exercised their best endeavours to obtain the ASX Listing Approval necessary for the ordinary shares in Sino-Excel to be re-instated to official quotation on ASX,

the Bondholders may, on or after the End Date, by an irrevocable notice in writing to Sino-Excel (**Redemption Notice**), request the redemption of all, and not some the Bonds for an amount up to and including the Available Redemption Amount (the date on which the Redemption Notice is received by Sino-Excel being the **Redemption Request Date**).

The Available Redemption Amount is an amount which is calculated in accordance with the formula set out in the Convertible Bond Deed, and represents the aggregate amount of the Tranche 1 Subscription Price and Tranche 2 Subscription Price received into the Escrow Account or by Sino-Excel (as applicable), as adjusted for certain agreed expenses.

(iii) Conversion on redemption

The parties have agreed that, on and from the delivery of Redemption Notice to Sino-Excel, the Bondholders are taken to have irrevocably requested Sino-Excel to convert such amount of the outstanding Bonds as equalling the 'Redemption Conversion Amount' into fully paid ordinary shares in Sino-Excel.

The Redemption Conversion Amount is the aggregate amount of the Escrow Funds deposited in the Escrow Account at Tranche 1 Completion and (to the extent applicable) the Tranche 2 Subscription Price, which have been used by Sino-Excel for a permitted purpose, from Tranche 1 Completion up to and including the Redemption Request Date.

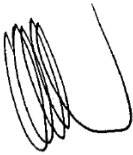
The number of fully paid ordinary shares in Sino-Excel which the Bondholders will receive, in aggregate, on such conversion is determined in accordance with the formula set out in the Convertible Bond Deed, being the Redemption Conversion Amount less any agreed expenses, divided by the 'Redemption Conversion Price'.

The 'Redemption Conversion Price' is a bona fide price agreed by Sino-Excel and the Bondholders, or failing such agreement, a bona fide price determined by Sino-Excel, acting reasonably, to represent the market value of the fully paid ordinary shares in Sino-Excel as at that date.

(g) Appointment of directors on the Redemption Request Date

- (i) The Bondholders covenant that they will obtain irrevocable and unconditional signed resignations of each of the Bondholder Nominees prior to their appointment to the Board, with each resignation to take effect on and from the Redemption Request Date (subject only to the completion of the appointment of the New Director Nominees – as that term is defined below) .
- (ii) The Bondholders agree and acknowledge that they will do all things necessary to ensure the resignation of each of the Bondholder Nominees, with each resignation to take effect on and from the Redemption Request Date.
- (iii) Sino-Excel must ensure that, on and with effect from the Redemption Request Date, the Board appoints no less than 3 individuals nominated by the Original Board Nominee to the Board as directors of Sino-Excel (together, the **New Director Nominees**).
- (iv) The Original Board Nominee may, at any time and in its absolute discretion, remove any of its New Director Nominees and appoint a replacement New Director Nominee.

Sino-Excel will continue to provide updates as and when required on the progress of the acquisition processes. The company will shortly commence a dialogue with ASX in relation to the necessary conditions and approvals required for the transaction including conditions and approvals required for reinstating trading in the company's securities.



Signed by
Dr Charlie In
Executive Director